

General Information

What authority does the Board of Appeals have?

The Board of Appeals obtains its authority under the Massachusetts General Laws Chapter 40A §14 and the Town of Littleton's Zoning By-law 173-6 to hear and decide *appeals*, to hear and decide applications for *Chapter 40A special permits*, and to hear and decide petitions for *variances*. The Board of Appeals also hears and decides applications for *special permits for low and moderate income housing* under Massachusetts General Laws Chapter 40B Sections 20, 21, 22, and 23.

What is an Appeal?

Pursuant to Massachusetts General Laws Chapter 40A §8 and Littleton Zoning By-law 173-6 B(3) and 173-6 B(5) the Board of Appeals hears and decides appeals by any person aggrieved by any written order or decision of the Zoning Enforcement Officer or other administrative official in violation of any provision of Massachusetts General Laws Chapter 40A or the Littleton Zoning By-laws. Building permits withheld by the Building Commissioner acting under MGL C. 41, §81Y as a means of enforcing the Subdivision Control Law may also be issued by the Board of Appeals. Action taken by the Building Commissioner acting under the Code of Littleton Chapter 152 will also be heard by the Board of Appeals. *If the Zoning Enforcing Officer or other administrative official does not issue a written order or decision, the Board of Appeals will not hear the appeal.* Appeals from the written decisions of the Zoning Enforcement Officer or other administrative official must be filed with the Office of the Town Clerk pursuant to Massachusetts General Laws Chapter 40A Section 15 within thirty (30) days from the date of the written order or decision which is being appealed. Failure to file a timely appeal is fatal.

What is a Chapter 40A Special Permit?

Certain uses of property are permitted as a matter of right. However, the Littleton Zoning By-laws provide that other uses are not allowed in certain zoning districts, and that specific types of uses shall only be permitted in specified zoning districts upon the issuance of a Special Permit from the Board of Appeals pursuant to Massachusetts General Laws Chapter 40A § 9, 9A, and 9B. Special Permits may be issued only for uses which are in harmony with the general purpose and intent of the By-law, and may be subject to general or specific provisions set forth therein, and such permits may also impose conditions, safeguards and limitations on time or use. A Special Permit, unlike a Variance, may be conditioned by limiting its duration to the term of ownership or use by the Applicant. When a Special Permit application is accompanied by plans or specifications detailing the work to be undertaken, the plans and specifications become conditions of the issuance of the permit. Therefore, once a Special Permit is granted, modification of the plans or specifications require as a prerequisite, modification of the Special Permit through the filing of a successive Special Permit application. No building permit may be issued by the Building Commissioner for a use or structure that requires a Special Permit until 1) a Special Permit has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Special Permit has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. No party is entitled "as a matter of right" to a Special Permit. The Board of Appeals, in the proper exercise of its discretion, is free to deny a Special Permit even if the facts show that such a permit could be lawfully granted. Special Permits 40A shall lapse 24 months following the granting unless substantial use or construction has commenced.

What is a Chapter 40B Special Permit?

Chapter 40B is a state statute, which enables local Boards of Appeals to approve affordable housing developments under flexible rules if at least 25% of the units have long-term affordability restrictions. Also known as the Comprehensive Permit Law, Chapter 40B was enacted in 1969 to help address the shortage of affordable housing statewide by reducing unnecessary barriers created by local approval processes, local zoning, and other restrictions. Its goal is to encourage the production of affordable housing in all communities throughout the Commonwealth. Special Permits 40B shall lapse 3 years from the date the permit becomes final unless construction authorized by a comprehensive permit has begun, or unless specifically noted otherwise in the permit by the Board of Appeals.

What is a Variance?

A Variance is a waiver of the zoning rules adopted by the Citizens of Littleton at Town Meeting. A Variance may be granted pursuant to the Littleton Zoning By-laws and Massachusetts General Laws Chapter 40A Section 10. Accordingly, it is only in rare instances and under exceptional circumstances that relaxation of the general restrictions established by the Zoning By-laws are permitted. A Variance is distinguished from a Special Permit. The Variance is used to authorize an otherwise prohibited use or to loosen dimensional requirements otherwise applicable to a structure. No person has a right to a Variance. *Variance of "use" is almost never granted by the Board of Appeals. Variance of "dimensional" requirements is granted in rare occasions.* The Board of Appeals has no discretion to grant a Variance unless the petitioner provides evidence, and that the Board of Appeals determines that, owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or 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. Even if the Board of Appeals find that such hardship exists, it may exercise its discretion and not grant a Variance. No building permit may be issued by the Building Commissioner for a use or structure that requires a Variance until 1) a Variance has been granted by the Board of Appeals, 2) the expiration of the twenty (20) day appeal period pursuant to Massachusetts General Laws Chapter 40A Section 11, and 3) the Variance has been recorded at the Middlesex South District Registry of Deeds. The Building Commissioner shall require proof of recording at the Registry of Deeds from the Town Clerk prior to issuance of a building permit. Rights authorized by a Variance must be exercised within 1 year of granting, or said variance shall lapse.

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
5-1-15

The filing is not official until stamped by the Town Clerk

Filing Fee paid: \$ 200 + 75 Check # 3174

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.

R. Lord

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

Reina L. & Robert H. Hofe ldt

Print Name

1 Orchid Drive

Address

Littleton, MA 01460-1875

Town, State, Zip

Date: 2-19-2015

978-486-8106; 978-413-2259

Phone #

reinaone2000@yahoo.com

Email Address

Deed Reference: Bk _____ Page _____

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

Reina L. & Robert H. Hofe ldt 2-19-15 978-486-8106

Signature

Date

Phone #

Print Name (if different from petitioner)

Email

Address (if different from petitioner)

ASSESSOR MAP & PARCEL NUMBER U17 483

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-about list
Legal Notice publication fee due prior to opening hearing

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 § 173-10B (1)

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.

Signature _____

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.c.40B

Variance

Under MGL c. 40A §. 10

The undersigned hereby petitions the Board of Appeals for the Town of Littleton to vary, in the manner and for the reasons hereinafter set forth, the applicable provisions of the Zoning By-law.

1. Specifically, from what Zoning bylaw section are you seeking relief? 173-10B (1)

2. Why are you seeking relief from a literal enforcement of this Zoning Bylaw?

Attach a written statement that specifically describes existing conditions and your objectives, along with plans, specifications, certified plot plan and any documentation necessary to support your request.

3. Show evidence that you meet the minimum requirements of a variance under section 173-6 B (2) of the Littleton Zoning Bylaws.

Attach a written statement which specifically includes why, owing to conditions (soil, shape, or topography) especially affecting the premises, but not affecting generally the zoning district in which it is located, a literal enforcement of the Zoning By-law would result in a substantial hardship to you. Applicant must clearly demonstrate the lack of alternative remedies.

4. 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.

Signature _____

Print name _____

Filing Instructions

1. **IMPORTANT: SEE THE BUILDING COMMISSIONER/ZONING ENFORCEMENT OFFICER BEFORE YOU FILL OUT THIS APPLICATION.** He will assist you with the proper zoning sections and application request(s). His review may save time by preventing delays in the hearing process.

2. Apply for a certified abutters list with the Assessors office (request for certified list of abutters form enclosed)

3. Bring the completed application packet to the Administrative Assistant to the Building Commissioner who will assist you in filing with the Town Clerk.

Necessary Exhibits— provide 14 copies of the following with the completed application:

1. A copy of the most recently recorded plan of land or where no such plan exists, a copy of a plot plan endorsed by a registered engineer or land surveyor. The plan should show;

- A) metes and bounds of the subject land
- B) adjacent streets and other names and readily identifiable landmarks and fixed objects
- C) dimensional layout of all buildings
- D) distances and setbacks from the various boundaries
- E) exact dimensions, setbacks and specifications of any new construction, alterations, additions or installations
- F) direction of North
- G) the name of each abutting property owner

2. Copy of the latest recorded deed

→ 3. A written statement which details the basis for your petition attached

4. Pictures, plans, maps, drawings and models are always helpful in explaining the problem

5. In cases pertaining to signs, a scale print of the sign lettering and colors

6. In cases pertaining to subdivisions of land, prints should show the proposed subdivision endorsed by a registered engineer or land surveyor

7. In cases pertaining to Accessory dwellings evidence that the Board of Health has approved the septic system

8. The date of the building construction and the history of ownership are useful in finding facts about the case

Completed applications filed with the Town Clerk by the third Thursday of the month will be considered at the next regularly scheduled Zoning Board of Appeals meeting, held on the third Thursday of the following month.

The Board in its discretion may dismiss an application or petition for failure to comply with any of the foregoing rules

RECORD OWNERS:

ROBERT H. & REINA L. HOFELDT
1 ORCHID DRIVE
LITTLETON, MA

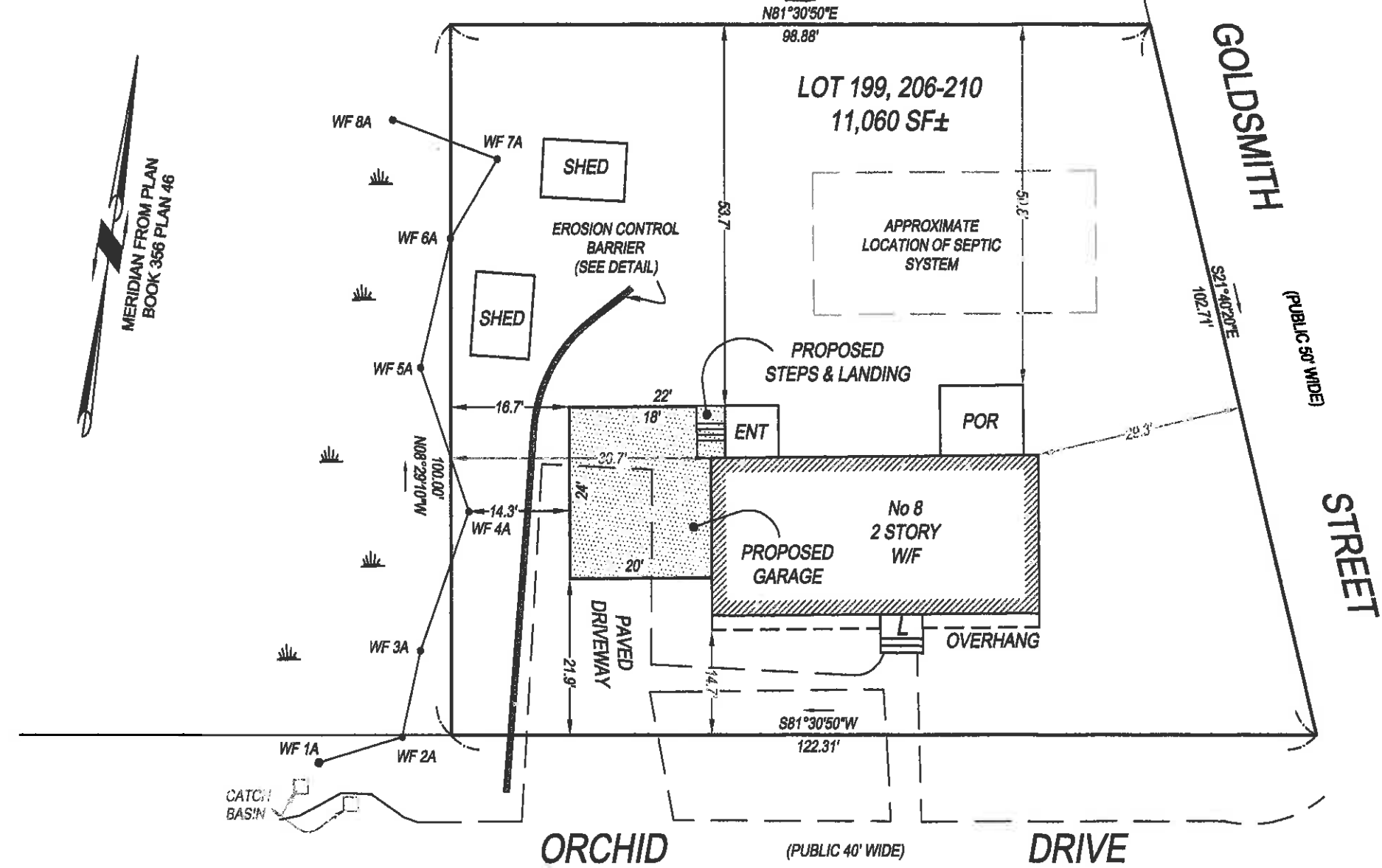
REFERENCES:

DEED BOOK 12871 PAGE 418
PLAN 356 OF 1946

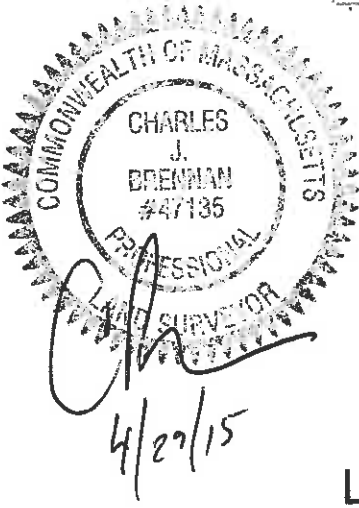
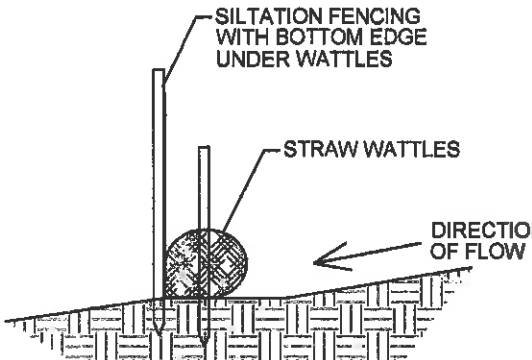
No. 135 GOLDSMITH ST
N/F
PATRICIA M. SEABURG

NOTES:

- 1.) THIS PLAN WAS PREPARED FROM AN INSTRUMENT SURVEY PERFORMED ON APRIL 8, 2013.
- 2.) SUBSURFACE AND ABOVE GROUND UTILITIES WERE NOT INCLUDED AS PART OF THIS SURVEY, THEY WERE NOT RESEARCHED NOR SHOWN HEREON.
- 3.) A TITLE EXAMINATION WAS NOT PROVIDED FOR THIS SURVEY. AS SUCH OTHER MATTERS OF RECORD MAY EXIST AND NOT BE SHOWN HEREON.



SEDIMENT AND EROSION CONTROL DETAIL
NOT TO SCALE



PROPOSED PLOT PLAN
IN
LITTLETON, MA

AT 1 ORCHID DRIVE
PREPARED FOR

ROBERT H. & REINA L. HOFELDT

BY
SUMMIT SURVEYING INC.

285 LITTLETON ROAD, SUITE 2, WESTFORD, MA
TEL. 978-692-7109
APRIL 27, 2015
WWW.SUMMITSURVEYINGINC.COM
15-0111

Reason that Robert H. and Reina L. Hofeldt of 1 Orchid Drive seek a Special Permit for frontal setback

We, Reina L. and Robert H. Hofeldt, seek a Special Permit for the front setback for our proposed garage located on our property at 1 Orchid Drive, Littleton, MA, Town Map ID: U17 483 0. We are the original owners of this residence having been here since 1975 and require a garage to survive the harsh Littleton winters. Since the front of the house on this property has an existing non-conforming setback of 14.7' from Orchid Drive, we seek a Special Permit for the garage, which will have a non-conforming setback of 21.9'. A fully conforming frontal setback is 30'. Since the garage is much more nearly conforming than is the house, we seek a Special Permit. If the garage were to be setback to comply, the back of the garage and the existing mudroom would not be inline with each other and would create a very unattractive dwelling. The proposed setback will permit easy entrance from the house to the garage. Moving the garage back would entail having to add to the back of the mudroom in order to enter the garage from the house without going outdoors. Being able to access the garage from within the house is a very important feature for us, as Reina is 71 and Bob is 76. Accessing the garage from within the house will be even more important as we age, because of the snow and ice on the front steps, sidewalk and driveway and our advanced age. If the garage is moved back from the road to comply and the proposed garage entrance from within the house is maintained, the interior of the garage will be more than 2' narrower for a longer portion. This would not permit garaging two compact vehicles, as is our intend. Adding onto the mudroom to access the garage adds an undue hardship expense, and being retired we are on a limited, fixed income. Finally the completed project as proposed would be a much more attractive dwelling and would add more value to the town than having to modify the plan to comply with the 30' setback. The property value would be more with the proposed plan than the hatchet job that would be required if the garage were setback 30'.

Reina L. Hofeldt

Date:_____

Robert H. Hofeldt

Date:_____

101-2-5 AM 1752 208E-10.0

BK12871 PG418

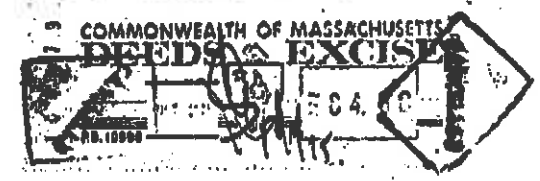
MASSACHUSETTS QUITCLAIM DEED SHORT FORM (INDIVIDUAL) 001

710-

Loretta O'Connell

of Littleton, Middlesex County, Massachusetts,
being ~~unmarried~~, for consideration paid, and in full consideration of Thirty-Seven Thousand Dollars
grants to Robert H. Hofeldt and Reina L. Hofeldt, husband and wife as tenants by
the entirety
of 1 Orchid Drive, Littleton, Massachusetts with quitclaim covenants

the land in with the buildings thereon numbered 1 Orchid Drive in said Littleton,
bounded and described as follows:
[Description and encumbrances, if any]
Beginning at a point in the Westerly line of Goldsmith Street at its intersection
with the Northerly line of Orchid Drive; thence by and with the Northerly line of
Orchid Drive South 81° 30' 30" West one hundred twenty-two and 31/100 feet to a
point; thence North 8° 29' 10" West one hundred feet to a point; thence North
81° 30' 30" East ninety-eight and 88/100 feet to the Westerly line of Goldsmith
Street; thence by and with the Westerly line of Goldsmith Street South 21° 40' 20"
East one hundred two----- and 71/100 feet to the point of beginning.
Being lots known as 199, 206, 207, 208, 209 and 210 as designated and delineated
on a map entitled "Map A of Long Lake, Town of Littleton, Middlesex County, Mass-
achusetts," recorded Middlesex South District Deeds, June 30, 1925 in Book of
Plans 356, Plan 46; be said measurements more or less or however otherwise said
promises be bounded, measured or described.
Being the same premises conveyed to me by deed of Iona Nanfeldt, dated April 11,
1949, and recorded Middlesex South District Deeds, Book 7416, Page 103.
Subject to restrictions of record, if any, insofar as now in force and applicable.



Witness my hand and seal this 1st day of October, 1975.

Loretta O'Connell
Loretta O'Connell

The Commonwealth of Massachusetts

Middlesex ss. October 1, 1975

Then personally appeared the above named Loretta O'Connell
and acknowledged the foregoing instrument to be her free act and deed, before me

Myra A. Sullivan
Notary Public - Suffolk County
My commission expires March 12 1982

(*Individual--Joint Tenants--Tenants in Common--Tenants by the Entirety.)

CHAPTER 183 SEC. 6 AS AMENDED BY CHAPTER 407 OF 1969

Every deed presented for record shall contain or have endorsed upon it the full name, residence and post office address of the grantee and a recital of the amount of the full consideration thereof in dollars or the nature of the other consideration therefor, if not delivered for a specific monetary sum. The full consideration shall mean the total price for the conveyance without deduction for any liens or encumbrances assumed by the grantee or remaining thereon. All such endorsements and recitals shall be recorded as part of the deed. Failure to comply with this section shall not affect the validity of any deed. No register of deeds shall accept a deed for recording unless it is in compliance with the requirements of this section.