
THE LAW OFFICES OF BELLO & MORTON, LLC

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

October 28, 2021

Zoning Board of Appeals of Wareham

Memorial Town Hall

54 Marion Road

Wareham, MA 02571

***Re: Application for Variance Assessors Map 50B, Lot 1-41, 17 Murphy Street East
Wareham, MA 02538***

1. Petitioners

Mr. Scott Green
9A Melvin Street
Wakefield, MA 01880

2. Recorded Owner:

Bella Ferreira
PO Box 488
Taunton, MA 02780

3. Certified Abutters List:

Copy Attached as Exhibit A.

4. Current Deed:

Plymouth Land Court Document # 203573 (Deed). Exhibit B.

5. Building Inspector's Notice of Violation Letter:

Violation Letter dated September 29, 2021 attached here as Exhibit C from the Building Commissioner.

6. Proposed Site Plan:

Attached as Exhibit D is a copy of the Relevant Plan. Please note our Parcel is in the R-130 District.

7. Photographs:

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

8. Architectural Renderings of proposed Build: Attached as Exhibit F.

9. Attorney Affidavit by Attorney Alan F.F. Medeiros, Esq., grandson of Bella and Manuel Ferreria (attached as Exhibit G)

10. Letter of Intent

Dear Mr. Chairman,

I represent the applicants Mr. Scott Green re the above application for a Variance his proposed build of a single-family home on the property located at 17 Murphy Street.

Background:

The property has an interesting story to the reason why we are here in front of you today. The locus is in the R-30 district on the water over in the iconic Swifts Beach neighborhood. This property has been a hub of development over the last 10 years with many of the small cottages that were built there, being developed in long term homes or four-season vacation homes.

There was a single-family cottage on the property and an outbuilding (see Exhibit E). The property was renovated to add heat and make it a year-round residence. In 1991, Hurricane Bob demolished the property. Attorney Medeiros, (the owner's grandson) has given the background to this property in his affidavit submitted to the Board and attached here. He outlines the struggles that his grandparents went through.

Now with his grandfather having passed away his grandmother owns the property and is elderly herself. The property abuts the beach and has been used as a cut through for the neighbors. It still has stone foundations of the old structures.

My client is proposing to purchase the property and build a beautiful single-family property which fits the other waterfront properties on this street. The proposed build outlined on the site plan and renderings has a height variance needed from the Board as well as the initial determination as noted by the Commissioner that the “grandfathering protection under the zoning act” is lost.

We proposed that the Board approve the plans and grant the following variance for height

1. **Minimum Lot Area:** R-30 has a minimum lot area of 30,000 square feet, our property is 20,504 square feet. *Variance from 621 RESIDENTIAL DISTRICTS Minimum Lot Area in R-30 District*
2. **Height:** The proposed build is 47 feet tall the max allowed in R30 is 35 feet. *Variance from 621 RESIDENTIAL DISTRICTS Maximum Height 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 for Minimum Lot Area:

As for the statutory requirements, this lot is unique in that it is situated on the waterfront and the lot is situated surrounding protected wetlands. The applicant had two structures on the property in the nineties. Our code provides in Section 1470: a Variance may be granted if the “location that previously conformed to zoning requirements.”

The literal enforcement of the bylaw would deem my client’s property unbuildable and create financial hardship for the petitioner and the owner. We would argue that this lot has been always taxed as a buildable lot by the Town of Wareham for many years. The property has approximately 20,500 square feet; most of the lots over there in Swifts Beach are half of the size of that. It would be wholly unjust for the applicant not to be able to build on the property due to unforeseen circumstances (as outlined in Attorney Medeiros’s affidavit).

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.

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.

Variance Argument for Height:

This property is located in the VE(EI18) & VE (EI.20) FEMA Flood Zones. The topography and triangular shape lend it to the uniqueness of the lot. Many of the properties in Swift's beach and on the waterfront exceed the 35 maximum height requirements. There would be an extreme hardship the applicant if he is unable to raze the build above the flood plain including real concerns like actual flooding and financial hardships as the property being razed up helps with the overall insurance pricing for this property. As this would not be outside the scope of other waterfront builds extending the 35' max, we ask that this Variance be allowed.

All things considered, we ask for a thorough review by the Board of Appeals of the reasons for our application and consider the new build that will add to tax revenues for the Town, increase overall building values for the area, and be a great addition to the neighborhood.

Respectfully submitted,

By 

William 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: 17 Murphy Street MAP: 50B LOT: L-41
ZONING DISTRICT: R30
USE REQUESTED: Single Family
OWNER OF LAND & BUILDING: Bella Ferreira TEL.# N/A
ADDRESS OF OWNER: PO Box 488 Taunton MA
PERSON(S) WHO WILL UTILIZE PERMIT: Scott Green c/o Attorney
ADDRESS: 184 Main Street Wareham, MA Jillian Martin
DATE: 10/28/2021 SIGNATURE: [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: _____

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check Applicable: Variance Special Permit Site Plan Appeal

Date stamped in: _____ Date decision is due _____

*c/o
Jillian*

Applicant's Name: Scott Green

Applicant's Address: 9A Melum Street

Telephone Number: Wakefield, MA 01880

Cell Phone Number: 781-608-5555

Email Address: sg6085555@gmail.com

Address of Property/Project: 17 Murphy Street, Wareham MA

Landowner's Name: Bella Ferreira

Owner's Address: c/o Attorney Alan F.F. Medeiros, Esq.

Telephone Number: N/A

Contact Person: Attorney Jillian Morlon Telephone Number: 508-295-2522

Map 50B Lot 1-41 Zone R30

Date Approved _____ Date Denied _____

Comments: _____

EXHIBIT A

MAP & LOT	OWNER	CO-OWNER	STREET ADDRESS	TOWN	STATE	ZIP CODE
TOWN OF WAREHAM ABUTTERS						
MAP 50/B-1 LOT 41 300'						
OWNER BELLA FERREIRA						
50/A-150	DISTASO NICHOLAS	DISTASO JUDY ANN TRUSTEE	30 WINFIELD ST	NORWOOD	MA	02062
50/A-149	ZUTAUT CHARLENE M		16 GRANT ST	PLYMOUTH	MA	02360
50/A-123	MENDEZ ANTHONY		46 CHARTER ST	BOSTON	MA	02113
50/A-A2	HURD GORDON B	WALSH-HURD PATRICIA A	5064 BARRINGTON CIRCLE	SARASOTA	FL	34234
50/A-23/B	PETRUCCI ANTHONY J	PETRUCCI KARA	PO BOX 242	S EASTON	MA	02375
50/A-23/A	MULLEN PATRICIA J	MULLEN JOHN J LIFE ESTATE	PO BOX 3335	WAREHAM	MA	02571
50/B-1-41	FERREIRA BELLA		PO BOX 488	TAUNTON	MA	02780
50/A-25	BERRY PATRICIA E TRUSTEE	C/O LINCOLN BERRY	396 MARLBOROUGH ST #3	BOSTON	MA	02115
50/A-120	FRAGA MARIA O		15 GREG RD	STOUGHTON	MA	02072
50/A-26/B	COTELLESO RALPH M		12 WILTON ST	HYDE PARK	MA	02136
50/A-26/A	EICHENHOLZ ELLIOTT	CRISCI MARIE ANN	11 CRANBERRY DR	FRANKLIN	MA	02038
50/A-2	VENDETTI JOSEPH L JR	VENDETTI CYNTHIA A	20 WANKINQUOAH AVE	WAREHAM	MA	02571
50/A-4	DEPEDRO DENISE R TRUSTEE OF	18 WANKINCO AVENUE REALTY TR	23 SPRUCE POND RD	FRANKLIN	MA	02038
		C/O DIANE PADULA				
50/A-1	ARSENAULT MARGARET E TRUSTEES		2 MOORE ST	WORCESTER	MA	01602
50/B-1-35	DENTON SCOTT D	DENTON TRACEY L	PO BOX 16	ONSET	MA	02558
50/B-1-27	HABCHI JEAN TRUSTEE	LOREA LAND TRUST	20 TOWER TERR	WAREHAM	MA	02571
		C/O NAZIH ELKALLASSI				
50/B-1-67	BENNETT LYMAN E	MUNGER CHARLES F	9 BENNETT WAY	TOWNSEND	MA	01469
		C/O NICHOLAS BENNETT				
CERTIFIED ABUTTERS AS THEY						
APPEAR ON OUR TAX ROLLS						
AS OF 10/6/2021						
<i>W. Ravi Akers</i>						
ASSESSORS OFFICE						
REQUESTED BY						
JILIAN A MORTON, ESQ.						
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.

640 1280 ft

Printed on 10/06/2021 at 12:57 PM

MapOnline by PeopleGIS

- MA Press Station
- Public Station
- Town Hall
- Public Library
- School
- Buildings
- Parcels
- Town Boundary
- MA Highways
- US Interstate
- US Highway
- Numbered Road
- Streets
- Water
- 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

Thomas S. Santos and Margaret B. Santos
of Taunton,

Bristol County, Massachusetts,

for Fifteen Thousand (\$15,000.00) Dollars consideration paid,
grant to Manuel Ferreira and Bella Ferreira, husband and wife, as tenants by the
entirety

of 596 Somerset Avenue, North Dighton,
Bristol County, Massachusetts

with warranty covenants

the land in Wareham, in the County of Plymouth and said Commonwealth, bounded and described
as follows: (Description and encumbrances, if any)

Northeasterly by the Southwesterly line of Webster Street on land now or formerly of
Louise B. Barrett two hundred thirty-four and 56/100 (234.56) feet;
Southeasterly ninety-one and 32/100 (91.32) feet;
Southwesterly one hundred seventy-four and 21/100 (174.01) feet;
Westerly one hundred eleven and 51/100 (111.51) feet; and
Northerly thirty-eight (38) feet by lot A¹ on the plan hereinafter mentioned.

Said parcel is shown as Lots 41, 61, 62, 63, and 64 on subdivision plan #12726th,
drawn by Walter E. Rowley, Surveyor, dated June 17, 1953, and filed herewith.

There is appurtenant to the above described land a right of way over that
portion of Webster Street situated southerly of the northerly line of Wankinco Avenue,
and also over Webster Street extended southerly to Wankinco River, with others entitled
thereto, as set forth in the stipulation filed and registered as document #9228.

See Certificate of Title #19093 recorded at Land Court.



Witness our hand and seal this 5th day of November, 1960

Thomas S. Santos
Margaret B. Santos

The Commonwealth of Massachusetts

Bristol, November 5, 1960

Then personally appeared the above named Thomas S. Santos and Margaret B. Santos

and acknowledged the foregoing instrument to be their free act and deed hereunto

DAVID T. GAY

COPY

EXHIBIT C



TOWN of WAREHAM

Massachusetts

BUILDING DEPARTMENT

David L Riquinha
Building Commissioner

September 29, 2021

Bella Ferreira
C/o Jilian Morton, Esq.
184 Main Street
Wareham, MA 02571

I have reviewed your buildable lot inquiry for Lot 1-41 of Assessors Map 50B.

Based on the information provided to me, it is my opinion that this lot does not meet the requirements of M.G.L. Chapter 40A, due to the following:

On June 21, 1971, The Town adopted an amendment to our zoning by-law that increased the land area requirement from 10,000 square feet, to 30,000 square feet, in the R-30 zoning district. At that time, there was an existing dwelling which remained for a number of years, and was subsequently demolished in 1993, well after the zoning change. Because the structure was demolished after the zoning change, the property is no longer eligible for grandfathering protection under the zoning act.

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

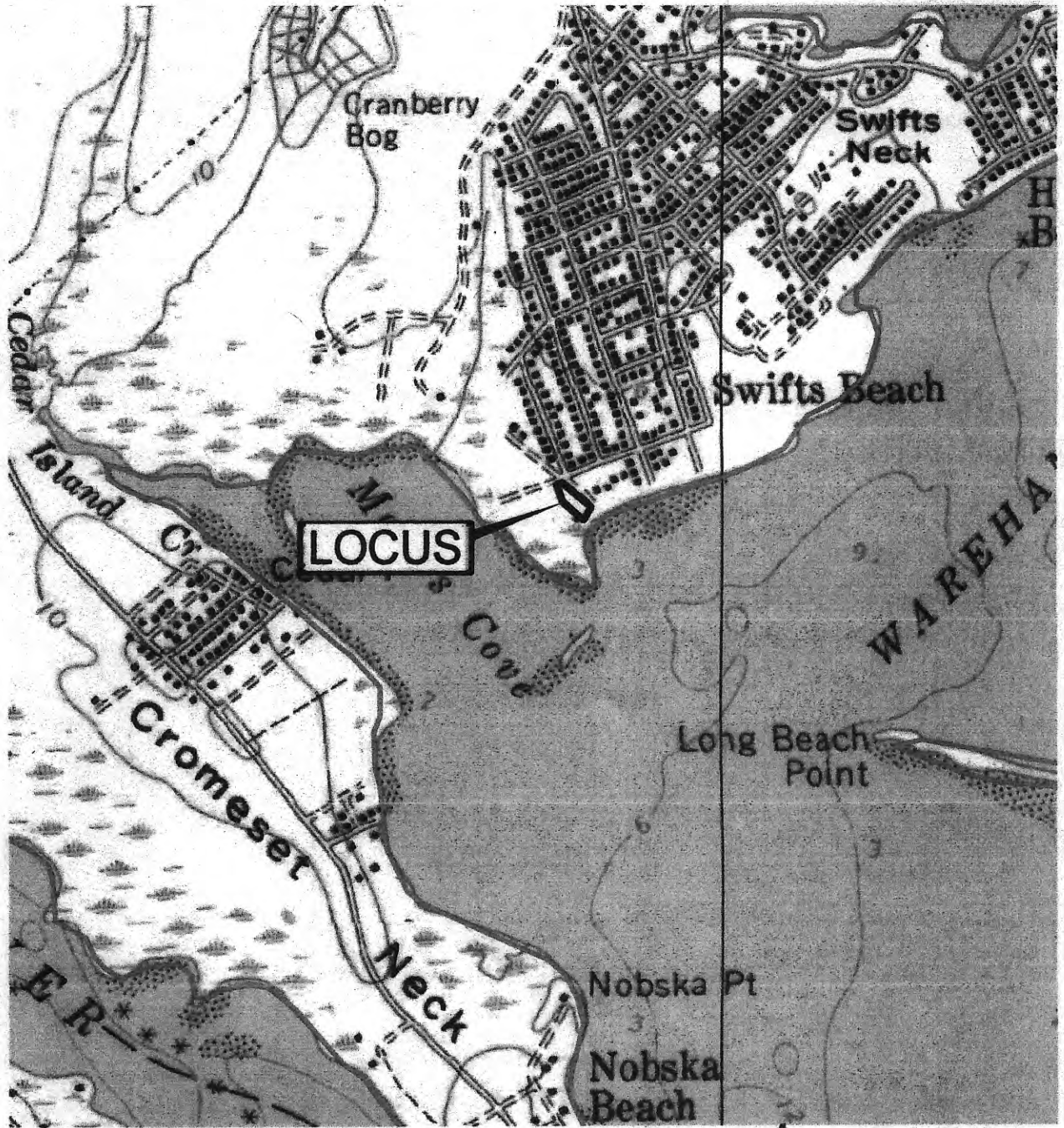
In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.

Sincerely,

David Riquinha
Building Commissioner
Zoning Enforcement Officer

cc: Assessors Department

EXHIBIT D



LOCUS PLAN

SCALE: 1" = 1000'



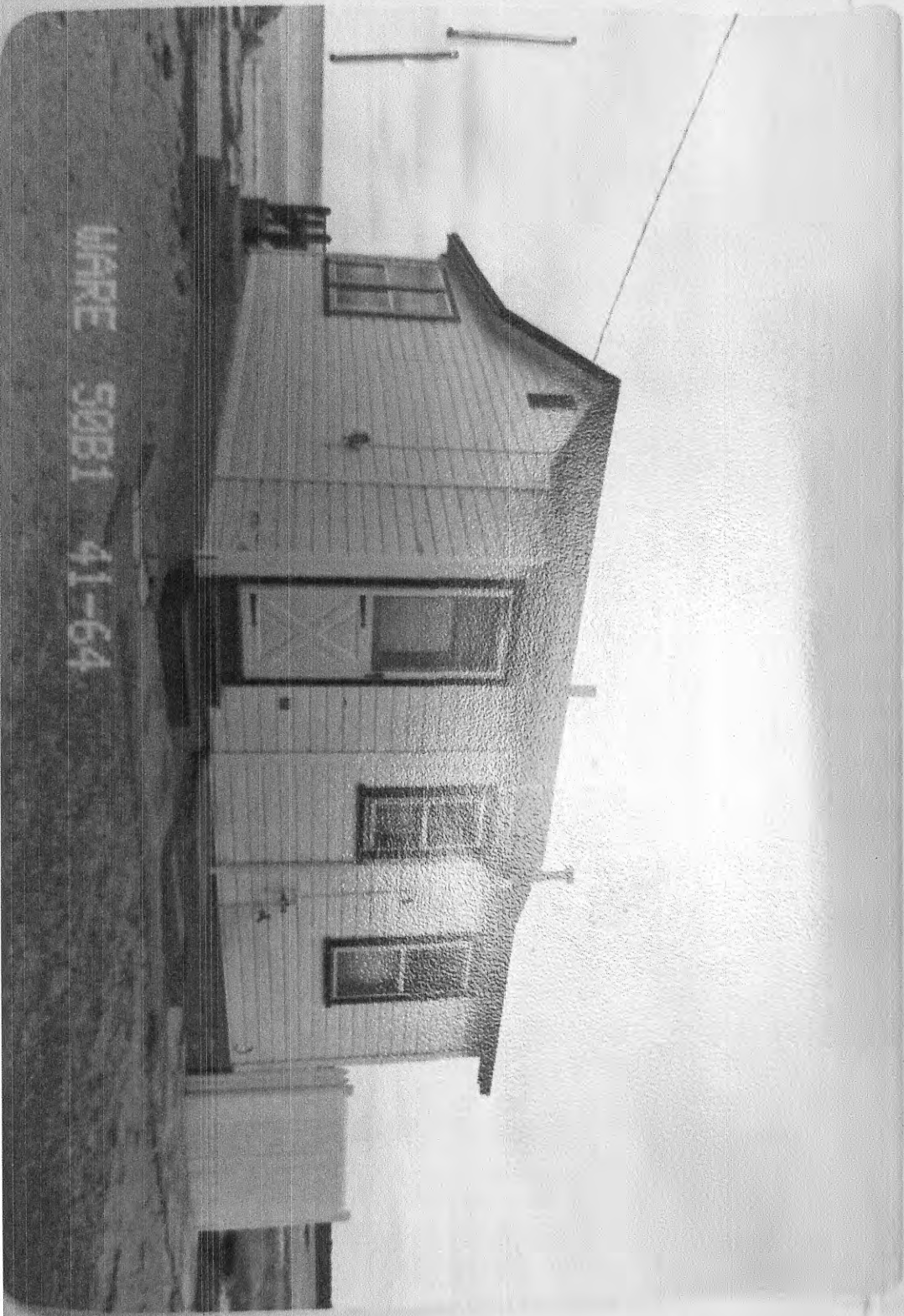
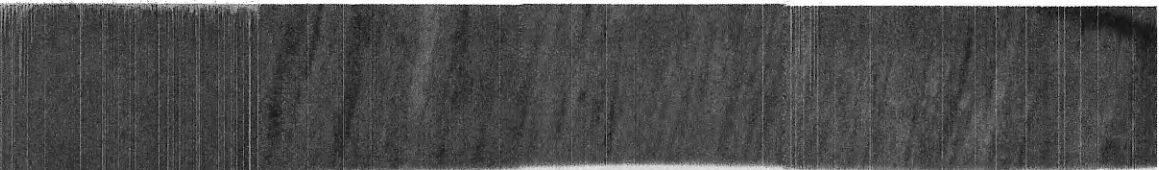
OWNER OF RECORD:

MANUEL FERREIRA & BELLA FERREIRA
PO BOX 488
TAUNTON MA 02780

EXHIBIT E

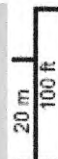


MARK 5081 41



WARE SOB1 41-64

1/3



Scale = 1:2,257

264,675.59m 832,141.56m

MassGIS Topographic Features Basemap

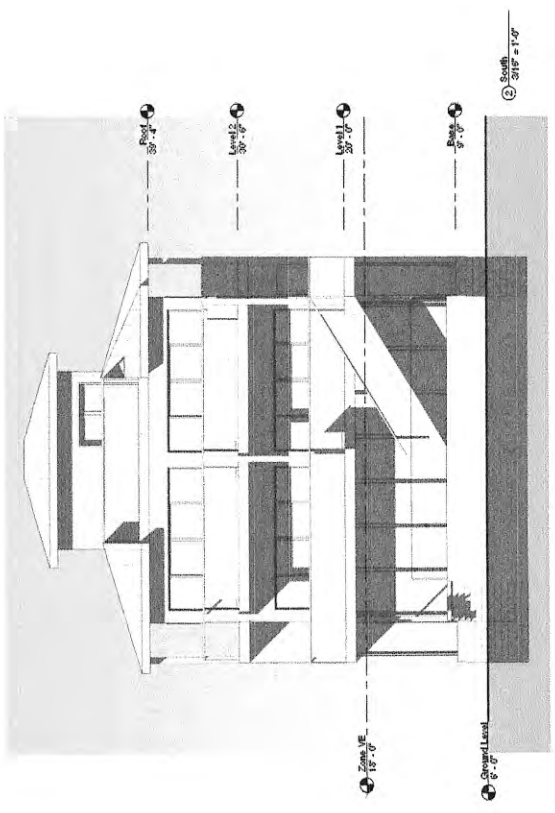
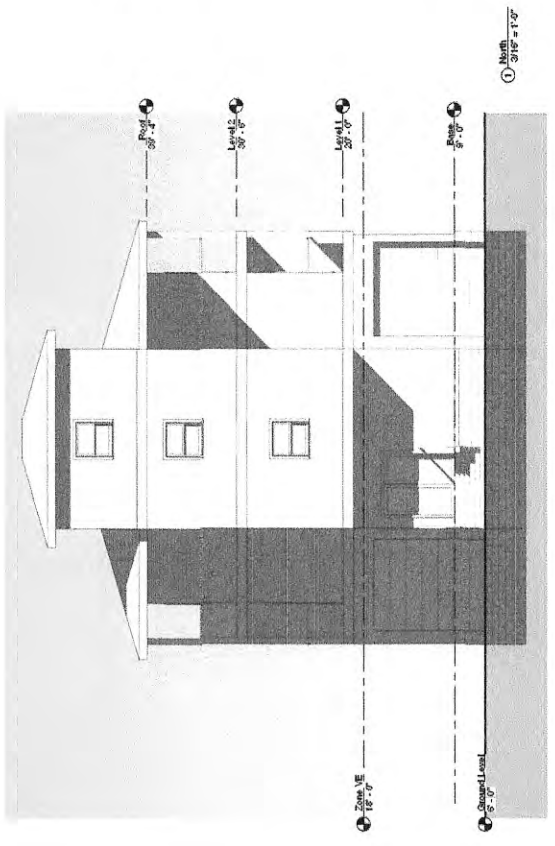
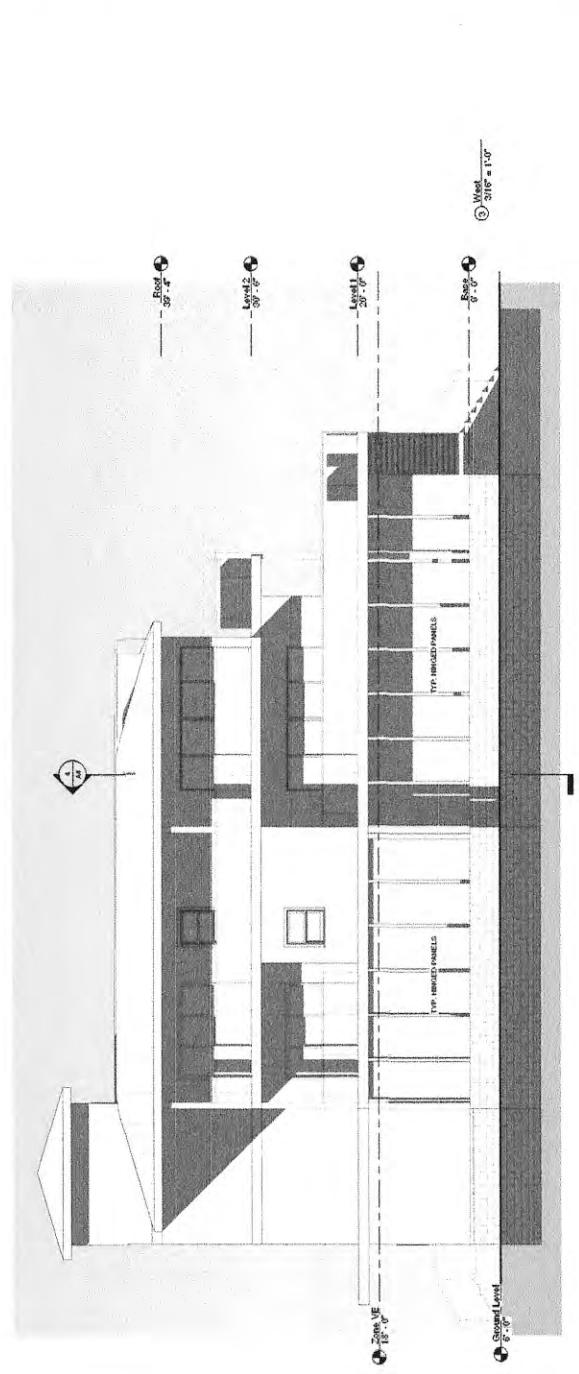
EXHIBIT F

Elevations
Scale: 3/16" = 1'-0"
Date: 4.7.21
Plan: zoning Review

Switts Beach - Single Family House
Mr. Scott Green - Owner
17 Murphy St., Wreham, Mass.

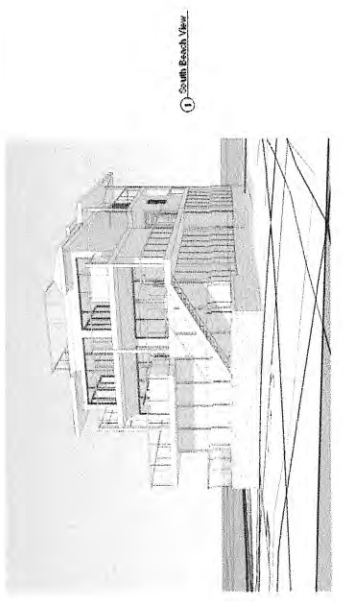
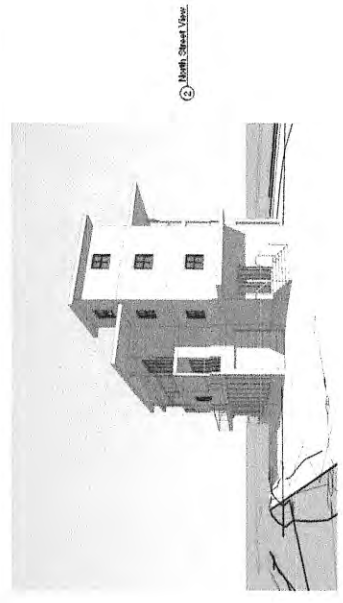
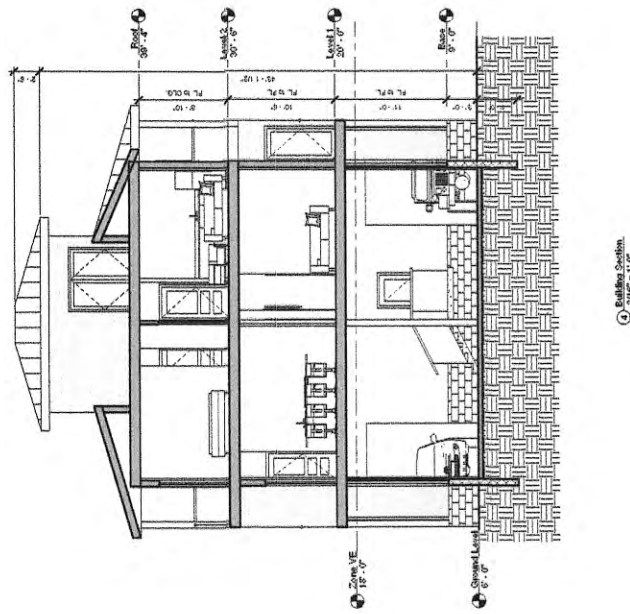
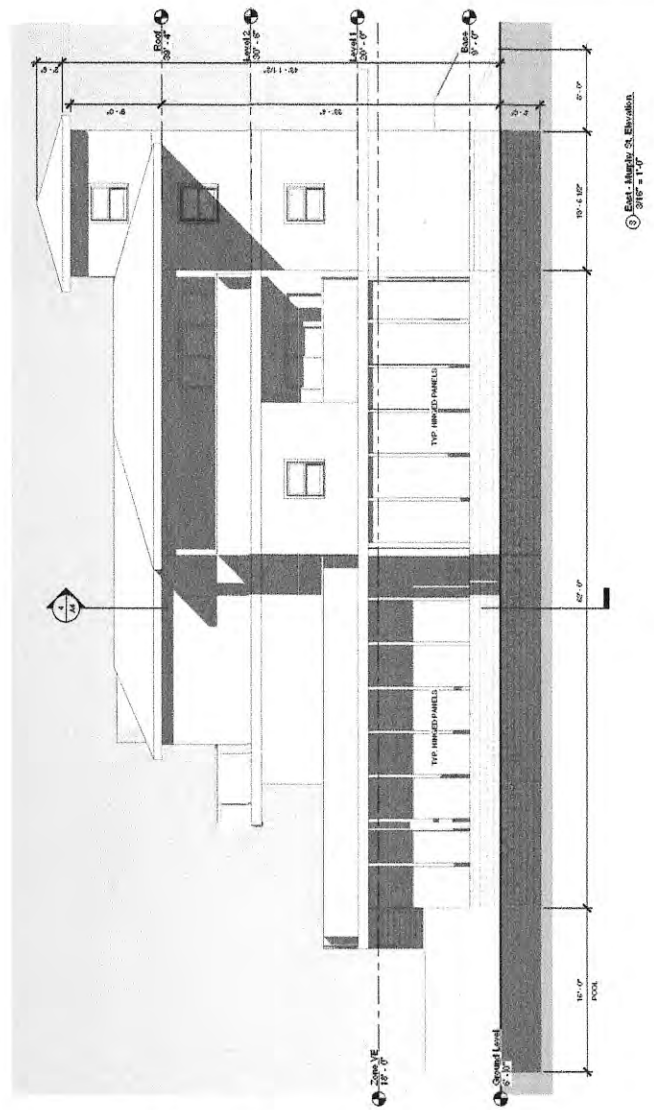


PHONE: 508.866.4444
170 STATE ST. SUITE 200
WREHAM, MA 01978



Elevations
 Scale: 3/16" = 1'-0"
 Date: 6/7/21
 Phase: Design Review

Swifts Beach - Single Family House
 Mr. Scott Green - Owner
 17 Murphy St., Wrenham, Mass.

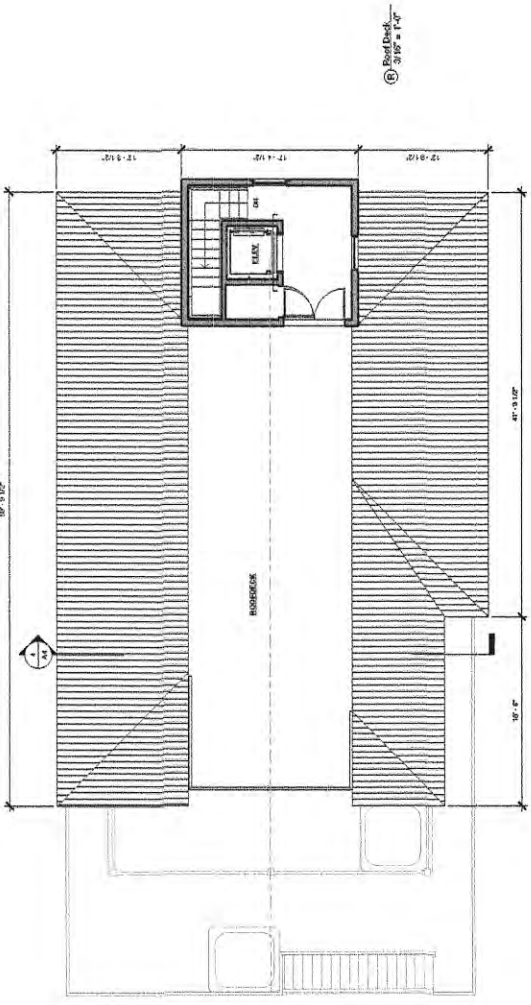


Plans

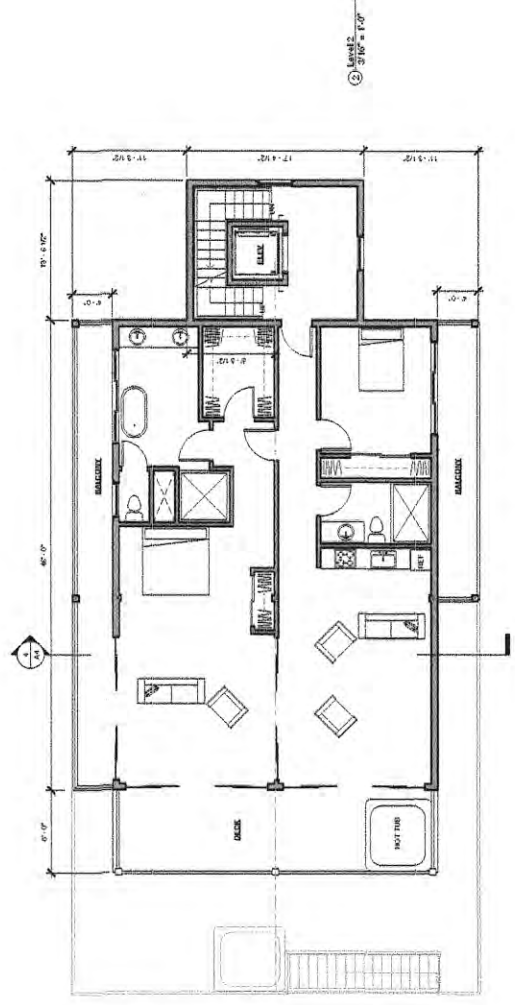
Scale: 3/8" = 1'-0"
Phase: Zoning Review
Date: 6/7/21

Mr. Scott Green - Owner
17 Murphy St., Wareham, Mass.

Swifts Beach - Single Family House



Deck Deck - 3/4" = 1'-0"



Living Area - 3/8" = 1'-0"



100 N. STATE ST. SUITE 200
WAREHAM, MASS. 01956
PHONE: 508.548.1111
WWW.SGARCHITECTURE.COM

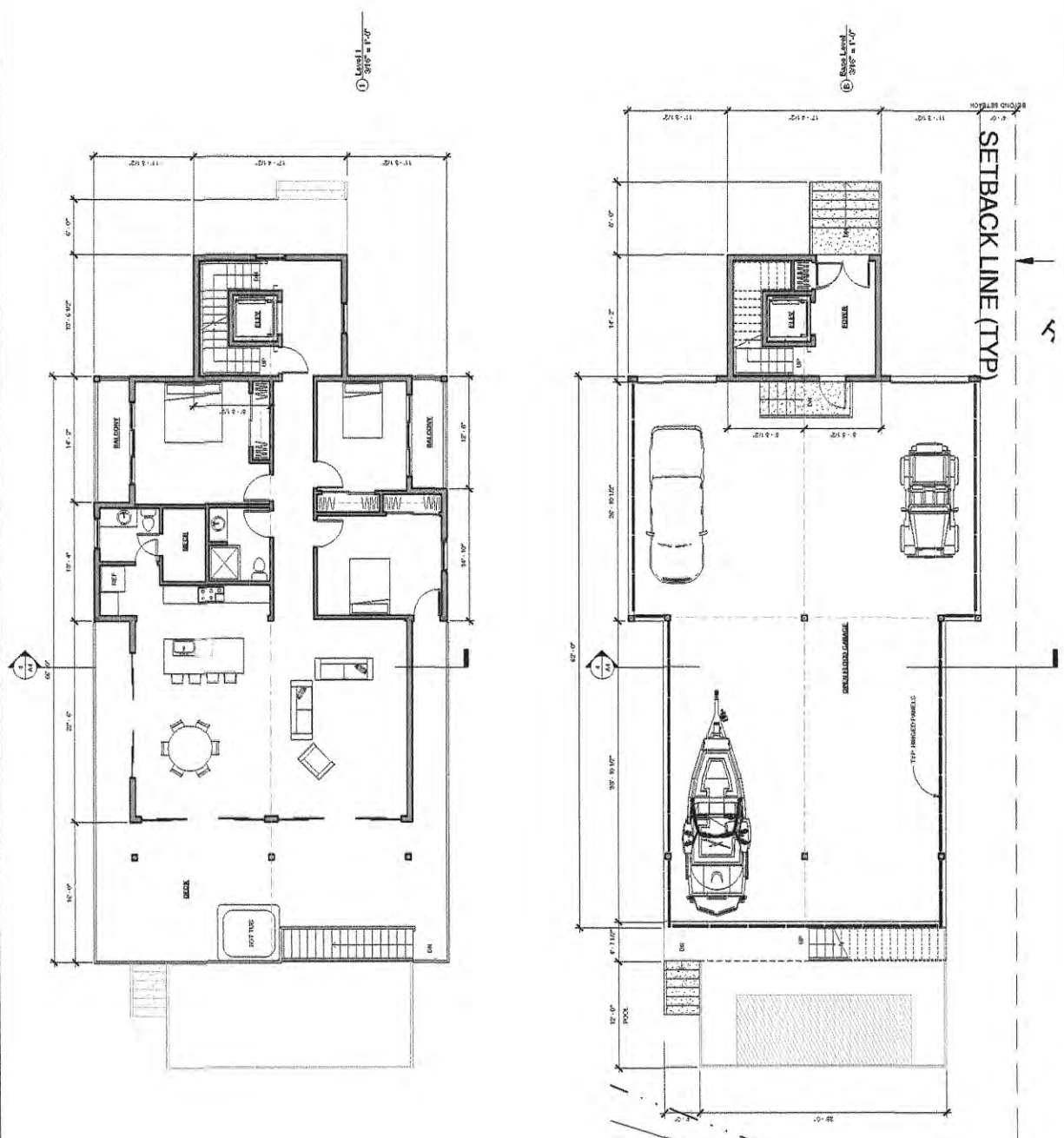


EXHIBIT G

Affidavit in Support of Petition for 17 Murphy Street, Wareham, Massachusetts

Now comes Alan F.F. Medeiros, Esq., and under the pains and penalties of perjury makes the following statement:

1. I am an attorney licensed to practice law in the Commonwealth of Massachusetts since 2005.
2. My maternal grandparents, Manuel Ferreira and Bella Ferreira acquired the property at 17 Murphy Street in Wareham on November 12, 1980 to use as a summer cottage shortly after I was born.
3. My grandparents and parents steadily improved the home that was located at 17 Murphy Street once it was purchased. It was a one bedroom cottage with a kitchen, living room, large outdoor deck and outdoor cooking area. It also had a cabana that was attached to the main structure and a shed that was placed closer to the street.
4. I spent almost every summer weekend from when I was five years old to when I was eleven years old at my grandparents cottage.
5. During the course of their ownership, they made significant improvements to the property including installing a modern electrical service and installing heat and hot water to make it a useable property in months other than the summer months.
6. During Hurricane Bob in 1991, the house and outbuildings were destroyed. My grandparents and my father, Alan B. Medeiros, Esq. spent over two years negotiating with Aetna and the National Flood Insurance Program to ascertain which program would pay for the loss.
7. Once the issue of liability was settled, my family began working towards rebuilding. My family retained an engineer, went through the conservation approval process and consulted with an architect before my grandfather became extremely ill requiring around the clock care until his death in 1995.
8. My grandmother was elderly by this time and was unable to continue the building process on her own.
9. The Town of Wareham has continued to tax the property as a buildable lot, and my family has paid the taxes on this lot without a request for abatement since the house was destroyed in 1991.

Signed under the pains and penalties of perjury this 15th day of October, 2021.


Alan F.F. Medeiros


THE COMMONWEALTH OF MASSACHUSETTS

Bristol, ss.

On this 15th day of October, 2021 before me, the undersigned notary public, personally appeared Alan F.F. Medeiros, proved to me through satisfactory evidence of identification, which was a Massachusetts driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.



JILIAN A. MORTON
NOTARY PUBLIC
Commonwealth of Massachusetts
My Commission Expires
September 30, 2022


Notary Public:
My commission expires: