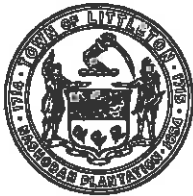


**TOWN OF LITTLETON
BOARD OF APPEALS**

37 Shattuck Street
P.O. Box 1305
Littleton, MA 01460
Tel: 978-540-2420



APPLICATION FOR PUBLIC HEARING

Pursuant to MGL Chapter 40A, 40B and 41 and the Littleton Zoning Bylaws

TOWN USE ONLY

Received by the Town Clerk Office

*Received
by 2/28/16 9:45am*

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 200 + 75 Check # C854

Pursuant to the provisions of Chapter 40, §57 of the Massachusetts General Laws as adopted by Town Meeting 2003, this document must be signed by the Tax Collector verifying payment of taxes.

Deborah A. Richards
Signature of Tax Collector

The undersigned hereby submits this petition for the following action (check all that apply):

- ☐ Appeal of Decision of Building Inspector or other administrative official (see page 2)
- ☒ Special Permit (40A) (see page 2)
- ☐ Variance (see page 3)
- ☐ Comprehensive Permit (40B) **Complete additional application** (see page 2)

PETITIONER: Signature Marilyn Burg Date: 2/18/16
Marilyn Burg Phone # 978-270-1035
Print Name
3 Evergreen Road Email Address marilynborg@verizon.net
Address
Littleton, MA 01460
Town, State, Zip
Deed Reference: Bk 54087 Page 177

PROPERTY OWNER: include authorization of Owner for Petitioner to represent Owner, if unsigned

Signature _____ Date _____ Phone # _____
Print Name (if different from petitioner) _____ Email _____
Address (if different from petitioner) _____

ASSESSOR MAP & PARCEL NUMBER U16 33

ZONING DISTRICT (R) VC B IA IB (Circle all that apply)

- Check box if applicable
- ☐ AQUIFER DISTRICT
 - ☐ WATER RESOURCE DISTRICT

FILING FEES	
Residential Property	\$200 to Town of Littleton
Commercial Property	\$350 to Town of Littleton
Comprehensive Permit	\$1000 + \$100/unit over 10 units
ADDITIONAL FEES (all applications)	
	\$75 to Comm of Mass-recording fee
	-\$25 to Town of Littleton-abutter list
	Legal Notice publication fee due prior to opening hearing

ZBA Case No. 868A Site address 3 Evergreen Rd
1' w of Littleton 300'

Appeal

Under MGL c. 40A §. 8

The undersigned hereby appeals a written order or decision of the Building Commissioner / Zoning Officer or other administrative official alleged to be in violation of the provisions of MGL c. 40A or the Zoning By-laws to the Board of Appeals for the Town of Littleton.

1. From what Town Official or Board is the appeal being sought?

Mandatory: Attach copies of written order or decision under appeal

Administrative Official _____ Date of order / decision _____

2. Which statute or Zoning Bylaw do you rely for your appeal?

MGL c.40A § _____ Zoning Bylaw § _____ Code of Littleton § _____

You may also consider whether you qualify for relief under any other authority of the Board to grant a Special Permit or Variance.

3. I hereby certify that I have read the Board of Appeals Instructions for Appellants and that the statements within my appeal and attachments are true and accurate to the best of my knowledge and belief.

Signature _____

Print name _____

Special Permit 40A

Under MGL c. 40A § 9

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to grant a Special Permit for the reasons hereinafter set forth and in accordance with the applicable provisions of the Zoning By-law.

1. Special Permits are expressly permitted in the Zoning Bylaws. Which Zoning Bylaw section do you rely for your appeal?

Zoning Bylaw § 173 - 58

2. Why are you applying for a Special Permit? Attach a written statement that specifically describes existing conditions and your objectives, along with necessary exhibits as listed in the filing instructions. *You may also consider whether you qualify for relief under any other authority of the Board to grant a variance.*

3. I hereby certify that I have read the Board of Appeals Instructions for petitioners and that the statements within my petition and attachments are true and accurate to the best of my knowledge and belief.

Maura Roy
Signature

Marilyn Burg
Print Name

Special Permit 40B

Under MGL c. 40B

See supplemental instructions: Littleton Zoning Board of Appeals Rules for the Issuance of a Comprehensive Permit under M.G.L.c40B

FOUNDATION CERTIFICATION

FOR
3 EVERGREEN ROAD
 IN
LITTLETON, MASS.

OWNER: MEMS REALTY TRUST
 442 KING STREET, LITTLETON, MA 01460

SCALE: 1 INCH = 20 FEET

DATE: DECEMBER 3, 2009

R. WILSON & ASSOCIATES, INC.

LAND SURVEYORS AND CIVIL ENGINEERS
 312 GREAT ROAD P.O. BOX 236 LITTLETON, MA 01460
 PHONE: 978-486-0203 FAX: 978-486-0644

FILE NO. 1661

DWG NO. 1661WP

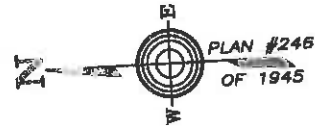
SHEET NO. 1 OF 1

DEED REFERENCE: BOOK 53586, PAGE 122

PLAN REFERENCE: PLAN 246 OF 1945

ASSESSOR'S REFERENCE: MAP U-16
 PARCELS 32 & 33

ZONING DISTRICT: RESIDENTIAL



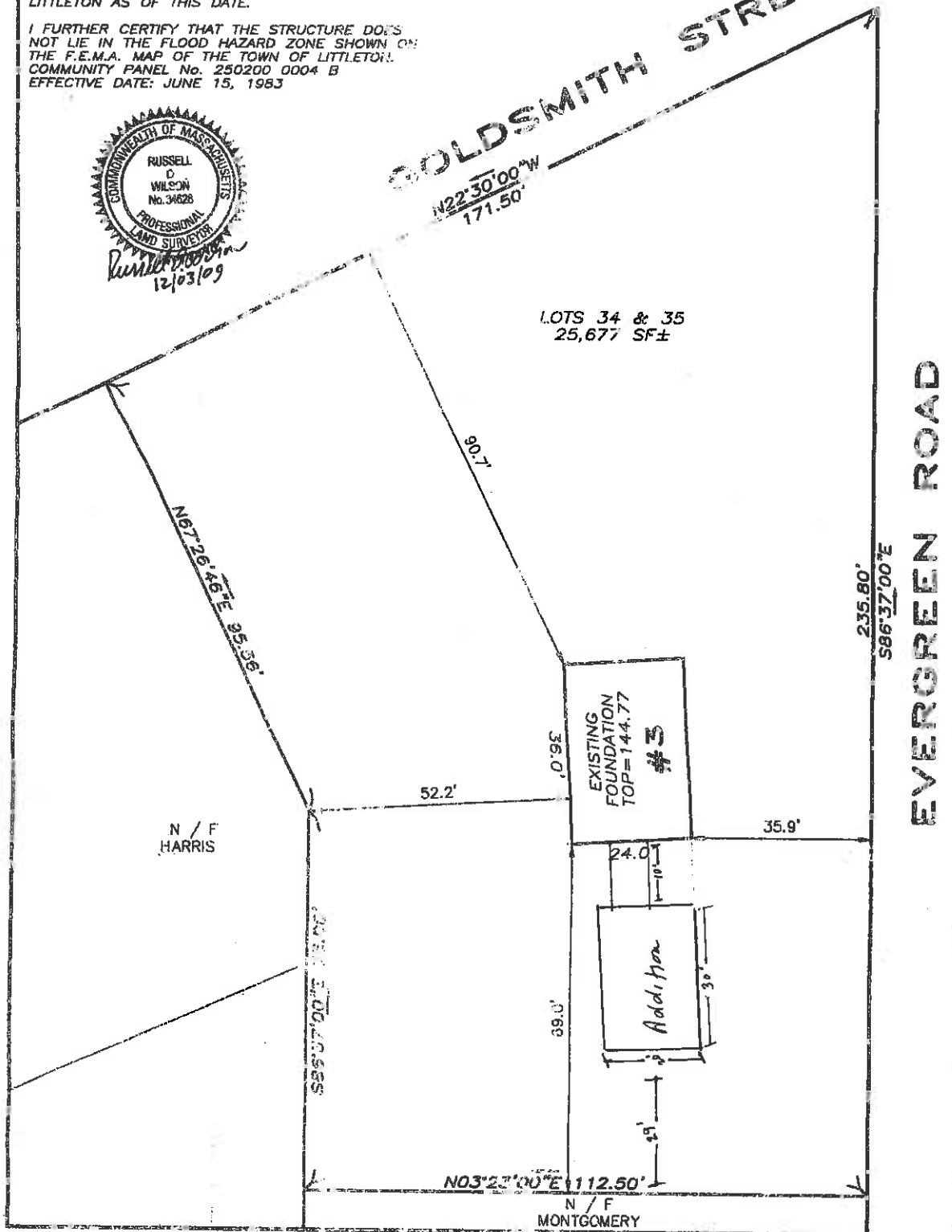
I CERTIFY THAT THE EXISTING FOUNDATION IS
 CONSTRUCTED WHERE SHOWN ON THIS PLAN,
 AND COMPLIES WITH THE ZONING BYLAWS
 (DIMENSIONAL REQUIREMENTS) OF THE TOWN OF
 LITTLETON AS OF THIS DATE.

I FURTHER CERTIFY THAT THE STRUCTURE DOES
 NOT LIE IN THE FLOOD HAZARD ZONE SHOWN ON
 THE F.E.M.A. MAP OF THE TOWN OF LITTLETON.
 COMMUNITY PANEL No. 250200 0004 B
 EFFECTIVE DATE: JUNE 15, 1983

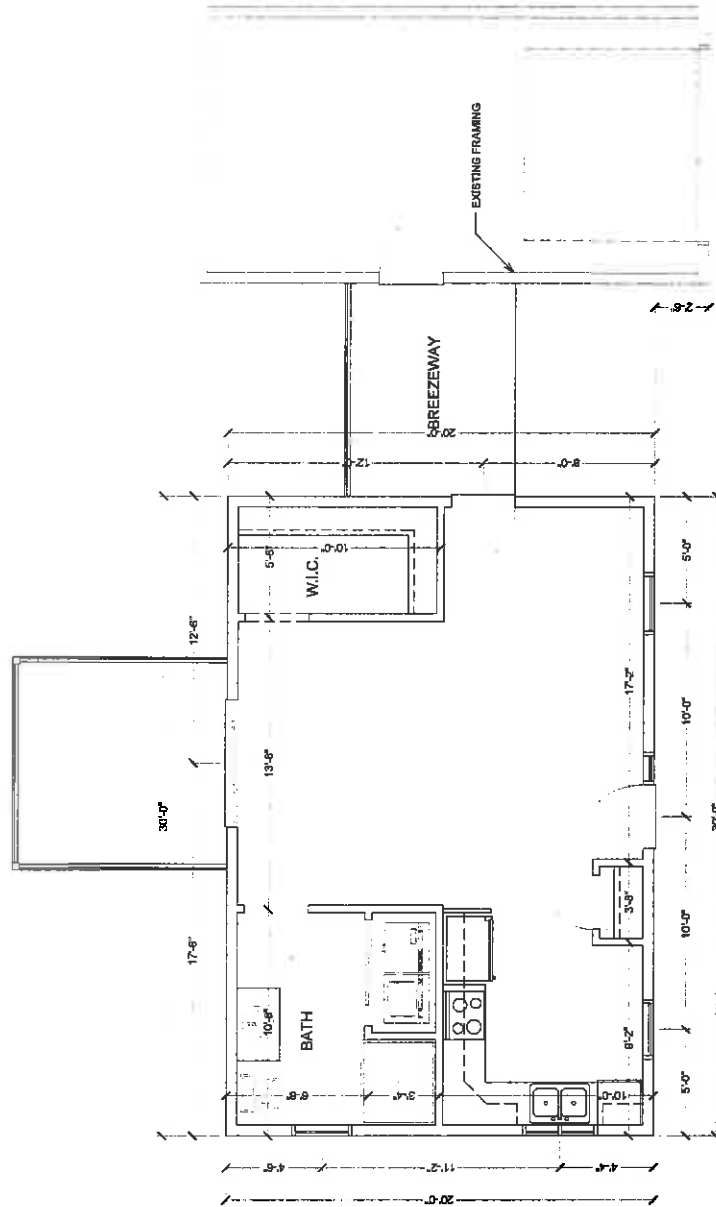


GOLDSMITH STREET
 N22°30'00"W
 171.50'

LOTS 34 & 35
 25,677 SF±



EXHIBITS 1(a), (b), (c), (d), (e), (f)

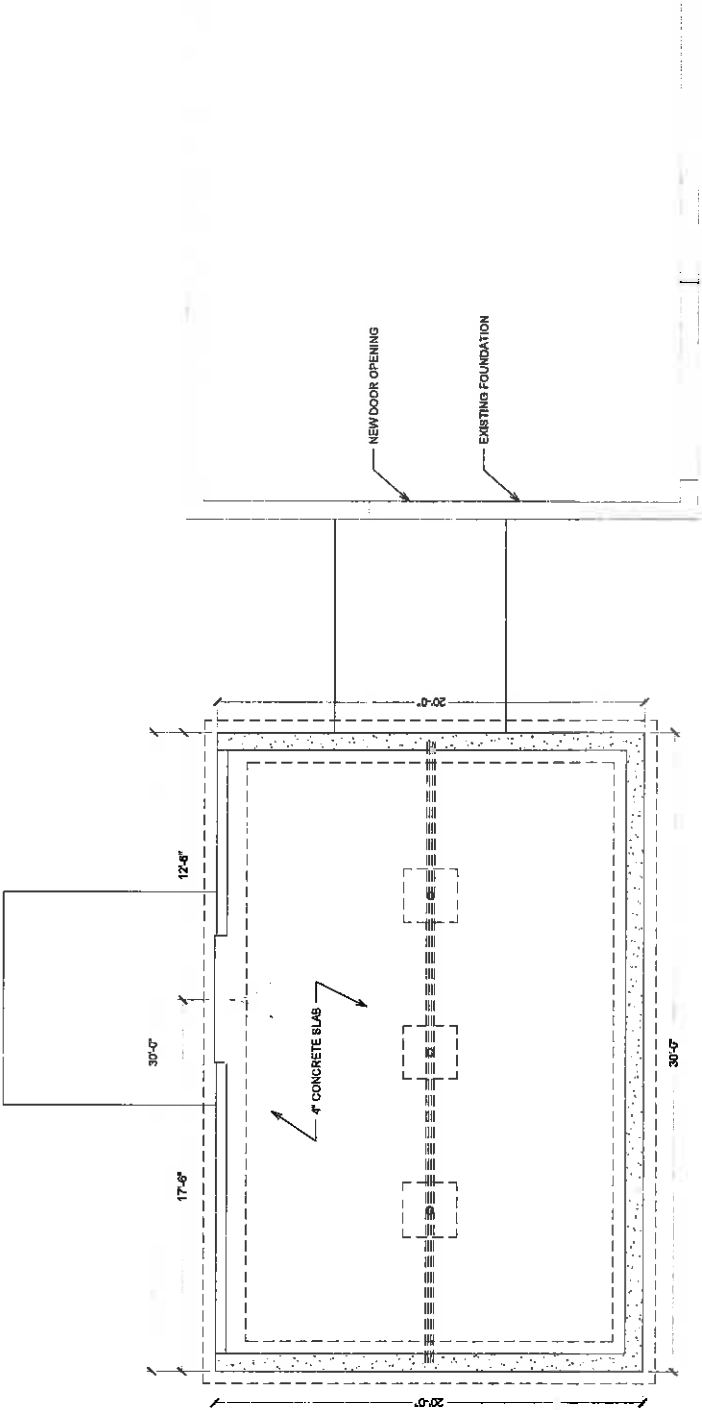


FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"

Addition Plans
EXHIBIT I(c): 4

BURG RESIDENCE
3 EVERGREEN RD.
LITTLETON, MA

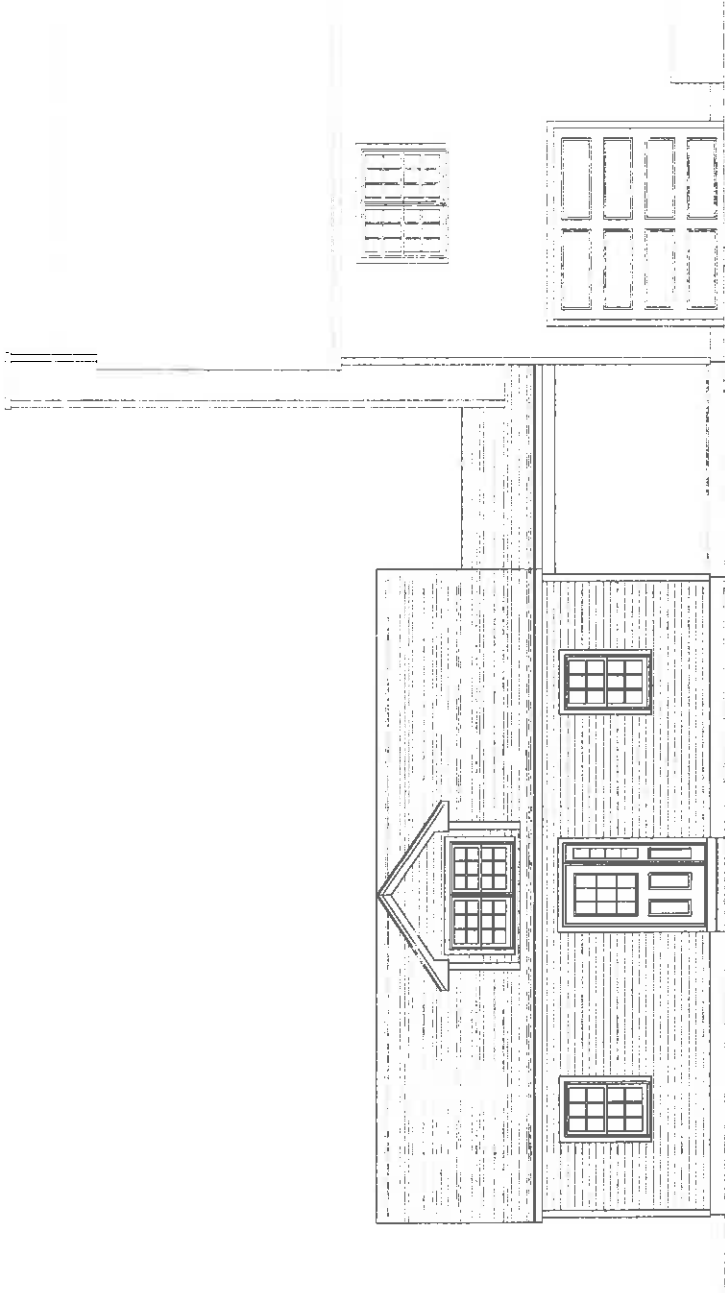
DATE: 2-23-16



FOUNDATION PLAN
SCALE: 1/4" = 1'-0"

BURG RESIDENCE
3 EVERGREEN RD.
LITTLETON, MA

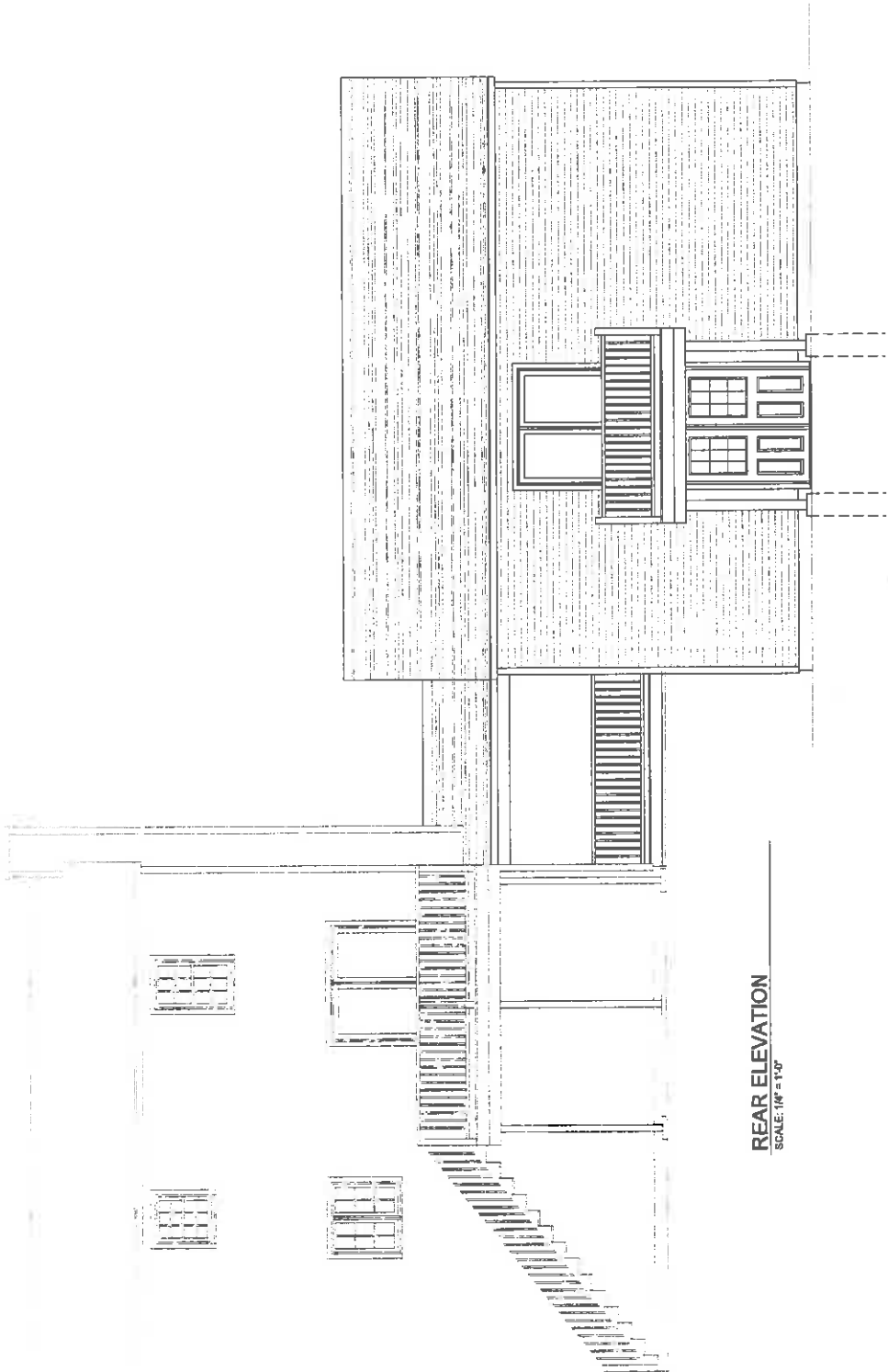
DATE: 2-23-16



FRONT ELEVATION
SCALE: 1/4" = 1'-0"

BURG RESIDENCE
3 EVERGREEN RD.
LITTLETON, MA

DATE: 2-23-16



REAR ELEVATION
SCALE: 1/8" = 1'-0"



Bk: 54087 Pg: 177 Doc: DEED
Page: 1 of 3 12/31/2009 11:35 AM

Return to: Gould Law Offices
P. O. Box 752
Littleton, Massachusetts 01460

Property Address: 3 Evergreen Road, Littleton, Massachusetts

MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 12/31/2009 11:35 AM
Ctrl# 134126-25397 Doc# 00250537
Fee: \$1,550.40 Cons: \$340,000.00

QUITCLAIM DEED

MATTHEW P. FIELD and SHEILA S. FIELD, Trustees of the Mems Realty Trust, under a Declaration of Trust dated April 27, 2000, a certificate of which is filed in Book 31350, Page 600, both of Littleton,

in consideration of Three Hundred Forty Thousand and no/100 (\$340,000.00) DOLLARS

grant to MARILYN BURG of 3 Evergreen Road, Littleton, Massachusetts,

With Quitclaim Covenants

Two certain parcels of land with the buildings thereon, situated at 3 Evergreen Road, Littleton, Middlesex County, Massachusetts, being more particularly bounded and described as shown on the Attached Exhibit "A".

Said premises are conveyed subject to restrictions of record insofar as the same are now in force and applicable.

The premises are subject to the restriction that the dwelling unit presently existing and hereinafter constructed thereon shall be limited to no more than two bedrooms, until such time as approval is granted from the Nashoba and Littleton Boards of Health for any expansion of the septic system capacity.

By execution of this deed, the Trustees here declare that the Mems Realty Trust is still in force and effect; all of the beneficiaries are competent and not minors and all of the beneficiaries have consented to the transfer of 3 Evergreen Road, Littleton, Massachusetts to the grantee herein, and they have authorized Matthew P. Field and Sheila S. Field to execute any and all documents necessary to effectuate this transaction.

Being the same premises conveyed to us by deed dated September 23, 2009, recorded with said Deeds in Book 53586 Page 122.

3 Evergreen Road, Littleton, Ma 01460

Gill Dane
160 Grandview Dr
Braintree 02184

EXHIBIT 2

Executed as a sealed instrument this 17th day of December, 2009.

MEMS REALTY TRUST

BY: Matthew P. Field TRUSTEE

BY: Sheila S. Field TR
SHEILA S. FIELD, TRUSTEE

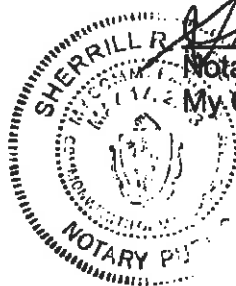
COMMONWEALTH OF MASSACHUSETTS

Middlesex,ss

Date: December 17, 2009

On this day, before me, the undersigned notary public, personally appeared Matthew P. Field and Sheila S. Field, Trustees as aforesaid, proved to me through satisfactory evidence of identification which was a valid driver's licenses, to be the persons whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose on behalf of the trust

Sherrill R. Gould
Notary Public: SHERRILL R. GOULD
My Commission Expires: 5/17/13



File Number: 09-2546

EXHIBIT "A"

LEGAL DESCRIPTION

Closing Date: 12/31/2009

Borrower(s): Marilyn Burg

Property Address: 3 Evergreen Road, Littleton, MA 01460

Tow certain parcels of land in Littleton, Massachusetts, known as 3 Evergreen Road, bounded and described as follows:

PARCEL ONE:

A certain parcel of land, including all buildings thereon, situated in Littleton, Middlesex County, Massachusetts and being shown on a plan of land entitled "Plan of Long Lake Shores, Littleton, Mass., Horace F. Tuttle, Surveyor, April 15, 1945" said plan being recorded with Middlesex South District Registry of Deeds at the end of Book 6855. Being Lot numbered 35 as shown on said plan.

PARCEL TWO:

A certain parcel of land, including all buildings thereon, situated in Littleton, Middlesex County, Massachusetts and being shown on a plan of land entitled "Plan of Long Lake Shores, Littleton, Mass., Horace F. Tuttle, Surveyor, April 15, 1945" said plan being recorded with Middlesex South District Registry of Deeds at the end of Book 6855. Being Lot numbered 34 as shown on said plan.

For grantor's title see deed recorded herewith

DATE: February 23, 2016

TO: Town of Littleton
Board of Appeals
37 Shattuck Street
Littleton, MA 01460

RE: Special Permit for Addition at 3 Evergreen Road, Littleton, MA 01460

To Whom It May Concern:

I have lived at 3 Evergreen Road for a little more than six years. During that time my mother's health has declined and I need to be able to care for her on a daily basis. In order to do that I do need to have her in very close proximity. This is my reason for requesting for an accessory dwelling. My mother will be the occupant of the accessory dwelling.

My mother requires additional care for the following reasons:

1. Her doctors have advised her that she will be in a wheel chair in the very near term (approximately 6 months). The accessory dwelling will have a handicapped ramp to accommodate her.
2. She requires assistance with shopping for necessities, daily cleanliness of her house and meal preparation.
3. She has fallen a few times over the past year and I need to be able to help her immediately.
4. She has been very lonely and scared living on her own in the past year. She and I believe having her in an accessory dwelling will make her far less lonely and scared while maintaining her dignity and independence.


I am unable to move at this point. I have recently started my own business and I am paying college tuition for my girl.

The Board of Health has granted approval for a 600 square foot accessory dwelling. They have asked that I have my septic system pumped once a year and that a deed with a two bedroom restriction be filed once the accessory dwelling is built. I agreed to these terms and will comply.

I understand that two parking spaces will be required for the accessory dwelling. We will have a paved driveway installed for the accessory dwelling allowing for two cars. My house currently has 3 parking spaces.

If you need more information please feel free to call me at (978) 270-1035.

Thank you for your consideration,



Marilyn Burg
3 Evergreen Road
Littleton, MA 01460

EXHIBIT 3

**MEETING OF THE LITTLETON BOARD OF HEALTH
JANUARY 12, 2016
ROOM 307, 37 SHATTUCK STREET**

3 Evergreen Rd
pages 2+3

Members present: Chair Brad Mitchell, William Cole, John Davis, Gino Frattallone
Absent: Ann Loree

Fire Department presentation:

Fire Chief Scott Wodzinski showed a powerpoint presentation of the proposed new Fire Department.

Board Member Reports:

Chair Mitchell stated that the Library Search Committee is looking to have a member of the Board serve on the committee, Bill Cole stated he would participate as long as it wasn't a conflict that he is a PMBC member, otherwise Gino will serve.

Bill Cole stated that at a previous meeting a motion was passed a motion for a request for a fence around the 11-15 Taylor Street property, subsequently the AG office is going to court to take into receivership, Bill stated that the motion was made, just because another process is in place the board should still go forward with this. The Board agreed to have town counsel send letter to mortgage holder requesting safety fencing due to the security risk.

Minutes:

The Board reviewed the minutes of 12-1-15.

A motion was made by Bill to approve the minutes as amended, seconded by Gino. The vote was 3 to 0, John abstained, he was not present at that meeting.

Hearing: Oak Road Parcel 123 and 124

Chair Mitchell opened the hearing. Jonathan Markey and Matt Field appeared before the Board. The proposed design a two bedroom septic design, the lot 10,000 s.f., the system is designed based on the slowest percolation rate. Jonathan explained that it is a sloping lot, this will be a raised system with a wall along back and sides, the wall will vary in height from 3.5 ft to 5 ft at highest which will require approval from the Zoning Board of Appeals. There are two drywells proposed to handle roof runoff, the required variance is fill to property line with use of the retaining wall which is two feet from the property line. There were no abutters present. The lot will be serviced by town water. Bill read health agent Jim Garreff's comments and asked about the revised plans. Jonathan stated that the variance request won't change when the plans have been revised and asked if the Board would grant approval of the variance subject to Jim approving the plan.

A motion was made by Bill to approve the variances as listed on the plan dated 12-31-15 from Town of Littleton Regulation 27 fill within 10 ft of a lot line, subject to Jims review and approval of the revised plans seconded by Gino. The Board voted 4 to 0 in favor of the motion.

Hearing: 72 Wychwood Drive

Chair Mitchell opened the hearing. Engineer Jonathan Markey, Matt Field and owner Peter Tracey were present. Jonathan explained this is an existing 3 bedroom dwelling with a failed system. The proposed upgrade

is designed for 3 bedrooms, requiring a variance from Town of Littleton Regulation 27 fill within 10 ft of a lot line, the percolation rate was 2 min/inch and they are maintaining the 5 ft to groundwater offset. One abutter was present and asked if the grade would remain the same. Jonathan explained the final grading.

A motion was made by Bill to grant the variance from Town of Littleton Regulation 27 fill to lot line, as shown on the plan by Markey and Rubin dated 12-31-15, seconded by John. The Board voted 4 to 0 in favor of the motion.

Hearing: 27 Hartwell Ave

Chair Mitchell opened the hearing. Engineer Kirk Fitzpatrick of Civil Solutions was present on behalf of the owner. Proposed upgrade of an existing system, 3 min per inch percolation rate, 1500 gallon tank and leaching field, they are requesting a variance from 15.405(1)h reduction in groundwater offset from 4 ft to 3 ft, this eliminates the need for a pump chamber. There were no abutters present. Chair Mitchell read Jim Garreffi's comments.

A motion was made by Gino to grant the variance from 15.405(1)h reduction in groundwater from 4 ft to 3 ft as shown on the plans by Civil Solutions dated 12-8-15, seconded by John. The Board voted 4 to 0 in favor of this motion.

Hearing: 14 Town Road

Chair Mitchell opened the hearing. Engineer Robert Elliott appeared on behalf of the owners of 14 Town Rd. The dwelling is an existing 3 bedroom with a failed system. The percolation rate was 5 min/inch, the site has only 3.5 ft of naturally occurring pervious soil, two variances are requested, Local Upgrade Approval 15.405(1)h reduction in groundwater offset from 4 ft to 3 ft with the use of a Presby system, and reduction in the naturally occurring pervious material to three ft which is also allowed under the Presby approval. The site is serviced by town water and there are no wetlands or wells within 100 ft of the system. There were no abutters present. Chair Mitchell read Jim's comments.

A motion was made by John to grant the variances for reduction in groundwater offset from 4 ft to 3 ft and reduction in depth of pervious material from 4 ft to 3 ft as shown on the plan dated 12-31-15, seconded by Gino. The Board voted 4 to 0 in favor of the motion.

Discussion: 3 Evergreen Road

Chair Mitchell opened the discussion. Attorney Sherry Gould appeared on behalf of the owner Marilyn Berg. John stated he had read the minutes from the previous meeting but asked for overview of the proposal. Attorney Gould stated that the owner is asking to put a 600 s.f. addition onto the existing house which is an existing two bedroom deed restricted house. She showed building plans which is a split entry, the addition is for the owners elderly mother who cannot access the second floor bedrooms, so they are proposing a separate space. It is not feasible to put the accessory unit in basement because they would then need to build a separate garage. Bill asked if the stairs in front could have a ramp, stairs inside the house could be accommodated with a chair lift, this would allow the use of the existing bedroom, which would be smaller cost than adding additional living space to an already deed restricted home, Bill stated that a variance should not be granted unless there is no other viable option. John asked about the current size of the house, Attorney Gould stated it is not really a variance, the owner agrees that the approval can be conditioned and she also needs a Special Permit thru the Zoning Board of Appeals. Chair Mitchell stated the issue is the dwelling is a two bedroom deed restricted

property, and this unit will add another bedroom. John read Jims comments. John asked whether a fully compliant system could be installed upon failure of the existing system, Attorney Gould stated that an engineer thought a three bedroom system could be installed.

A motion was made by John to allow the accessory dwelling with the following conditions, the property is deed restricted to two bedrooms, the deed restriction could be removed if the system is increased to a three bedroom system, approval of a Special Permit from ZBA with no other increase in living area, all work is done with valid permits, the system be pumped annually and proof presented to the Board, Bill read Jims comments into the record, seconded by Gino. The vote was 3 to 1 with Bill voting in opposition.

Discussion: White Street:

Chair Mitchell opened the discussion. Attorney Sherrill Gould stated that last year the owner came before the Board for approval to continue to share the cesspool for the two properties at #2 (house) and #10 (garage) White Street, there is a passing Title V inspection report. The owners are now trying to sell the two properties separately. Basnett Plumbing wants to buy the garage to store vehicles and put a bathroom in, they want to make sure that the Board is aware they are selling it to separate owners, the easements will be recorded, it is already two separate lots.

Chair Mitchell indicated that a motion was not needed but confirmed that the Board is ok with 10 White Street being sold to a different owner as long as the requirements are met (passing Title V) and the easements recorded. When the system fails a Title V compliant shared system will be required to be installed.

5 permits were signed.

A motion was made by Gino to adjourn, seconded by John.

Meeting adjourned at 8:28 p.m.

Approved 3-8-16

Submitted by Michelle Cobleigh