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NICHOLAS R. AESCHLIMAN

March 2, 2021

Zoning Board of Adjustment  
C/O Shanti Wolph  
Town of Stratham Building Inspector / Code Enforcement Officer  
10 Bunker Hill Avenue  
Stratham, NH 03885

Re: Map 8, Lot 39, 7 Boat Club Drive (the "Property")  
Variance Rehearing

Dear Shanti:

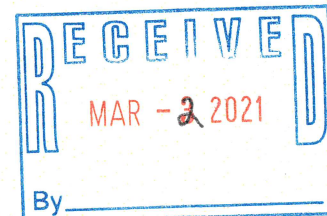
Enclosed please find an original and nine (9) copies of the supplemental package for the rehearing in case #656B. We have also enclosed per your instruction abutter labels and a check for \$225.00 to cover notice and abutter fees. These documents supplement the original application and original filing which are incorporated into the record of the rehearing.

We respectfully request that this matter be placed on the Board's March 23, 2021 meeting agenda. In the meantime, if you have any questions do not hesitate to contact me.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC

Justin L. Pasay  
JLP/sac  
Enclosures

cc: Robert & Stephanie Cleary  
Mission Wetland & Ecological Services, LLC  
Millennium Engineering, Inc.



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83 Clinton Street, Concord, NH 03301

## VARIANCE REHEARING FOR ROBERT AND STEPHANIE CLEARY (the “Applicants”)

The Applicants previously appeared before the Stratham Zoning Board of Adjustment (“ZBA”) to request a special exception pursuant to Section 5.1.3 of the Zoning Ordinance and a variance from Section 12.6.1(a) of the Zoning Ordinance to construct a 1,363 s.f. addition (the “**Proposed Addition**”) on the single family residence on their property located at 7 Boat Club Drive, which property is further identified as Town Tax Map 8, Lot 39 (the “**Property**”). As the ZBA is aware, the entire dwelling and the Proposed Addition, are located within the Town’s Shoreland Protection Overlay District (the “**District**” or the “**Shoreland District**”), which extends 150’ horizontal distance from the shoreline and upland extend of any tidal marsh adjacent to the Squamscott River and Great Bay Estuary, as depicted in the three sheet plan set titled “NHDES Shoreland Plan” filed by the Applicants with the State of New Hampshire, which is enclosed herewith as **Enclosure 1**.

At its 20 December 2020 hearing, the ZBA granted the Applicants’ special exception request but voted 2-2 to deny the Applicants’ variance application in case #656B (the “Variance Case”). At its 9 February 2021 hearing, the ZBA voted unanimously to grant the Applicants a rehearing in the Variance Case. This filing supplements the record established by the first hearing and incorporates by reference all of the materials, testimony and discussion that occurred in that case.

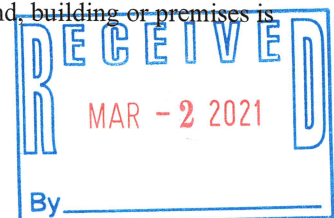
### **I. Introduction**

Currently, the Property is 11.2 acres in size and is bound to the west by the Squamscott River, to the east by Boat Club Drive, and to the north and south by other residential properties. In September 2020, the Planning Board approved a minor subdivision of the Property which will, upon finalization, carve off 3.1 acres of the southern portion of the Property to create a distinct building lot, as depicted in the plan included herewith as **Enclosure 2**. A tax map depicting the Property and surrounding properties along Boat Club Drive and River Road is included as **Enclosure 3**.

The entire existing single-family dwelling on the Property, with a footprint of 5,484 s.f. (inclusive of the garage), is located within the Town’s Shoreland Protection Overlay District. Additionally, the Property contains 2,809 s.f. of impervious driveway surface within the District. See **Enclosure 4**. As a result of these site conditions, the Property contains approximately 8,293 s.f. of existing impervious surface area within the District and constitutes a nonconforming use.<sup>1</sup> This revised filing includes a new letter from Sergio Bonilla, PWS, CWS, CESSWI of Mission Wetland and Ecological Services, LLC (“Mission”), dated 2 March 2021, with corresponding Variance Plan from Millennium Engineering Inc., and supporting photographs, which is included as **Enclosure 4A** and is discussed in greater detail below. Current photographs of the Property are reincluded as **Enclosure 5**.

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<sup>1</sup> Defined by Section 2.1.47 of the Zoning Ordinance as “use of land, building or premises which is not a use permitted by the provisions of [the Zoning Ordinance] for the district in which such land, building or premises is situated.”





The Applicants intend to improve the Property by constructing the Proposed Addition and the detached garage depicted in **Enclosure 1**. Both of those structures are within the State of New Hampshire's 250' Shoreland Zone. *See Enclosure 1*. As such, the Applicants were required to obtain a Shoreland Permit from the New Hampshire Department of Environmental Services, which permit was already approved. *See Enclosure 6*. However, as noted above, only the Proposed Addition is within the Town's Shoreland District. As such, only the Proposed Addition, and not the proposed detached garage, is the subject of the Applicants' filing with the ZBA.

The Proposed Addition will consist of two additional bedrooms, an office, a family room, and an extended master bathroom, and will create 1,363 s.f. of footprint/impervious surface area, as depicted in the floor plans and renderings included herewith as **Enclosure 7**. *See also Enclosure 1*. Of the 1,363 s.f. addition, however, 48 s.f. of same will be constructed over existing impervious driveway surface. As a result, the total proposed increase of impervious surface area within the District created by the Proposed Addition is approximately 1,315 s.f. With the Proposed Addition, the total approximate impervious surface area within the District would increase by approximately 16% to approximately 9,608 s.f.<sup>2</sup>

The Property already obtained the necessary special exception pursuant to Section 5.1.3 of the Zoning Ordinance to expand a nonconforming structure. That special exception was not appealed and is final. The Applicants, however, seek a rehearing on the variance request from Section 12.6.1(a) of the Zoning Ordinance which prohibits the "erection of structure[s]" within the District. The Applicants address the statutory variance criteria below but first provide an overview of the objectives and purposes of the Shoreland Protection Overlay District Ordinance and their robust mitigation proposal.

## **II. Shoreland Protection Overlay District Objectives and Purpose, and Applicants' Mitigation Proposal**

The Town's Shoreland Protection Overlay District Ordinance has distinct objectives and purposes, the understanding of which is critical to the analysis of a variance application from that ordinance's prohibition on the "erection of structures." In this case, not only does the Applicants' Proposed Addition not implicate or violate any of the objectives or purposes of the Ordinance, a robust mitigation effort is proposed to more than offset any impact caused, thus ensuring the Property better advances the purposes of the Shoreland Ordinance after construction of the Proposed Addition, than it does today, as outlined below.

The express objectives of the Shoreland Protection Overlay District Ordinance is to:

- 1) Promote the preservation and maintenance of surface water quality in Stratham.
- 2) Conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas.
- 3) Preserve and enhance those aesthetic values associated with the natural shoreline.
- 4) Encourage those uses that can be appropriately located adjacent to shorelines.

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<sup>2</sup> +/- 8,293 s.f. existing impervious surface area plus +/- 1,315 s.f. proposed additional impervious surface area.

See Zoning Ordinance, Section 12.3. These objectives are delineated to ensure the protection and promotion of “environmental quality, public health, resource conservation, and the general welfare of the public, with particular attention to the special cultural and ecological significance of the Great Bay estuarine system.” Zoning Ordinance, Section 12.2.

To offset any impact caused by the Proposed Addition, the Applicants propose the following, as detailed at length in **Enclosure 4A**:

- 1) **Remove 2,761 s.f. of impervious driveway surface within the District and replace it with pervious stone with stone reservoirs which will result in a greater than 17% (1,446 s.f.<sup>3</sup>) net decrease in impervious surface area within the District on the Property.** The removal of this impervious surface area will present the opportunity for optimal groundwater infiltration of stormwater within the District and the filtering of any pollutants associated with typical suburban homes far beyond what exists today. This measure alone will better ensure water quality preservation than what exists today on the Property.
- 2) **Shoreland Protection District Enhancement Area Plantings.** The Applicants propose to enhance a 755 s.f. area within the District with plantings to better facilitate the wildlife functions and values of the District as described by Sergio Bonilla and as depicted in the Variance Plan enclosed as **Enclosure 4A**. Specifically, the Applicants propose to plant six (6) four-foot serviceberry (*Amelanchier canadensis*) eight feet on center, and six (6) four-foot maple-leaved Viburnum (*Viburnum acerifolium*) eight feet on center in the enhancement area. The serviceberry are attractive early flowering large shrub with excellent value as summer food and cover for bluebird, cardinal, cedar waxwing, catbird, sparrows, red squirrel, scarlet tanager, veery and deer. The maple-leaved Viburnum are thicket forming shrub with creamy flowers and extremely colorful fall foliage and drupes. Drupes, twigs, and buds are excellent food for white-throated sparrow, hermit thrush, cardinal, bluebird, catbird, chipmunk, squirrels, and rabbit. This species will also attract native bees, butterflies and moths.
- 3) **Nest Box Installation.** In addition to the above, the Applicants will install pole or sapling-mounted nest boxes within the Shoreland Protection District Enhancement Area adjacent to existing food, cover, or other micro-habitat features in the adjacent wetland which will be utilized by numerous resident avian and mammalian species.

As noted above, the Property as improved with the Proposed Addition and the enhancement measures discussed above, will better serve the Shoreland Protection Overlay District than the Property does today and will advance the specific objectives of the Shoreland Protection Overlay District Ordinance as follows.

First, the Project will promote the preservation and maintenance of surface water quality in Stratham<sup>4</sup> because no development is proposed in or on wetlands in a way that would

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<sup>3</sup> +/- 8,293 s.f. existing impervious surface area plus +/- 1,315 s.f. proposed additional impervious surface area less +/- 2,761 s.f. impervious driveway area.

<sup>4</sup> Zoning Ordinance, Section 12.3(a).



contribute to the degradation of surface water or even groundwater quality in Stratham, particularly the Shoreland District. On the contrary, the Applicants propose a 17% reduction in impervious surfaces by converting asphalt driveway to pervious stone to more than offset the increase associated with the Proposed Addition. This pervious surface will be an effective and valuable form of stormwater runoff mitigation which does not exist today and will promote optimal groundwater infiltration and reduce stormwater runoff that otherwise drains in the direction of the downgradient wetlands and ultimately the surface water of the Squamscott River. In addition, the use of best management practices, to include erosion and control measures like silt soxx, will ensure no impact during construction. *See Enclosure 4A.* To summarize, after the construction of the Proposed Addition and enhancement areas, the Property will better promote the preservation and maintenance of surface water and groundwater quality in Stratham than the existing Property, which is the whole objective of Section 12.3(a) of the Zoning Ordinance.

Second, the Project will preserve and protect the aquatic and terrestrial habitat associated with the intertidal and riparian areas<sup>5</sup> more than what exists today because there will be no proposed disturbance at all on the aquatic or terrestrial wetland habitat or intertidal wetlands in the District and because the Applicants propose the enhancement areas. Specifically, the Proposed Addition is located in an already disturbed/developed upland area of the parcel and is not proposed in a direction closer to the Squamscott River. This area currently consists of residential landscaping and lawn area. The Project will not require the removal of any natural vegetation so there will be no impact to the terrestrial forested wetland and/or aquatic wetland habitat associated with the District. Not only will the Project cause no impact to these habitats, it will significantly facilitate increased preservation and protection of the same via the Shoreland Protection District Enhancement Area which will complement the species diversity already located in the District. In fact, Mission anticipates that species will inhabit this enhancement area for foraging, feeding and nesting habitat. *See Enclosure 4A.* As Sergio Bonilla notes in his letter to the ZBA “[a]n increase in high-value plants and habitat structures [in the enhancement area] will increase wildlife species diversity and overall food chain dynamic of the SPD with Lepidopteran invertebrates, mammals, and bird species.” *Enclosure 4A.* On this evidence, the Project will better preserve and protect aquatic and terrestrial habitat associated with the intertidal and riparian areas than the Property does today.

Third, the Project will better preserve and enhance those aesthetic values associated with the natural shoreline<sup>6</sup> than the Property does today. The Proposed Addition is a reasonable addition on an already existing home located entirely within the District. The Proposed Addition does not extend the footprint closer to the river at all and is limited to upland maintained lawn area. If anything, the Proposed Addition will beautify the Property, therefore enhancing the aesthetic quality of the shoreline. Beyond this, the substantial 17% decrease in impervious surface area within the District will promote optimal stormwater infiltration through the soil profile prior to sheetflow runoff and the Shoreland Protection District Enhancement Area will provide more terrestrial habitat associated with the intertidal and riparian areas than the Property does today. All of this will facilitate more wildlife on the Property, and therefore a greater aesthetic appeal. *See Enclosure 4A.* These improvements will enhance the aesthetic values of the natural shoreline beyond what they are today.

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<sup>5</sup> Zoning Ordinance, Section 12.3(b).

<sup>6</sup> Zoning Ordinance, Section 12.3(c).

Fourth, the Proposed Addition will encourage those uses that can be appropriately located adjacent to the shoreline.<sup>7</sup> The existing single-family dwelling is located entirely within the District. The Proposed Addition is reasonable, will be located in the opposite direction from the river in an already disturbed/developed maintained upland lawn area, and the Project in total better serves the express objectives and purpose of the Shoreland Protection Overlay District than the Property does today. *See* **Enclosure 4A**. The proposal is self-evidently a reasonable and appropriate use.

All of these circumstances function together to better serve the purpose of the Shoreland Protection District Ordinance by better protecting and promoting environmental quality, public health, resources conservation, and the general welfare of the public, with particular attention to the special cultural and ecological significance of the Great Bay estuarine system.<sup>8</sup> *See* **Enclosure 4A**.

### **III. Variance from Section 12.6.1(a) of the Zoning Ordinance**

Pursuant to Section 17.8.3 of the Zoning Ordinance and RSA 674:33, to obtain a variance in New Hampshire, an applicant must show that: (1) the variance will not be contrary to the public interest; (2) the spirit of the ordinance is observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means that, owing to special conditions of the property that distinguish it from other properties in the area: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the Proposed use is a reasonable one; or if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. *See* RSA 674:33, I (b).

In this case, and as detailed below, the ZBA should grant the Applicants' variance request because their proposal will not be inconsistent with the essential character of the surrounding area, will not compromise the public health in any way, will provide substantial justice, will not compromise the property values of surrounding properties, and because there is no rational connection between objectives and purposes of the Shoreland Protection District Ordinance its application to the Property under the unique circumstances of this case.

#### **1. The variance will not be contrary to the public interest.**

The New Hampshire Supreme Court has indicated that the requirement that a variance not be "contrary to the public interest" is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. *See* Chester Rod & Gun Club v. Town of Chester, 152 N.H. 577, 580 (2005); Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 105-06 (2007); and Farrar v. City of Keene, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it "unduly, and in a marked degree conflicts with the

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<sup>7</sup> Zoning Ordinance, Section 12.3.(d).

<sup>8</sup> *See* Zoning Ordinance, Section 12.2.



ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691. *See also* Harborside Associates, L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 514 (2011) ("[m]ere conflict with the terms of the ordinance is insufficient.") Moreover, these cases instruct boards of adjustment to make the determination as to whether a variance application "unduly" conflicts with the zoning objectives of the ordinance "to a marked degree" by analyzing whether granting the variance would "alter the essential character of the neighborhood" or "threaten the public health, safety or welfare" and to make that determination by examining, where possible, the language of the Zoning Ordinance.

As discussed at great length above, the express objectives of the Shoreland Protection Overlay District Ordinance are to: 1) promote the preservation and maintenance of surface water quality in Stratham; 2) conserve and protect aquatic and terrestrial habitat associated with intertidal and riparian areas; 3) preserve and enhance those aesthetic values associated with the natural shoreline; and 4) encourage those uses that can be appropriately located adjacent to shorelines. *See* Zoning Ordinance Section 12.3. These objectives are delineated to ensure the protection and promotion of "environmental quality, public health, resource conservation, and the general welfare of the public, with particular attention to the special cultural and ecological significance of the Great Bay estuarine system" which purposes align with the Zoning Ordinance's general purpose to promote the health, safety, convenience, and general welfare of the Town of Stratham and conserve the value of property and the appropriate use of land. *See* Zoning Ordinance, Sections 1.2, 12.2.

In this case, not only does the proposed variance not "unduly, and in a marked degree conflict with the ordinance such that it violates the ordinance's basic zoning objectives", once the Proposed Addition and enhancement areas are completed, the Property will better advance the objectives of the Shoreland District Ordinance than it does today, as detailed at length above in Section II which is incorporated herein by reference. *See* Section II, above. Summarizing, the significant 17% reduction in impervious surface area within the District and the addition of the Shoreland Protection District Enhancement Area plantings and nest boxes will better preserve and maintain the surface water quality in Stratham, better conserve and protect aquatic and terrestrial habitat, better preserve and enhance the aesthetic value associated with the natural shoreline, and will encourage a use that is more appropriately located adjacent to shoreline than what exists today. All of these things will better serve the environmental quality, public health, resource protection and general welfare of the Property and the Town of Stratham. *See* **Enclosure 4A.**

As a result of these circumstances, there is no legitimate basis to find that the requested variance does not satisfy the public interest and spirit of the ordinance prongs of the statutory variance criteria because denying the variance will not advance the objectives of the Ordinance in question. The Property will better serve the Shoreland Protection District Ordinance and be in greater conformity with the same upon completion of the Project than it is today. Accordingly, on this analysis alone, the Applicants variance request satisfies the first two prongs of the statutory variance criteria. Again, "[m]ere conflict with the terms of the ordinance is insufficient" basis to deny a variance. *See* Harborside Associates, 162 N.H. at 514.

Beyond this, the proposed variance will not impact the essential character of the area. Rather, the Proposed Addition will beautify the Property and enhance its value and that of surrounding properties, will enhance the value of the Shoreland District via the proposed Shoreland Protection District Enhancement Area, and will reduce the impervious surface area within the District, all of which will enhance the character of area by bringing the Property into greater conformity with the provisions of the Zoning Ordinance.

Similarly, the variance will not threaten the public health or safety because the Applicants' proposal will result in a 17% *reduction* of the impervious surface area within the Shoreland District and will create and facilitate greater wildlife habitat within the District which in turn will better-advance the goals of the Zoning Ordinance and the Shoreland Protection Overlay District Ordinance by further promoting the health, safety, and welfare of the public and the environmental quality and resource conservation of the District, than the Property as it is currently situated.

Because the Applicants' proposal advances the general purposes of the Zoning Ordinance and the express purposes of the Shoreland Protection Overlay District Ordinance beyond what currently exists today, and because the Applicants' proposal is consistent with the character of the neighborhood and will not threaten the public's health or safety, granting the variance will not be contrary to the public interest.

## **2. The spirit of the Ordinance is observed.**

As referenced in Section III(1) above, the requested variance observes the general purposes of the Zoning Ordinance and the express purposes of the Shoreland Protection Overlay District Ordinance, as well as New Hampshire jurisprudence regarding the "public interest" prong of the variance criteria, because the Applicants' proposal will result in a Property with less impervious surface within the District and more wildlife habitat in the District than what exists today, thereby bringing the Property into great conformity with and advancing the express objectives of the Shoreland Protection District Ordinance. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be "contrary to the public interest" is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. See Chester Rod & Gun Club, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691.

As discussed above, the requested variance is consistent with the express objectives of the Shoreland Protection Overlay District Ordinance and its purposes, and those of the Zoning Ordinance generally, because of the reasons stated in Section II, and Section III(1). See **Enclosure 4A**. As a result, for the reasons stated above, the Applicants respectfully assert that it would be reasonable and appropriate for the ZBA to conclude that the requested variance will observe the spirit of the Zoning Ordinance.



### **3. Substantial justice is done.**

As noted in Malachy Glen, *supra*, “perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice.” Malachy Glen, *supra*, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the Applicant from its denial.

In this case, the public does not stand to gain anything from denying the variance requested. Contrary to the ZBA’s finding at the original hearing in this matter, the public has no interest in seeing the Zoning Ordinance strictly enforced when doing so not only does not advance the purpose of the ordinance in question, but in fact, prevents the underlying property from being brought into greater conformity with the same, as is the case here. As detailed above, denial of the requested variance in this case would be contrary to the public interest because it will prevent the reduction of impervious surface area within the District and will prevent the enrichment of the Property via the proposed Shoreland Protection District Enhancement Area, all of which will make the Property more compliant with the Shoreland Protection Overlay District Ordinance than it is today, therefore directly benefiting the public.

On the contrary, the requested variance will permit the Applicants to exercise their real property rights in a reasonable manner and will authorize the construction of the Proposed Addition which will facilitate a better living situation for the Applicants, who are hoping to expand their family. As depicted in **Enclosure 7**, while the dwelling enjoys a moderately sized footprint, much of which is the garage, the majority of the house is single-level with the exception of the center cathedral ceilings in the main living area, and is therefore architecturally constrained from building up.

As there is no gain to the general public from denying the variance that outweighs the loss to the Applicants from its denial, granting the requested variance will accomplish substantial justice. As noted above, denying the variance will be contrary to the public’s interest.

### **4. The proposal will not diminish surrounding property values.**

As discussed and unanimously agreed-to by the ZBA at the December hearing, given the nature of the neighborhood as described above, none of the surrounding properties will suffer any diminution in value. First, the impacts to the Shoreland Protection Overlay District will not have any effect on surrounding properties, especially as the net impervious footprint within the District will be decreasing and the wildlife habitat and shoreland aesthetic will be increasing as a result of the Applicants’ proposal. Further, the variance will permit the construction of the Proposed Addition which will beautify the Property and, in turn, increase the Property’s value. Common sense dictates that the increase in value to the Property will have a corresponding positive effect on the value of surrounding properties. These conclusions are further evidenced by the letter again filed herewith from Jamieson Duston of the Bean Group in Portsmouth. *See*

**Enclosure 8.** Accordingly, the Applicant respectfully requests that the ZBA find that the requested variance will not diminish surrounding property values.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

As a preliminary matter, it does not make sense to strictly impose a zoning ordinance by denying variance relief when the relief sought will yield a property that better advances and complies with the specific objectives of ordinance in question, which is the case here.

As set forth in the provisions of RSA 674:33, I, there are two options by which the ZBA can find that an unnecessary hardship exists:

(A) For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (ii) The Proposed use is a reasonable one.

or,

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

The “special conditions” of the Property for purposes of this variance criterion include the size of the Property, which is significantly larger than the surrounding properties (*see Enclosure 3, 4A*), the location of the single-family dwelling completely within the District, the nature of the area to be improved by the proposal as already disturbed upland lawn area, and the Property’s ability to accommodate the Proposed Addition in a manner that will ultimately reduce the impervious surface area within the District and increase the wildlife habitat within same which will serve the express objectives of the Shoreland Protection District Ordinance better than the existing Property, making literal enforcement of the same unreasonable.

In Harborside Assocs. v. Parade Residence Hotel, the New Hampshire Supreme Court upheld the Portsmouth Board of Adjustment’s finding that the physical improvements on a property, in that case the size of a building when compared to other buildings in the area within the context of sign variance request, could be considered “special circumstances.” Affirming the analysis of the Board of Adjustment, the Supreme Court stated:

The [Respondent] is not attempting to meet the ‘special conditions’ test by showing that its *signs* would be unique in their settings, but that its *property* – the hotel and conference center – has unique characteristics that make the signs themselves a reasonable use of the property.



Harborside, 162 N.H. at 518 (emphasis added). Cf Farrar, 158, N.H. 689 (where variance sought to convert large, historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

Here, like the size of the building in Harborside, and the size of the residence in Farrar, the Property's physical characteristics and improvements make the Proposed Addition reasonable under the circumstances. More specifically, the Property is large and insulated from abutting properties, making expansion of the existing dwelling abundantly reasonable. Further, the entirety of the single-family dwelling is located within the District as a nonconforming use which makes any expansion of same impossible without a variance, and the specific area for the Proposed Addition is already disturbed upland lawn area located away from the river. In light of these circumstances, and based on the Applicants' proposal to remove the impervious driveway surface area and implement the Shoreland Protection District Enhancement Area, expansion of the house can be reasonably accomplished in a manner that actually advances the specific objectives of the Shoreland Protection District Ordinance more than the existing Property by better promoting the preservation and maintenance of surface water quality in Stratham, better conserving, protecting and supporting aquatic and terrestrial habitat associated with intertidal and riparian areas, better preserving and enhancing the aesthetic values associated with the natural shoreline by creating more habitat, and encouraging a less impactful use than the existing use which is appropriately located adjacent to the shoreline. See **Enclosure 4A**.

Due to these special conditions of the Property, there is no fair and substantial relationship between the public purposes of the underlying ordinance and their specific application to the Property. On the contrary and as noted above, the Applicants' proposed improvements advance the specific objectives of the Shoreland Protection District Ordinance more than the Property currently and are consistent with its general purposes and those of the Zoning Ordinance itself. Put another way, strictly enforcing the underlying Shoreland Protection Overlay District Ordinance will not advance the public purposes of the same, but granting the requested variance will because it will better advance the objectives of the underlying ordinance.

Finally, based on the details of the Applicants' proposal, as discussed at length above, the proposed use is reasonable under the circumstances. See Vigeant v. Town of Hudson, 151 N.H. 747, 752 - 53 (2005); and Malachy Glen, 155 N.H. at 107; see also Harborside at 518-519 (applicant did not need to show signs were "necessary" rather only had to show signs were a "reasonable use").

The Applicant respectfully reminds the ZBA that the mere fact that the Applicant is seeking a variance from the express provisions of the Zoning Ordinance is not a valid reason for denying the variance. See Malachy Glen Associates, Inc. v. Town of Chichester, 155 N.H. 102, 107 (2007); see also Harborside Associates, 162 N.H. at 2011 ("mere conflict with the terms of the ordinance is insufficient"). **The Applicant also expressly reminds the ZBA, based on the substance of the deliberations at the December 2020 hearing, that the hardship criteria does not require the Applicants to prove that the Property cannot be reasonably used without a variance.** Yes, the Property is improved with a dwelling already. Yes, the Property can continue be used as a single-family dwelling. These considerations are irrelevant and harken

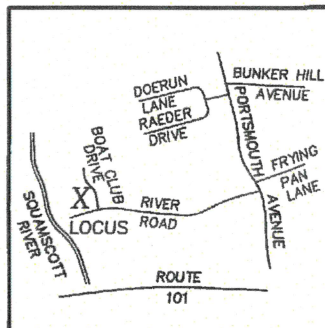
back to the hardship analysis contained within Boccia v. City of Portsmouth, 151 N.H. 85 (2004) which the New Hampshire State Legislature expressly rejected in 2009 when it adopted and universally applied to all variances in New Hampshire the standard outlined in Simplex Technologies, Inc. v. Town of Newington, 145 N.H. 727 (2001). **The question of whether the Property can be used reasonably without the variance is irrelevant.** As indicated above, the correct question in the hardship context is whether the unique characteristics of the Property and the Applicants' proposal obviate the relationship between the purpose of the ordinance and its application to the Property. As we have outlined at length above, that criteria is satisfied in this case.

Accordingly, the Applicant respectfully asserts that its application complies with the standard for Option A of the unnecessary hardship criterion and the Board of Adjustment should so find.

#### **IV. Conclusion**

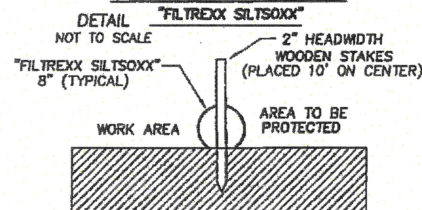
The Applicant respectfully submits that the variance criteria for the underlying application have been satisfied as outlined above and requests that the ZBA approve a motion to grant the same at its next public hearing.



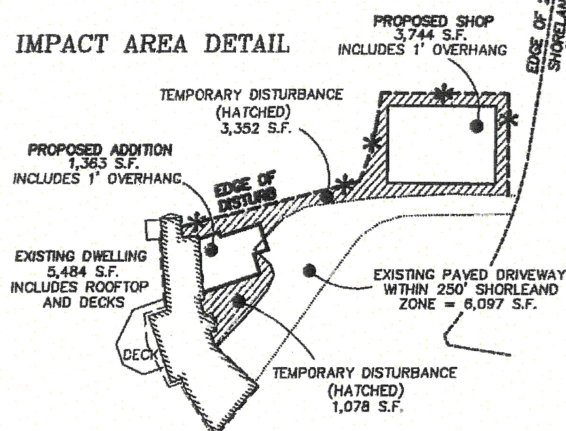


LOCUS MAP  
NOT TO SCALE

### EROSION CONTROL



### IMPACT AREA DETAIL

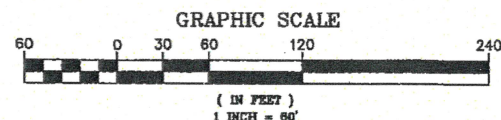


### TOTAL NEW IMPACT AREA CALCULATIONS

PERMANENT IMPERVIOUS IMPACT  
1,363 S.F. + 3,744 S.F. = 5,107 S.F.  
TEMPORARY IMPACT  
1,078 S.F. + 3,352 S.F. = 4,430 S.F.  
TOTAL IMPACT 9,537 S.F.

### NATURAL WOODLAND BUFFER

THERE ARE NO TREES WITHIN THE 50'-150' NATURAL WOODLAND BUFFER THAT WILL BE DISTURBED  
AREA OF LOT WITHIN 50'-150' ZONE  
95,502± S.F.



**NOTES:**  
1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.

2) THIS PARCEL LIES WITHIN AN AE(ELB) AND X FLOOD ZONES. SEE F.I.R.M. COMMUNITY PANEL 330197 0245 E EFFECTIVE DATE MAY 17, 2005

### PLAN REFERENCE

"SUBDIVISION PLAN FOR RIVER CLUB ESTATES RIVER ROAD COUNTY OF ROCKINGHAM STRATHAM, NH" SCALE: 1"=100' DATE: AUGUST 17, 1994 REVISED THROUGH: /12-22-94. BY: RICHARD P. MILLETTE AND ASSOCIATES D-23655

N/F  
EMK REALTY TRUST  
DAVID K. & ERICA M. KISVER  
9 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5876 PG. 0780

N/F  
DOBBINS FAMILY REV. TRUST  
JOSHUA B. & STEPHANIE DOBBINS  
8 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5882 PG. 0228

N/F  
SHANE S. COMER  
MARINDA K. CROSER  
6 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5938 PG. 2163

N/F  
KATRINA FORREST  
ROBERT D. GEORGE  
4 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5615 PG. 2425

N/F  
FINLEY FAMILY REV. TRUST  
MICHELLE M. RICHARDS  
2 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5537 PG. 1464

N/F  
GARY P. STREET  
USA A. STREET  
66 RIVER ROAD  
STRAHAM, NH 03885  
BK. 3758 PG. 0090

N/F  
PHILIP J. MALONE  
72 RIVER ROAD  
STRAHAM, NH 03885  
BK. 5405 PG. 2939

N/F  
BARBARA A. FLOCCO  
FLOCCO REV. TRUST  
69 RIVER ROAD  
STRAHAM, NH 03885  
BK. 3240 PG. 1650

N/F  
THOMAS DIGIUSEPPE  
CHELSEA DIGIUSEPPE  
65 RIVER ROAD  
STRAHAM, NH 03885  
BK. 5738 PG. 2527

- LEGEND**
- D.H.S.B. FOUND.
  - I.P. IRON PIPE
  - I ROD IRON ROD TO BE SET UNLESS NOTED OTHERWISE
  - FND. FOUND
  - ASSESSORS MAP AND PARCEL
  - OHW OVER HEAD WIRE
  - UTILITY POLE
  - LIGHT POLE
  - WETLAND FLAG
  - WETLAND
  - EDGE OF DISTURBANCE/ EDGE OF SILT SOXX

### RECORD OWNER

ROBERT MICHAEL CLEARY  
781-771-8397  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5938 PG. 2884  
487,300± S.F.  
11.2± ACRES  
AREA CALCULATED TO LOW WATER

### ZONING DISTRICT

RESIDENTIAL/AGRICULTURAL  
MINIMUM REQUIREMENTS

AREA	2 ACRES
FRONTAGE	200'
DEPTH	150'
BUILDING SETBACKS	
FRONT	30'
SIDE	20'
REAR	20'
MAXIMUM STRUCTURE HEIGHT	
MAXIMUM BUILDING COVERAGE	35%
MINIMUM OPEN SPACE/LOT	60%

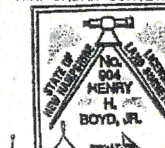
WETLANDS DELINEATION BY  
SERGIO BONILLA  
CERTIFIED WETLAND  
SCIENTIST (CWS) #261  
P.O. BOX 4028  
PORTSMOUTH, NH 03802

IN ACCORDANCE WITH THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHEASTAL AND NORTHEAST REGION (VERSION 2-TR-12-1, JANUARY 2012).

I CERTIFY:

THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND BETWEEN SEPTEMBER 2019 AND SEPTEMBER 2020.

THAT THIS SURVEY CONFORMS TO THE REQUIREMENTS FOR ACCURACY FOR N.H. URBAN SURVEY.



LICENCED LAND SURVEYOR

DATE 10-12-2020

### OVERVIEW PLAN

### NHDES SHORELAND PLAN

IN  
STRATHAM, NH

SHOWING  
A PROPOSED SUBDIVISION  
AT 7 BOAT CLUB DRIVE  
(ASSESSORS MAP 8 LOT 39)

### RECORD OWNER

ROBERT MICHAEL CLEARY  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE STRATHAM, NH 03885

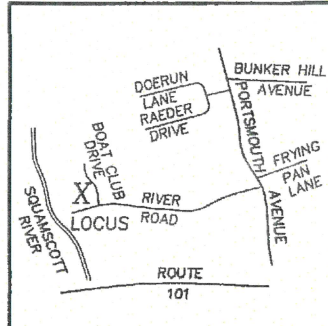
### MILLENNIUM ENGINEERING INC.

ENGINEERS AND LAND SURVEYORS  
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833  
PHONE: (603) 778-0528 FAX: (603) 772-0689

SCALE: 1"= 60' CALC. BY: R.S.G. PROJECT: E192373  
DATE: OCT. 08, 2020 CHKD. BY: H.H.B. SHEET 1 OF 3

NO.	DATE	DESCRIPTION	BY



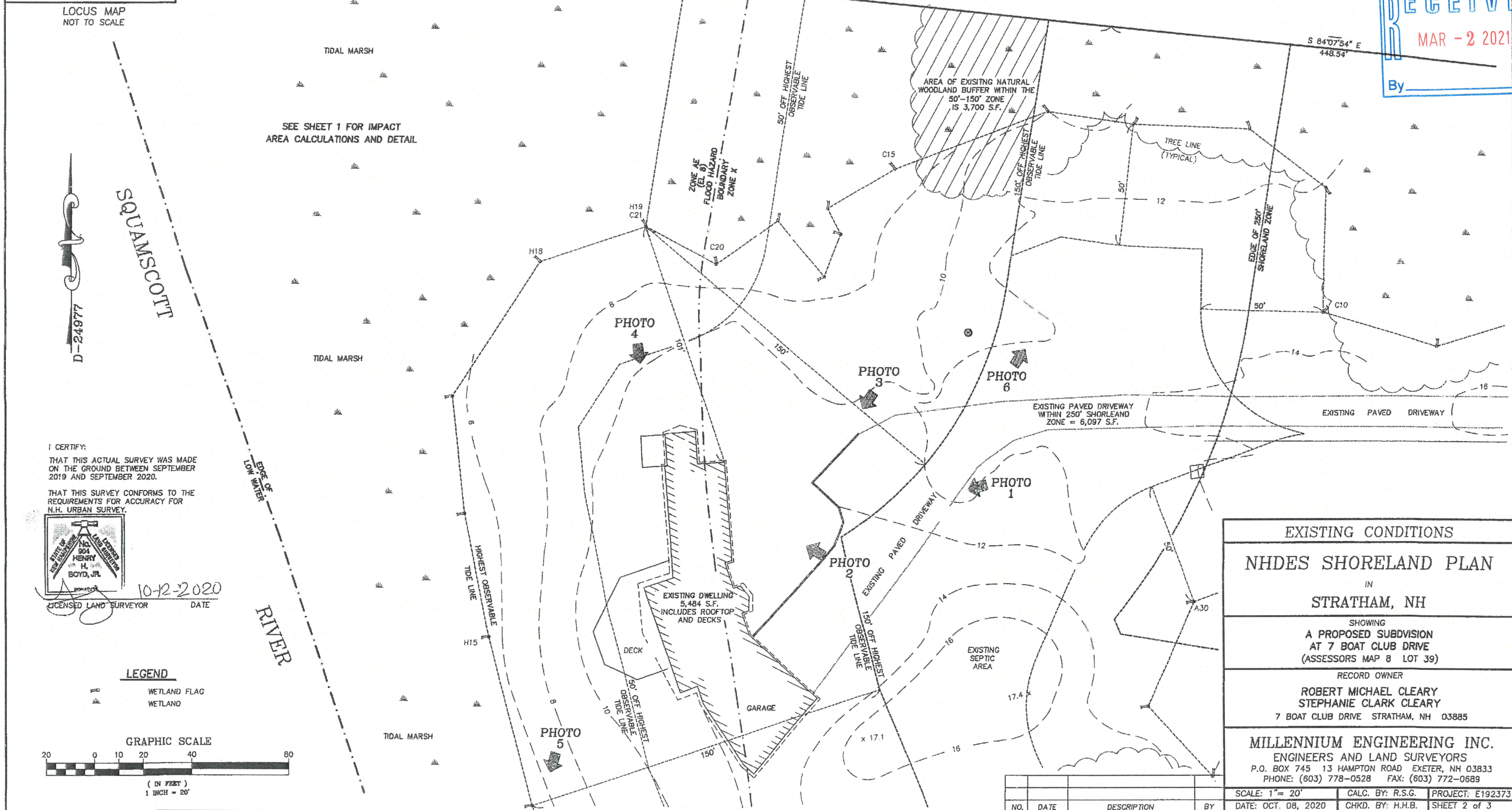
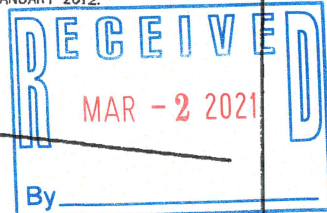


**NOTES:**  
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2) THIS PARCEL LIES WITHIN AN AE(ELB) AND X FLOOD ZONES. SEE F.I.R.M. COMMUNITY PANEL 330197 0245 E EFFECTIVE DATE MAY 17, 2005

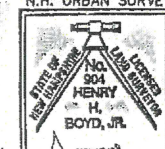
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AREA OF LOT WITHIN 50'-150' ZONE 95,502± S.F.



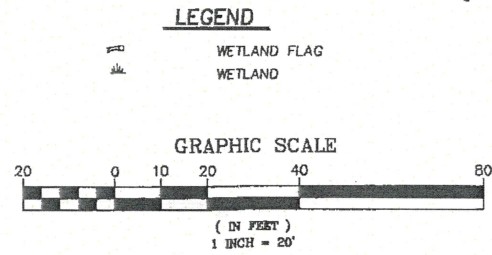
**WETLANDS DELINEATION BY**  
**SERGIO BONILLA**  
**CERTIFIED WETLAND**  
**SCIENTIST (CWS) #261**  
**P.O. BOX 4028**  
**PORTSMOUTH, NH 03802**  
IN ACCORDANCE WITH THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTH-CENTRAL AND NORTHEAST REGION (VERSION 2-TR-12-1, JANUARY 2012).



I CERTIFY:  
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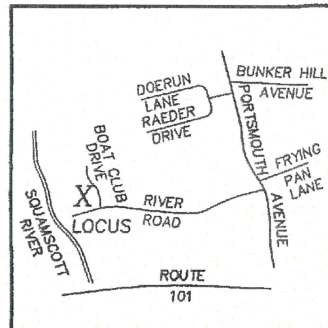


10-12-2020  
DATE



EXISTING CONDITIONS			
NHDES SHORELAND PLAN			
IN			
STRATHAM, NH			
SHOWING			
A PROPOSED SUBDIVISION			
AT 7 BOAT CLUB DRIVE			
(ASSESSORS MAP 8 LOT 39)			
RECORD OWNER			
ROBERT MICHAEL CLEARY			
STEPHANIE CLARK CLEARY			
7 BOAT CLUB DRIVE STRATHAM, NH 03885			
MILLENNIUM ENGINEERING INC.			
ENGINEERS AND LAND SURVEYORS			
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833			
PHONE: (603) 778-0528 FAX: (603) 772-0689			
SCALE: 1" = 20'		CALC. BY: R.S.G.	
DATE: OCT. 08, 2020		PROJECT: E192373	
NO.		BY	
DATE		SHEET 2 of 3	
DESCRIPTION			



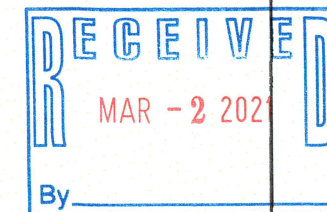
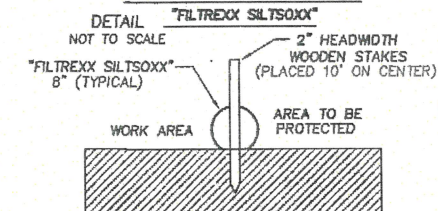


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**NATURAL WOODLAND BUFFER**  
THERE ARE NO TREES WITHIN THE 50'-150' NATURAL WOODLAND BUFFER THAT WILL BE DISTURBED  
AREA OF LOT WITHIN 50'-150' ZONE  
95,502± S.F.

**EROSION CONTROL**



LOCUS MAP  
NOT TO SCALE

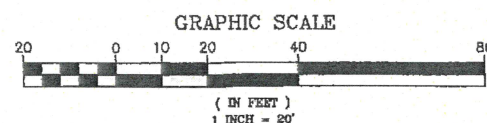
SEE SHEET 1 FOR IMPACT  
AREA CALCULATIONS AND DETAIL

SQUAMSCOTT  
RIVER

D-24977

**LEGEND**

WETLAND FLAG  
WETLAND  
EDGE OF DISTURBANCE/  
EDGE OF SILT SOXX



**PROPOSED CONDITIONS**

**NHDES SHORELAND PLAN**  
IN  
**STRATHAM, NH**

SHOWING  
A PROPOSED SUBDIVISION  
AT 7 BOAT CLUB DRIVE  
(ASSESSORS MAP 8 LOT 39)

RECORD OWNER  
**ROBERT MICHAEL CLEARY**  
**STEPHANIE CLARK CLEARY**  
7 BOAT CLUB DRIVE STRATHAM, NH 03885

**MILLENNIUM ENGINEERING INC.**  
ENGINEERS AND LAND SURVEYORS  
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833  
PHONE: (603) 778-0528 FAX: (603) 772-0689

NO.	DATE	DESCRIPTION	BY	SCALE: 1" = 20'	CALC. BY: R.S.G.	PROJECT: E192373
				DATE: OCT. 08, 2020	CHKD. BY: H.H.B.	SHEET 3 of 3



EXHIBIT

2

## RECORD OWNER

ROBERT MICHAEL CLEARY  
781-771-8397  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5936 PG. 2884  
487,300± S.F.  
11.2± ACRES  
AREA CALCULATED  
TO LOW WATER

ZONING DISTRICT  
RESIDENTIAL/AGRICULTURAL  
MINIMUM REQUIREMENTS

AREA FRONTAGE	2 ACRES
DEPTH	200'
BUILDING SETBACKS	
FRONT	30'
SIDE	20'
REAR	20'
MAXIMUM STRUCTURE HEIGHT	
MAXIMUM BUILDING COVERAGE	35'
MINIMUM OPEN SPACE/LOT	20%
	60%

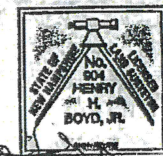
## PLAN REFERENCE

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RIVER ROAD COUNTY OF ROCKINGHAM STRATHAM,  
NH" SCALE: 1"=100' DATE: AUGUST 17, 1994  
REVISED THROUGH: 12-22-94  
BY: RICHARD P. MILLETTE AND ASSOCIATES  
D-23655

## I CERTIFY:

THAT THIS ACTUAL SURVEY WAS MADE  
ON THE GROUND BETWEEN SEPTEMBER  
2019 AND JANUARY 2020

THAT THIS SURVEY CONFORMS TO THE  
REQUIREMENTS FOR ACCURACY FOR  
N.H. URBAN SURVEY.



SEE STATE OF NH SUBDIVISION  
APPROVAL #202002676

## TEST PITS/LOT LOADING SHEET

## PLAT OF LAND

IN  
STRAHAM, NH

SHOWING  
A PROPOSED SUBDIVISION  
AT 7 BOAT CLUB DRIVE  
(ASSESSORS MAP 8 LOT 39)

## RECORD OWNER

ROBERT MICHAEL CLEARY  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE STRATHAM, NH 03885

## MILLENNIUM ENGINEERING INC.

ENGINEERS AND LAND SURVEYORS  
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833  
PHONE: (603) 778-0528 FAX: (603) 772-0689

1	08-14-20	REVISED TIDAL OFFSET	K.I.R.	SCALE: 1"= 60'	CALC. BY: R.S.G.	PROJECT: E192373
NO.	DATE	DESCRIPTION	BY	DATE: JUNE 25, 2020	CHKD. BY: H.H.B.	SHEET 2 OF 4

## NOTES:

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- 3) ELEVATIONS SHOWN ARE BASED ON N.G.V.D.29.
- 4) SHEET 2 ON FILE AT OWN OF STRATHAM.

LOCUS MAP  
NOT TO SCALE

WETLANDS DELINEATION BY  
SERGIO BONILLA  
CERTIFIED WETLAND  
SCIENTIST (CWS) #261  
P.O. BOX 4026  
PORTSMOUTH, NH 03802

IN ACCORDANCE WITH THE REGIONAL SUPPLEMENT  
TO THE CORPS OF ENGINEERS WETLAND DELINEATION  
MANUAL: NORTHCENTRAL AND NORTHEAST REGION  
(VERSION 2-TR-12-1, JANUARY 2012)

## LOT LOADING - LOT 7B:

NRCS SOILS INFORMATION:		
SYMBOL:	32A	NAME: BOXFORD
SOIL GROUP:	3	LOT AREA: 0.41± ACRES***
SLOPE CLASS:	A	LOADING FACTOR: 1.60
SYMBOL:	33A	NAME: SCITCO
SOIL GROUP:	5	LOT AREA: 1.20± ACRES***
SLOPE CLASS:	A	LOADING FACTOR: 3.00
SYMBOL:	313B	NAME: DEERFIELD
SOIL GROUP:	3	LOT AREA: 0.04± ACRES***
SLOPE CLASS:	B	LOADING FACTOR: 1.60

\*\*\* LOT AREAS USED IN THIS CALCULATION DO NOT INCLUDE ANY LAND WITHIN THE PROTECTIVE WELL RADIUS OR LAND CONTAINING VERY POORLY DRAINED SOILS. FOR THE PURPOSE OF THIS CALCULATION ALL ONSITE WETLANDS HAVE BEEN ASSUMED TO CONTAIN VERY POORLY DRAINED SOILS AND ARE EXCLUDED FROM THE CALCULATION.

DETERMINING FLOW EXISTING LOT/ACREAGE CAN ACCOMMODATE:  
(2,000 X 0.41± ACRES [GROUP 32A]) / 1.60 [LOADING FACTOR] = 512.5 GPD  
(2,000 X 1.20± ACRES [GROUP 33A]) / 3.00 [LOADING FACTOR] = 800.0 GPD  
(2,000 X 0.04± ACRES [GROUP 313B]) / 1.60 [LOADING FACTOR] = 50.0 GPD  
TOTAL FLOW EXISTING LOT CAN ACCOMMODATE = 1,362.5 GPD

TOTAL FLOW PROPOSED FOR NEW 4 BEDROOM USE = 600.0 GPD

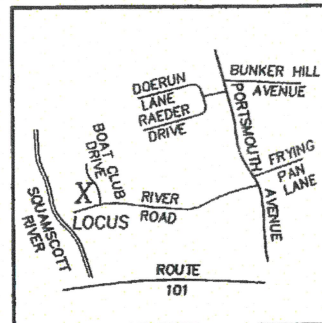
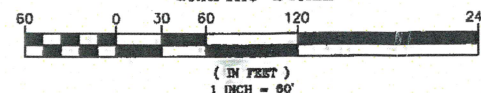
## SOIL TESTING RESULTS

T.P.T.#	DEPTH (INCHES)	HORIZON	USDA TEXTURE	MUNSELL COLOR	ESHWIT WEEDING STAND WATER	PERC. TEST DEPTH RESULTS (MPI)	NOTES
01-19 12/4/19 14.5	0-7 7-21 21-45 45-57+	A Bw C1 C2	F.S.LOAM F.L.SAND S.L.C.LOAM CLAY	10YR 4/2 2.5Y 5/6 5Y 5/2 5Y 5/2	ESHWIT-18" NO WEEDING NO STANDING	6"+13" = 19" 8 MPI	ROOTS @ 22"
02-19 12/4/19 13.6	0-12 12-16 16-22 22-41 41-61+	A Bw BC C1 C2	F.S.LOAM L.F.SAND LOAM S.L.C.LOAM CLAY	10YR 3/3 10YR 4/4 2.5Y 5/3 5Y 5/2 5Y 5/2	ESHWIT-20" NO WEEDING NO STANDING	---	ROOTS @ 15"

TEST PITS PERFORMED BY: MATTHEW A. STEINEL, S.E. / LICENSE #01713  
TOWN WITNESSED: MICHAEL CUOMO OF ROCKINGHAM COUNTY CONSERVATION DISTRICT

SEE SHEET 2 FOR  
PROPOSED SEPTIC AREA

## GRAPHIC SCALE



D-24977

SQUAMSCOTT RIVER

RIVER

997

997

997

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Tax Map

8



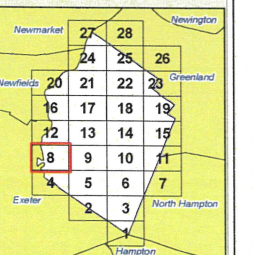
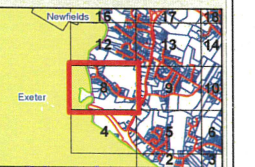
STRATHAM  
NEW HAMPSHIRE



LEGEND

- PROPERTY LINE
- OLD PROPERTY LINE
- PUBLIC RIGHT-OF-WAY
- PRIVATE RIGHT-OF-WAY
- RAILROAD RIGHT-OF-WAY
- CITY/TOWN LIMIT
- TOWN OWNED PARCELS
- STATE OF NH FISH & GAME
- COMMON LAND PARCELS
- EASEMENT
- CONSERVATION EASEMENT
- UTILITY RIGHT OF WAY
- HYDROGRAPHY
- WETLAND
- 3 PARCEL NUMBER
- 3 DISJOINTED PARCEL NUMBER
- 100 SURVEY LOT NUMBER
- 100 DIMENSION

INTENDED FOR ASSESSMENT PURPOSES ONLY.  
COMPILED FROM TAX MAPS, ORTHOPHOTOGRAPHY  
AND OTHER PUBLIC RECORDS AND DATA. USERS  
SHOULD CONSULT THE PUBLIC PRIMARY  
SOURCE DOCUMENTS FOR VERIFICATION OF THE  
INFORMATION APPEARING ON THIS MAP.



Date of Revisions:

9-1-2012	
4-1-2013	
4-1-2014	
7-9-2015	
5-17-2016	
5-30-2017	
5-15-2018	
4-1-2019	

REVISED & REPRINTED BY  
**CAI Technologies**  
Precision Mapping Geospatial Solutions  
11 PLEASANT STREET, LITTLETON, NH 03061  
800.322.4540 - WWW.CAITECH.COM

Plot Date: 5/3/2019 Sheet: 8

Exeter

SCAMMAN RIVER

ROUTE 101

MARKET BASKET PLAZA

PONDSCOTT AVENUE

SOCIETY FOR THE PROTECTION OF  
NH FOREST CONSERVATION EASEMENT

CONSERVATION AREA "A"

SCAMMAN CONSERVATION EASEMENT

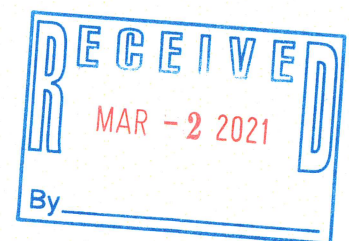
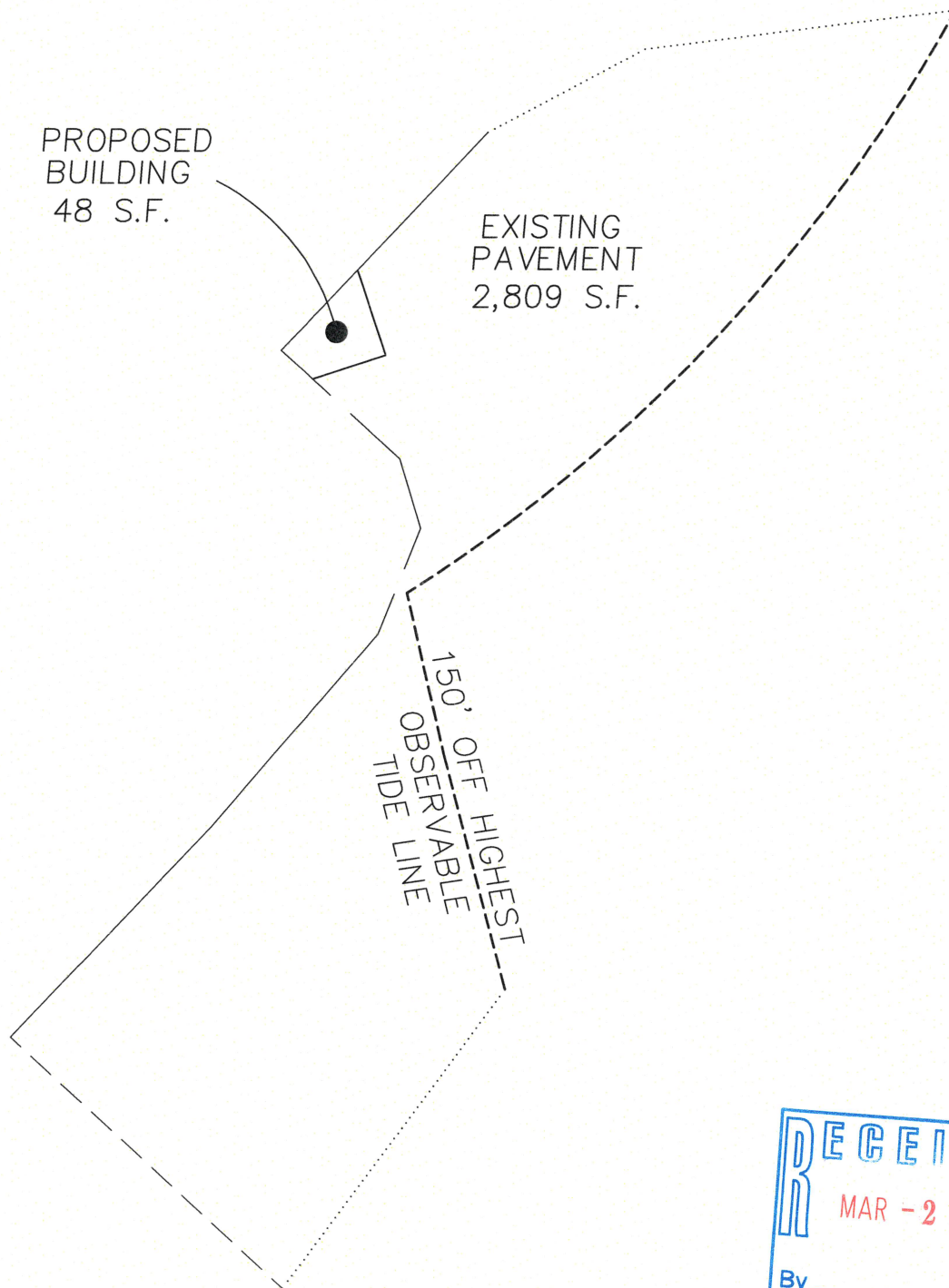
20' SHARED DRIVEWAY EASEMENT

20' ROADWAY MAINTENANCE EASEMENT

COMMON AREA EASEMENT

RECEIVED  
MAR - 2 2021  
By

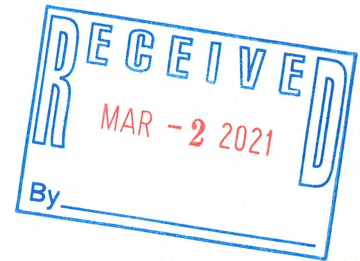






March 2, 2021

Gary Dolan, Chair  
Town of Stratham Zoning Board of Adjustment  
10 Bunker Hill Road  
Stratham, NH 03885



**Re: Variance Re-Hearing (Case #656B)**  
**7 Boat Club Drive**  
**Tax Map 8, Lot 39**  
**Stratham, NH**

Dear Chairman Dolan:

Mission Wetland and Ecological Services, LLC (Mission), on behalf of the Robert and Stephanie Cleary (the "Applicants"), is hereby submitting this narrative letter and attachments to the Stratham Zoning Board of Adjustment (ZBA) as support for the Motion for Rehearing of the Variance Petition (Case #656B), dated January 21, 2021, prepared by Donohoe, Tucker, and Ciandella, PLLC (DTC Lawyers). Attorney Justin Pasay presented both the Special Exception Request and Variance Relief Request at the ZBA public hearing of December 22, 2020 with support from Mission. The petitions were heard, commented on, and deliberated by the ZBA resulting in a unanimous vote for granting the Special Exception, while two of the board members voted to deny the variance relief request in the context of the same beneficial environmental attributes of the project. Notwithstanding the demonstration of an improvement in the SPD by the applicants' project team with mitigation in the form of a 17% decrease in impervious surfaces in the SPD, these two voting members indicated that, among other criterion issues, the mitigation component was insufficient to grant the variance relief requested to erect a non-conforming structure. Acknowledging the distinctions in the Special Exception and Variance Relief criteria outlined in Attorney Pasay's letter, the findings supporting the applicants' mitigation proposal for construction in the SPD remained the same; however, these ZBA members' findings of the mitigation components were incongruent. Nonetheless, there are several clarifications (outlined by Attorney Pasay in the 1/21/21 letter) in the Request for Rehearing and that Mission is reiterating herein and expanding upon. Specifically, Mission finds that the mitigation, as originally proposed, fulfills and advances the purpose and objectives of the SPD as outlined below from in the Town of Stratham Zoning Ordinance (ZO). Notwithstanding the mitigation associated with the original proposal, Mission is presenting and outlining supplemental information to fortify the applicants' mitigation proposal with the goal of complementing the *analysis and foundation* context provided in the Motion for Rehearing submitted by DTC Lawyers. Refer to the attached "Variance Plan" dated February 25, 2021, and "Exhibit 4A" prepared by Millennium Engineers, Inc, which depicts the updated mitigation components that are presented herein. In addition, the attached photolog provides some landscape and location context.

The purpose and objectives of the Shoreland Protection District, as outlined in Section 12.3 of the ZO, are to:

- 1) Promote the preservation and maintenance of surface water quality in Stratham:
- 2) Preserve and protect aquatic and terrestrial habitat associated with the intertidal and riparian areas:
- 3) Preserve and enhance those aesthetic values associated with the natural shoreline:
- 4) Encourage those uses that can be appropriately located adjacent to shorelines:

These objectives serve the purpose of the SPD to "protect and promote environmental quality, public health, resource conservation, and the general welfare of the public, with particular attention to the special cultural

and ecological significance of the Great Bay estuarine system”. It should be reinforced to the ZBA that the applicants feel that it is of upmost importance to stress their commitment to the ecological integrity of the SPD as reflected in Section 12.3 of the ZO and have portrayed their desire to remain living in this uniquely and distinctively configured home within the SPD, while creating reasonable living space for their growing family in this beautiful area of Stratham. They acknowledge the rare, unique character of their property and associated landscape setting and it is partially for the reasons the SPD has been adopted that they wish to stay in this home with their growing family. The proposed addition represents a reasonable use of their land which is facilitated by the variance request process, as reiterated in Attorney Pasay’s Motion for Rehearing.

At the 12/22/20 meeting of the ZBA, Attorney Pasay and Mission indicated that the proposed addition is located in a previously disturbed/developed upland area of the parcel and *not* in a direction closer to the Squamscott River, which is the basis and foundation of the SPD (refer to the attached photolog). In addition, Mission stressed there is no proposed removal of natural vegetation no impact to a wildlife habitat corridor is proposed. Moreover, there are no impacts to the terrestrial forested wetland and/or aquatic (tidal) wetland habitat associated with the SPD of the Squamscott River. The minor impact of the home addition footprint is limited to 1,315 square feet (SF) in the previously disturbed/developed upland lawn area associated with the home. The conversion of 2,761 SF of impervious asphalt driveway surface to pervious stone with stone reservoirs will result in a 1,446 SF reduction of impervious surface coverage in the SPD (or 17 % of 8,293 SF total impervious surface within the SPD). The increase in pervious surface represents the opportunity for optimum groundwater infiltration of stormwater and filtering of any potential pollutants associated with typical suburban homes where none exists in the current condition. This commitment to ensuring water quality preservation and maintenance as a mitigation component alone represents an advancement of the objectives of the SPD outlined in section 12.3 of the ZO.

The applicants, however, have agreed to additional mitigation components above and beyond the proposal of a 17 % decrease in impervious surfaces within the SPD. This will supplement their commitment to the advancement of the SPD and the wildlife habitat at the wetland/upland interface (see attached Variance Plan and Exhibit 4A). The goal is to create areas that may provide additional wildlife habitat use by installing wildlife habitat structures and plantings to enhance the SPD in upland areas of the lawn that area currently maintained. The result will be an increase in the use of this area by attracting additional wildlife and improving the overall food chain with a greater diversity of invertebrate, bird, and small mammal species.

#### Shoreland Protection District Enhancement Area Plantings

During site visits in July 2019 and February 2021, existing vegetation data recorded in this area of the SPD included red maple (*Acer rubrum*), white pine (*Pinus strobus*), eastern red cedar (*Juniperus virginiana*), speckled alder (*Alnus rugosa*), winterberry holly (*Ilex verticillata*), elderberry (*Sambucus canadensis*), silky dogwood (*Cornus amomum*), sensitive fern (*Onoclea sensibilis*), multiflora rose (*Rosa multiflora*), rough-stemmed goldenrod (*Solidago rugosa*), and jewelweed (*Impatiens capensis*). In addition to vegetation, wildlife observations were documented by visual observations and vocalization. Wildlife observations in the SPD adjacent to the wetland edge were limited to passerine opportunistic songbirds such as gray catbirds (*Dumetella carolinensis*), American robins (*Turdus migratorius*), bluejays (*Cyanocitta cristata*), chickadees (*Parus atricapillus*), belted kingfishers (*Megascops alcyon*), as well as evidence by scat and tracks of white-tailed deer (*Odocoileus virginianus*). Mission did not observe habitat structure or cavity nesting activity and/or snags in the vicinity in the area of the upland maintained lawn area. The Squamscott River to the northeast is suitable for small and large shoreline wading birds while nesting and feeding habitat for birds of prey may be present in this wetland/upland interface. This represents diversity in wetland



habitats and increased upland buffer habitat with the addition of structure and presents opportunities for enhancement of this area are available given its' transitional nature (refer to the attached photolog).

The Shoreland Protection District Enhancement Area (SPDEA) planting schedule (See Table 1.) outlines woody plants proposed for a previously-disturbed upland lawn area that is approximately 755 SF and will generally follow the elevation 7' contour directly above the jurisdictional wetland boundary. The SPDEA will provide additional wildlife habitat function, capacity, and visual aesthetic value. The species indicated in Table 1 include taxonomic variation with specific attributes for wildlife habitat provision. It is anticipated that the wildlife species that utilize the existing wetlands associated with the property will also naturally utilize the adjacent SPDEA. Table 1 describes planting specifications and the valuable aesthetics and functional attributes of the selected high-value shrubs species. In addition to providing nesting, feeding, foraging, and cover opportunities, these species will produce showy inflorescences and fruiting bodies during a variety of periods during the growing season. Seeds of these species are of high value especially as a food source for overwintering birds as well as small mammals and opportunistic herpetofauna that may be associated with the forested wetland. Consumption by small mammals and birds, as well as upland game birds is anticipated. Species recruitment associated with the SPDEA may include swamp sparrows (*Melospiza georgiana*), chipping sparrows (*Spizella passerina*), red-winged blackbirds (*Agelaius phoeniceus*), marsh wrens (*Cistothorus palustris*), and tree swallows (*Tachycineta bicolor*) with a preference to the SPDEA plantings and structure by association with adjacent habitats. These will complement frequently encountered suburban species such as finches (Fringillidae), dark-eyed juncos (*Junco hyemalis*), tree sparrows (*Spizella arborea*), and field sparrows (*Spizella pusilla*) as well as the previously mentioned observations. Small mammals like eastern cottontail rabbits (*Sylvilagus floridanus*) may also encounter additional foraging opportunities while the SPDEA will provide a greater variety of pollinating butterflies and moths (Lepidopteran) and bees (Apiformes) species attracted to the showy inflorescences of these proposed high-value shrub plantings.

**Table 1. Shoreland Protection District Enhancement Area (SPDEA) Planting Schedule**

Shrub Species	Spacing Specifications	Aesthetic & Wildlife Function & Value
Serviceberry ( <i>Amelanchier canadensis</i> )	Six (6) four-foot specimens, planted 8 feet on center	Attractive early flowering large shrub with excellent value as summer food and cover for bluebird, cardinal, cedar waxwing, catbird, sparrows, red squirrel, scarlet tanager, veery, and deer.
Maple-leaved Viburnum ( <i>Viburnum acerifolium</i> )	Six (6) four-foot specimens, planted 8 feet on center	Thicket forming shrub with creamy flowers and extremely colorful fall foliage and drupes. Drupes, twigs, and buds are excellent food for white-throated sparrow, hermit thrush, cardinal, bluebird, catbird, chipmunk, squirrels, and rabbit. Attracts native bees, butterflies and moths.

### Nest Box Installation

In addition to woody plantings, pole or sapling-mounted nest boxes placed within the SPDEA adjacent to existing food, cover, or other micro-habitat features in the adjacent wetland will be utilized by numerous resident avian and mammalian species (see attached schematics). Most cavity nesting species will readily use nest boxes. Nest boxes also provide excellent recreational wildlife viewing

opportunities to the applicants, thereby improving the aesthetic value of the SPD. Species such as white-breasted nuthatch (*Sitta carolinensis*), chickadee, hairy woodpecker (*Picoides villosus*), downy woodpecker (*Picoides pubescens*), northern flicker (*Colaptes auratus*), eastern phoebe (*Sayornis phoebe*), willow flycatcher (*Empidonax trailii*), white-throated sparrow (*Zonotrichia albicollis*), house wren (*Troglodytes aedon*), and warblers such as yellow warbler (*Setophaga petechia*), and common yellowthroat (*Geothlypis trichas*) are anticipated to utilize the nest boxes. Gray squirrel (*Sciurus carolinensis*), red squirrel (*Sciurus vulgaris*) and eastern chipmunks may also utilize nest boxes for nesting and the storing of food caches. Approximate locations of two nest boxes are depicted on the Variance Plan. Nest boxes can be sourced locally or regionally.

As a conclusion, Mission would like to reiterate the objectives of the SPD in the context of the mitigation and subsequent advancement of the SPD to offset the impervious surface resulting from the proposed home addition in the post construction condition as follows:

- 1) **Promote the preservation and maintenance of surface water quality in Stratham:** *There is no proposed development or home addition proposed on wetlands that would contribute to the degradation of surface water quality or even groundwater quality in Stratham and specifically, the SPD. The applicant proposes a 17% reduction in impervious surfaces by way of conversion of impervious asphalt to pervious stone surface to offset the increase associated with impervious home addition footprint. This pervious surface conversion represents effective and valuable stormwater runoff mitigation where none currently exists. This pervious surface will promote optimum groundwater infiltration and reduce stormwater runoff that would otherwise drain in the direction of the downgradient wetlands and ultimately surface waters associated with the tidally influenced riparian wetland of the Squamscott River, the foundation and basis of the SPD. In addition, customary Best Management Practices (BMPs) erosion control measures will be implemented during construction activities. This consists of silt soxx which will reduce the potential for siltation and sedimentation in the direction of the downgradient uplands and freshwater and aquatic (tidal) wetlands. The applicants have minimized the footprint for the addition and provided substantial mitigation to offset this addition within the previously-disturbed/developed SPD.*
- 2) **Preserve and protect aquatic and terrestrial habitat associated with the intertidal and riparian areas:** *There is no proposed disturbance or home addition proposed on the aquatic or terrestrial wetland habitat, or intertidal wetlands of the SPD. While resident species will continue to utilize the upland/wetland interface of the SPD, it is anticipated that the SPDEA will complement the species diversity with recruits inhabiting the SPDEA or foraging, feeding, and nesting habitat. An increase in high-value plants and habitat structure and will increase wildlife species diversity and the overall the food chain dynamic of the SPD with Lepidopteran invertebrates, mammals, and bird species.*
- 3) **Preserve and enhance those aesthetic values associated with the natural shoreline:** *The applicant proposes a reasonable home addition that will continue to preserve and enhance the aesthetic values associated with the previously-disturbed/developed SPD. The reasonable addition is not proposed toward the Squamscott River and is limited to upland maintained lawn areas associated with the property. A substantial decrease of 17% of impervious surface within the SPD will promote optimum stormwater infiltration through the soil profile prior to sheetflow runoff. This, coupled with the SPDEA component of the proposal project, will preserve and, in fact, enhance the aesthetic values of the natural shoreline in the post-construction condition.*



- 4) **Encourage those uses that can be appropriately located adjacent to shorelines:** *There is no proposed impact to the natural shoreline. Impacts are limited to the adjacent, previously-disturbed/developed maintained upland lawn area of the SPD. The proposed addition has been tastefully designed and the mitigation and enhancement components will complement the SPD.*

The applicants have demonstrated to the ZBA that the proposed addition coupled with the mitigation proposal will not impact the SPD. The proposal has been designed to avoid any direct impacts to the SPD and, in fact, advances the objectives of the SPD with a 17% decrease in impervious surface and with the SPDEA. While NHDES has issued permit #2020-02960 for the proposed addition, the applicants have also agreed to further improvements to the post construction condition of the SPD with habitat enhancement to demonstrate commitment to the SPD and conformance with the Stratham ZO. It is the position of Mission and the balance of the project team that the proposed addition will not impact the functions and values of the associated forested wetland or aquatic habitat associated with the Squamscott River and remains within the spirit and intent for which the SPD was created as outlined in the Town of Stratham ZO. Specifically, with regard to the SPD and the ZO request criteria, granting the variance relief would not result in an alteration to the essential character of the neighborhood and there will be no impact to the public health, safety, or welfare. Similarly, by denying the variance relief request there is no gain to the public interest that is not outweighed by the benefit to the applicant. As such, the applicant requests that the Stratham ZBA reconsider the substance of the petition and grant the relief for the construction of the addition and associated improvements and enhancements in the SPD.

Respectfully Submitted,  
Mission Wetland & Ecological Services, LLC.

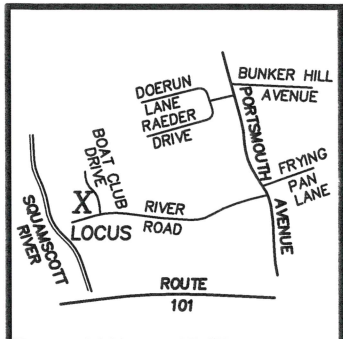


Sergio Bonilla, PWS, CWS, CESSWI  
Principal Wetland Ecologist

Attachments: Variance Plan, dated February 25, 2021, prepared by MEI  
Exhibit 4A Shoreland Protection District Enhancement Area  
Photolog, prepared by Mission

Cc: Robert and Stephanie Cleary - Applicants, electronic, via e-mail  
Justin Pasay, Esq. - Donahoe, Tucker, and Ciandella, PLLC, electronic, via e-mail  
Henry Boyd, PLS - Millennium Engineering, electronic, via e-mail

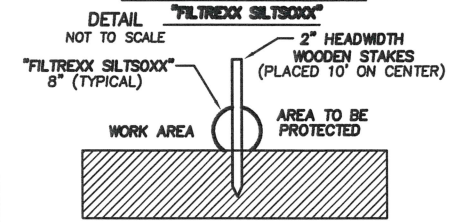




LOCUS MAP  
NOT TO SCALE

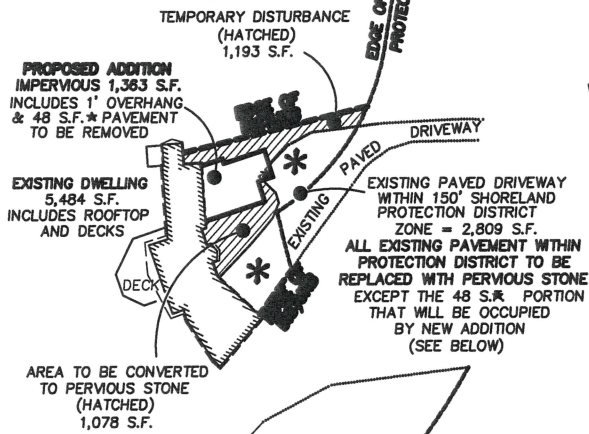
"FILTREXX SILTXXX" IS TO BE PLACED  
AT EDGE OF PROPOSED DISTURBANCE

**EROSION CONTROL**

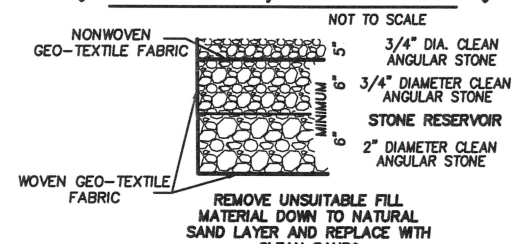


**150' SHORELAND  
PROTECTION DISTRICT  
IMPACT AREA DETAIL**

DECREASE IN IMPERVIOUS SURFACE WITHIN  
SHORELAND PROTECTION DISTRICT IS 17%  
2,809 S.F.-48 S.F.=2,761 S.F.



**\* STONE DRIVEWAY/ RESERVOIR DETAIL \***



\* SAND SHALL BE GRADED SAND, FREE FROM ORGANIC MATERIALS, GRADED SUCH THAT 100% PASSES A 0.5" SIEVE AND A MAXIMUM OF 15 PERCENT PASSES A #200 SIEVE.

**NOTES:**

- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
- 2) THIS PARCEL LIES WITHIN AN AE(EL7) AND X FLOOD ZONES. SEE F.I.R.M. COMMUNITY PANEL 330197 0245 F EFFECTIVE DATE JANUARY 29, 2021.

**PLAN REFERENCE**

"SUBDIVISION PLAN FOR RIVER CLUB ESTATES  
RIVER ROAD COUNTY OF ROCKINGHAM STRATHAM,  
NH" SCALE: 1"=100' DATE: AUGUST 17, 1994  
REVISED THROUGH: /12-22-94.  
BY: RICHARD P. MILLETTE AND ASSOCIATES  
D-23855

N/F  
EMK REALTY TRUST  
DAVID K. & ERICA M. KISVER  
9 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5876 PG. 0780

N/F  
DOBBINS FAMILY REV. TRUST  
JOSHUA B. & STEPHANIE DOBBINS  
8 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5682 PG. 0228

N/F  
SHANE S. COWER  
MARINDA K. CROSIER  
6 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5938 PG. 2163

N/F  
KATRINA FORREST  
ROBERT D. GEORGE  
4 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5615 PG. 2425

N/F  
FINLEY FAMILY REV. TRUST  
MICHELLE M. RICHARDS  
2 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5537 PG. 1464

N/F  
GARY P. STREET  
LISA A. STREET  
66 RIVER ROAD  
STRAHAM, NH 03885  
BK. 3758 PG. 0090

N/F  
PHILIP J. MALONE  
72 RIVER ROAD  
STRAHAM, NH 03885  
BK. 5405 PG. 2939

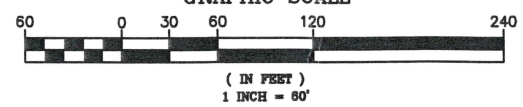
N/F  
BARBARA A. FLOCCO  
FLOCCO REV. TRUST  
69 RIVER ROAD  
STRAHAM, NH 03885  
BK. 3240 PG. 1650

N/F  
THOMAS DIGIUSEPPE  
CHELSEA DIGIUSEPPE  
65 RIVER ROAD  
STRAHAM, NH 03885  
BK. 5738 PG. 2527

**LEGEND**

- D.H.S.B.
- I.P.
- I ROD
- FOUND
- ASSESSORS MAP AND PARCEL
- OVER HEAD WIRE
- UTILITY POLE
- LIGHT POLE
- WETLAND FLAG
- WETLAND
- EDGE OF DISTURBANCE/ EDGE OF SILT SOXX

**GRAPHIC SCALE**



**RECORD OWNER**

ROBERT MICHAEL CLEARY  
781-771-8397  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5936 PG. 2884  
487,300± S.F.  
11.2± ACRES  
AREA CALCULATED  
TO LOW WATER

**ZONING DISTRICT  
RESIDENTIAL/AGRICULTURAL**

MINIMUM REQUIREMENTS	
AREA	2 ACRES
FRONTAGE	200'
DEPTH	150'
BUILDING SETBACKS	
FRONT	30'
SIDE	20'
REAR	20'
MAXIMUM STRUCTURE HEIGHT	
MAXIMUM BUILDING COVERAGE	35%
MINIMUM OPEN SPACE/LOT	20%

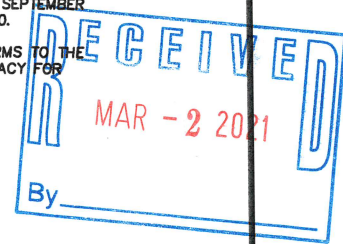
WETLANDS DELINEATION BY  
SERGIO BONILLA  
CERTIFIED WETLAND  
SCIENTIST (CWS) #261  
P.O. BOX 4028  
PORTSMOUTH, NH 03802

IN ACCORDANCE WITH THE REGIONAL SUPPLEMENT  
TO THE CORPS OF ENGINEERS WETLAND DELINEATION  
MANUAL: NORTHCENTRAL AND NORTHEAST REGION  
(VERSION 2-TR-12-1, JANUARY 2012).

**I CERTIFY:**

THAT THIS ACTUAL SURVEY WAS MADE  
ON THE GROUND BETWEEN SEPTEMBER  
2019 AND SEPTEMBER 2020.

THAT THIS SURVEY CONFORMS TO THE  
REQUIREMENTS FOR ACCURACY FOR  
N.H. URBAN SURVEY.



**VARIANCE PLAN  
IN  
STRATHAM, NH**

SHOWING  
**A PROPOSED ADDITION, IMPERVIOUS AREA REDUCTION  
AND ENVIRONMENTAL MITIGATION  
AT 7 BOAT CLUB DRIVE  
(ASSESSORS MAP 8 LOT 39)**

**RECORD OWNER**

ROBERT MICHAEL CLEARY  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE STRATHAM, NH 03885

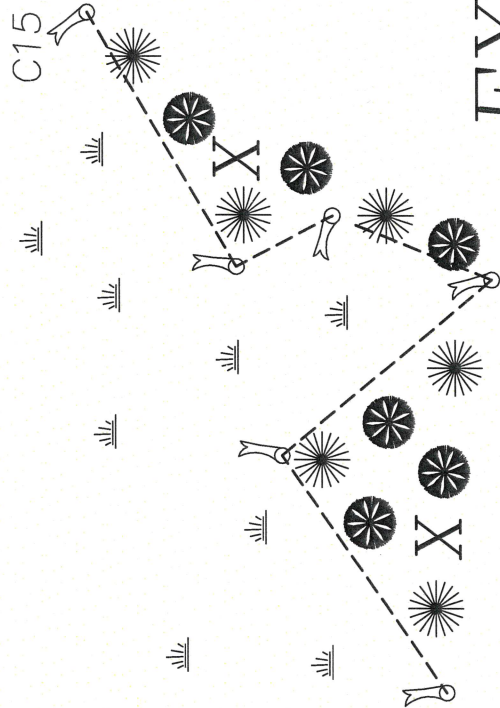
**MILLENNIUM ENGINEERING INC.  
ENGINEERS AND LAND SURVEYORS**

P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833  
PHONE: (603) 778-0528 FAX: (603) 772-0689

SCALE: 1"= 60'	CALC. BY: H.H.B.	PROJECT: E192373
DATE: FEB. 25, 2021	CHKD. BY: K.L.R.	

NO.	DATE	DESCRIPTION	BY





# EXHIBIT "4A"

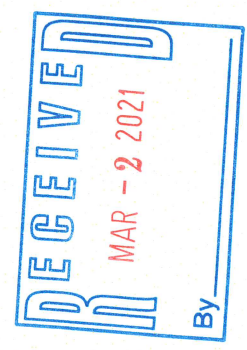
## SHORELAND PROTECTION DISTRICT ENHANCEMENT AREA

NOT TO SCALE

X NEST BOX

● 4' SERVICE BERRY


★ 4' MAPLE LEAVED VIBURNUM



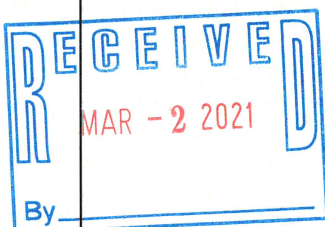




## PHOTOGRAPHIC LOG

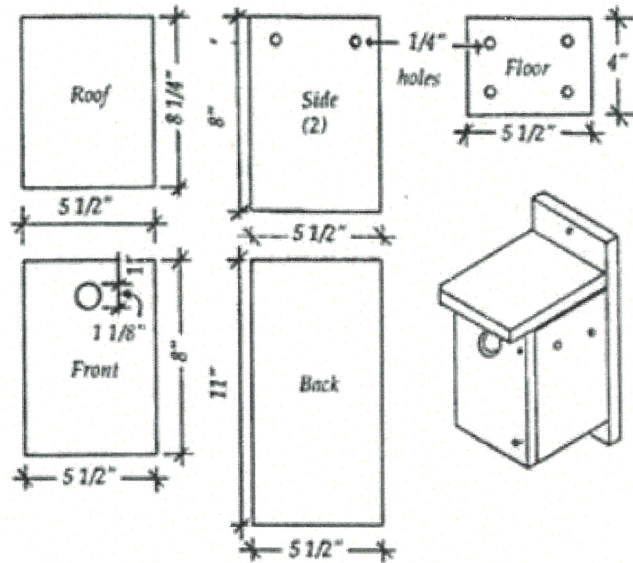
<b>Client Name:</b> Robert and Stephanie Cleary		<b>Site Location:</b> 7 Boat Club Drive (TM 8, Lot 39) Stratham, New Hampshire	<b>Project No.</b> 19-016
<b>Photo No.</b> 1	<b>Date:</b> 7/24/19		
<b>Description:</b>  Facing northeast at the maintained lawn area for the proposed Shoreland Protection District Enhancement Area (SPDEA).			

<b>Photo No.</b> 2	<b>Date:</b> 2/25/21	
<b>Description:</b>  Facing north at the moderately-sloping maintained lawn area with multiflora rose for the proposed SPDEA. The Squamscott River is in the distant background.		



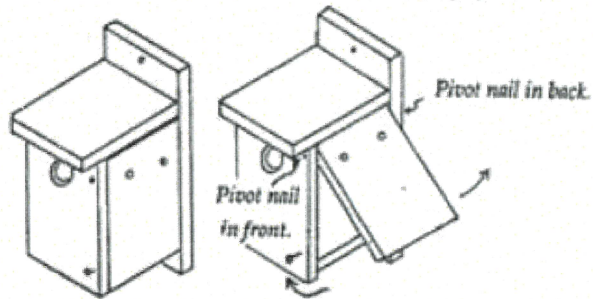


# Nest Box Schematics



Note: Entrance hole diameter is 1 1/8".

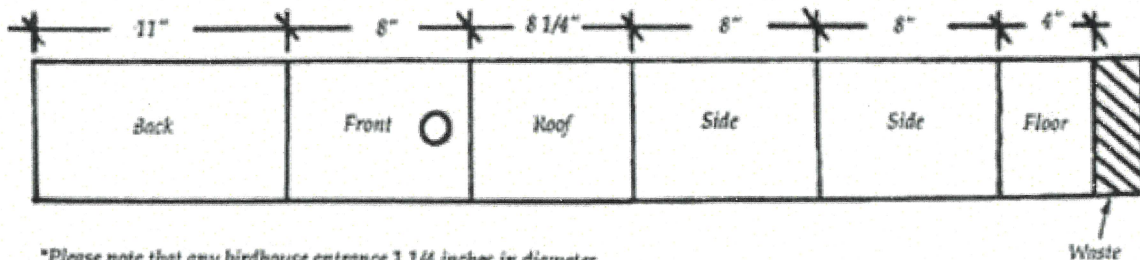
(An entrance hole diameter of 1 1/4" is needed for the white-breasted nuthatch and flying squirrel.)



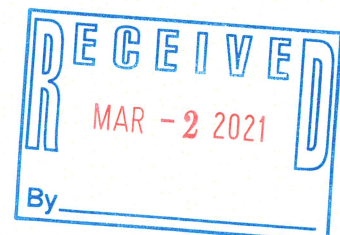
Use one nail or screw at bottom to close side. Nail or screw holds side closed.

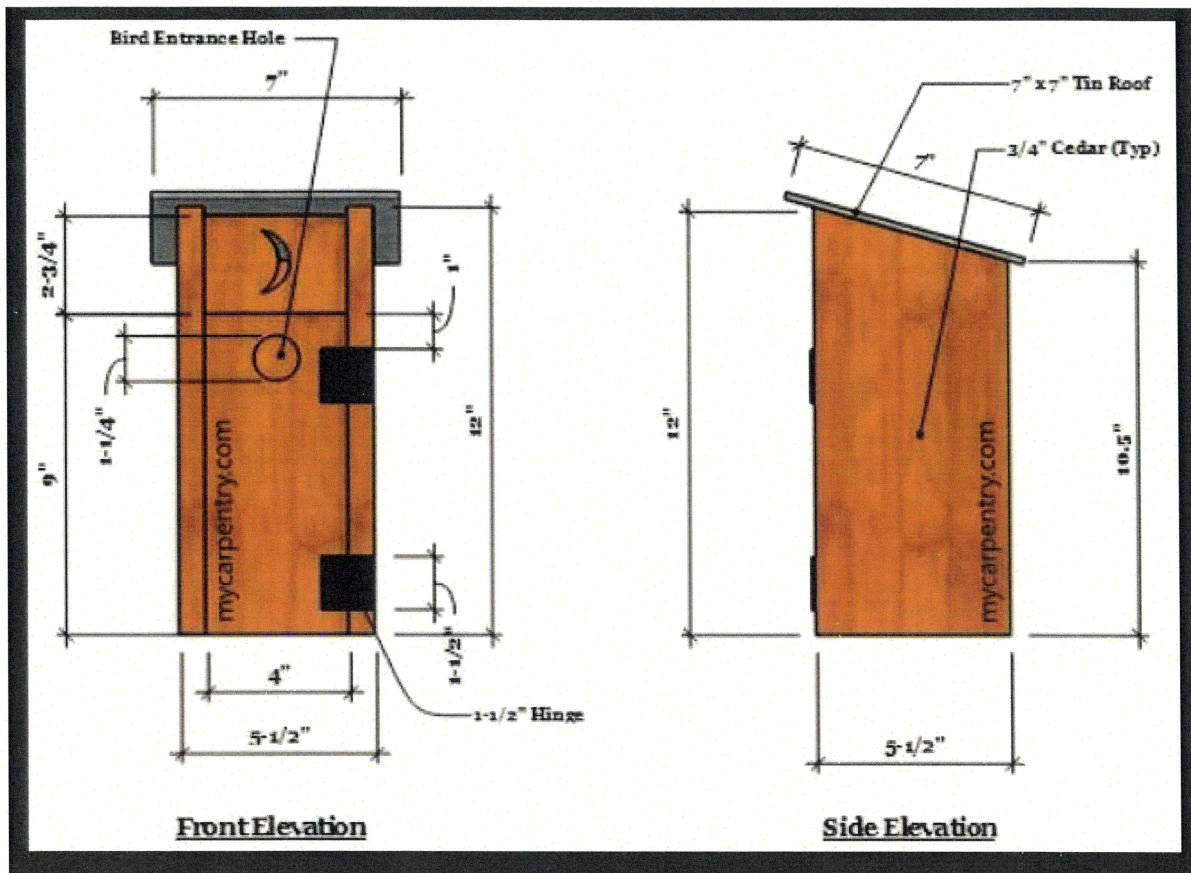
Two "pivot" nails allow side to swing out for cleaning.

Lumber: One 1" x 6" x 4'0".



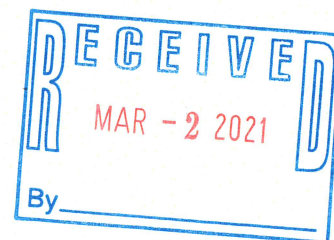
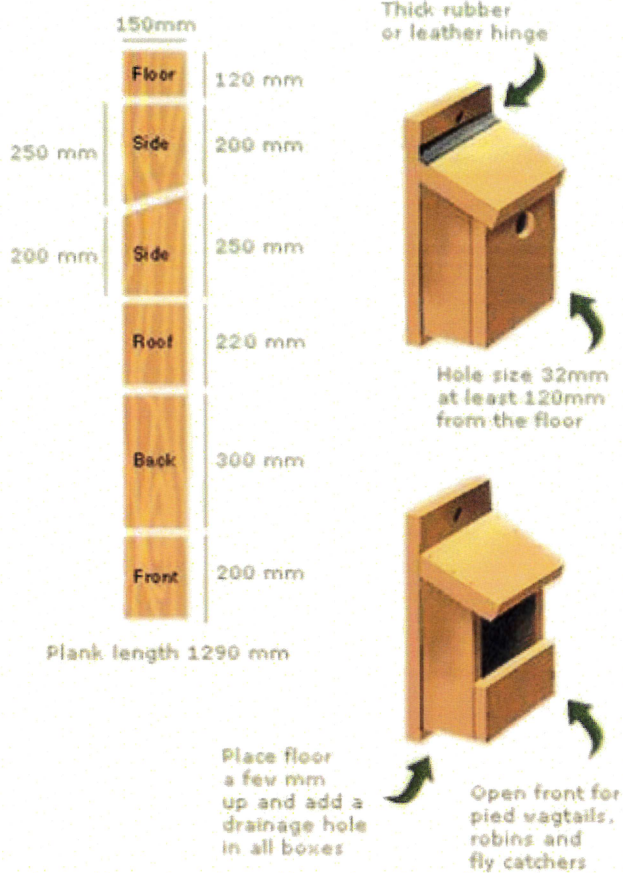
\*Please note that any birdhouse entrance 1 1/4 inches in diameter or larger will admit house sparrows! All wren and chickadee nest boxes should have an entrance hole of 1 1/8 inches in diameter.





RECEIVED  
MAR - 2 2021  
By \_\_\_\_\_





**PHOTO LOG  
7 Boat Club Drive  
Stratham, New Hampshire**

**Photos Taken: October 5, 2020**



**Photograph No. 1: Easterly view of 7 Boat Club Drive in Stratham, New Hampshire.**

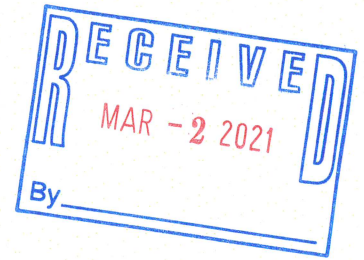


**Photograph No. 2: Northeasterly view of proposed housing addition area.**



**PHOTO LOG  
7 Boat Club Drive  
Stratham, New Hampshire**

**Photos Taken: October 5, 2020**



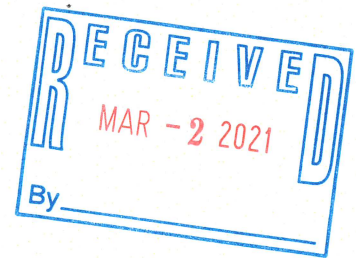
**Photograph No. 3: Southeasterly view of maintained lawn in the proposed housing addition area.**



**Photograph No. 4: Southerly view of maintained lawn adjacent to Squamscott River.**



**PHOTO LOG  
7 Boat Club Drive  
Stratham, New Hampshire**



**Photos Taken: October 5, 2020**



**Photograph No. 5: Southerly view of Squamscott River from 7 Boat Club Drive maintained lawn.**



**Photograph No. 6: Northeasterly view of proposed shop location from driveway of 7 Boat Club Drive.**



2020-02690
10/19/2020
ROBERT CLEARY
7 BOAT CLUB DR STRATHAM, ROCKINGHAM
8 39
SQUAMSCOTT RIVER

Application Type	SHORELAND STANDARD
Preliminary Category	SHORELAND STANDARD
Application Status	PERMIT APPROVED
Final Category	SHORELAND STANDARD

DES Reviewer	ROSEMARY AURES
Agent	GZA GEOENVIRONMENTAL INC

Impact 9,537 square feet of protected shoreland in order to construct an addition onto the nonconforming primary structure and detached accessory structure.

Impervious Surface Percentage Approved: 5.0%

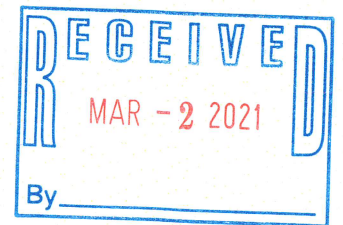
Natural Woodland Area Required per RSA 482-B:0 V (b): 22,875 square feet

EXETER-SQUAMSCOTT RIVER

	Letter Name	Owner	Document Signed Date
<a href="#">View</a>	ACCEPT_SHORE	WSDMB	10/20/2020

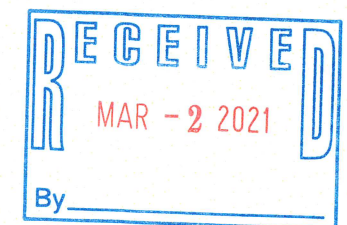
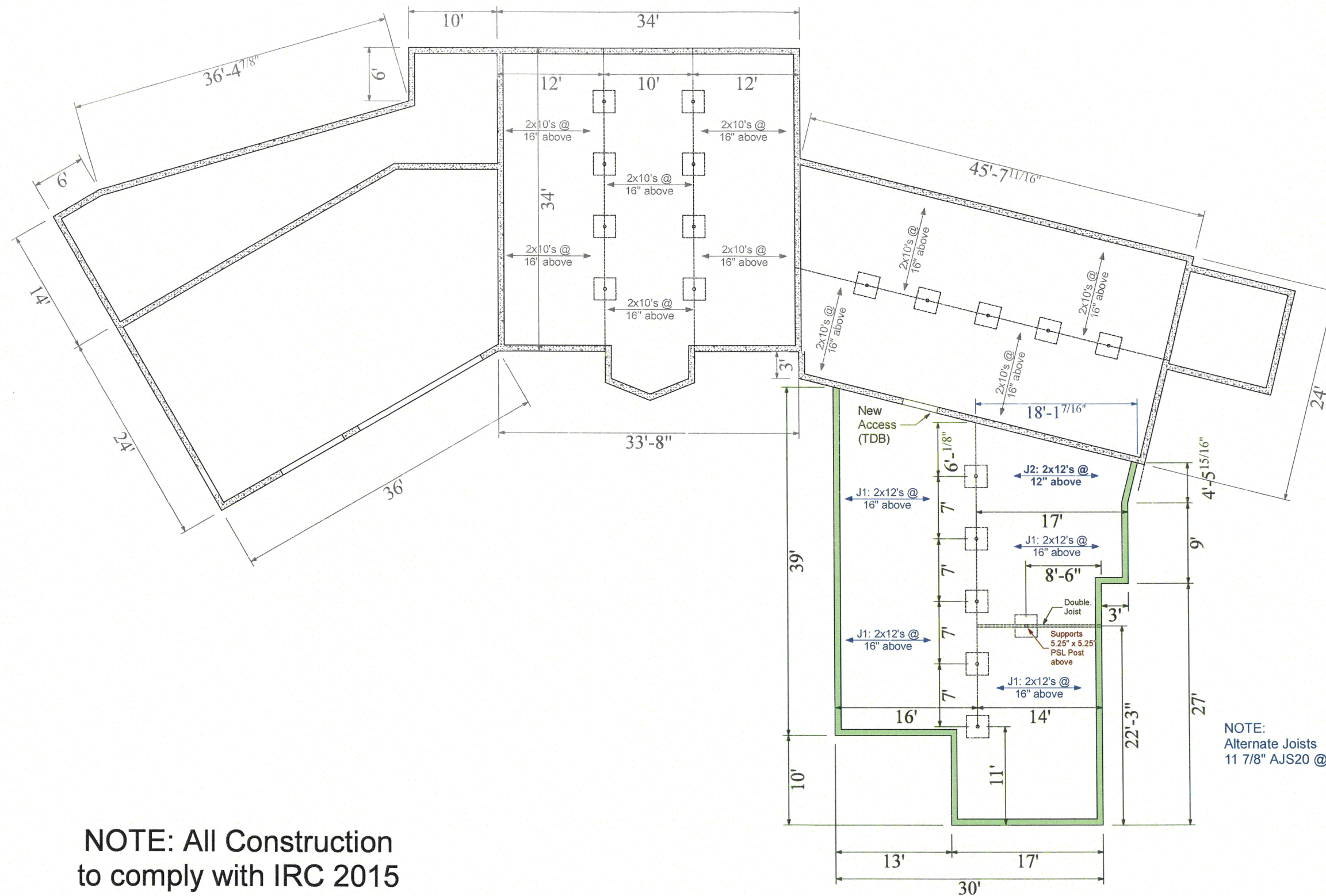
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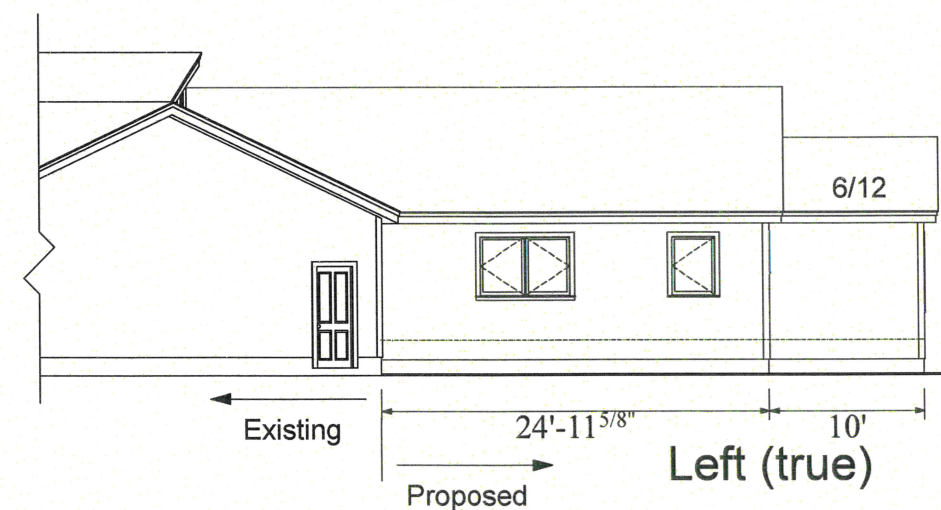
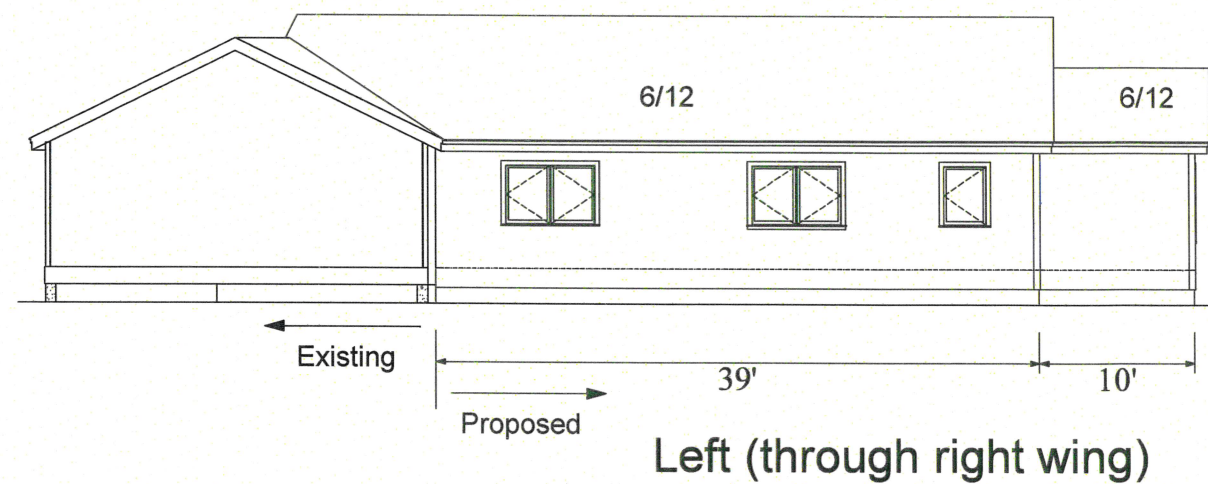
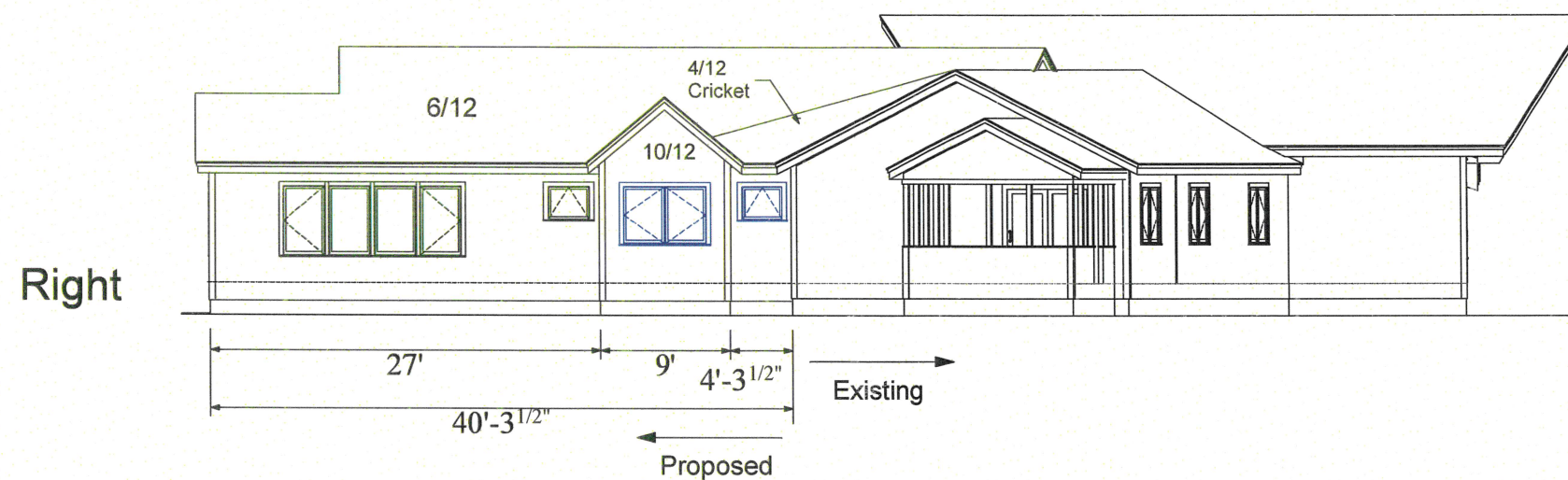
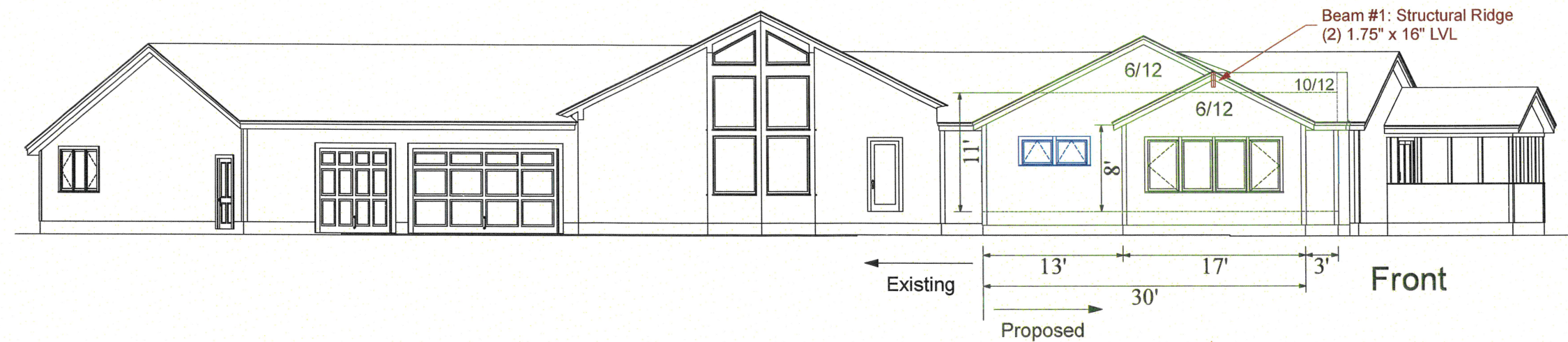
<b>Michelle Shields Design</b> 6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Smart Creative Architecture Cell: 207-752-7623 <a href="http://www.MichelleShieldsDesign.com">www.MichelleShieldsDesign.com</a>	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review <b>ISSUE DATE:</b> September 21, 2020	<b>SCALE:</b> 1/16" = 1'-0" (Letter)	<b>TITLE:</b> Proposed First Floor	<b>SHEET:</b> <b>P1</b>
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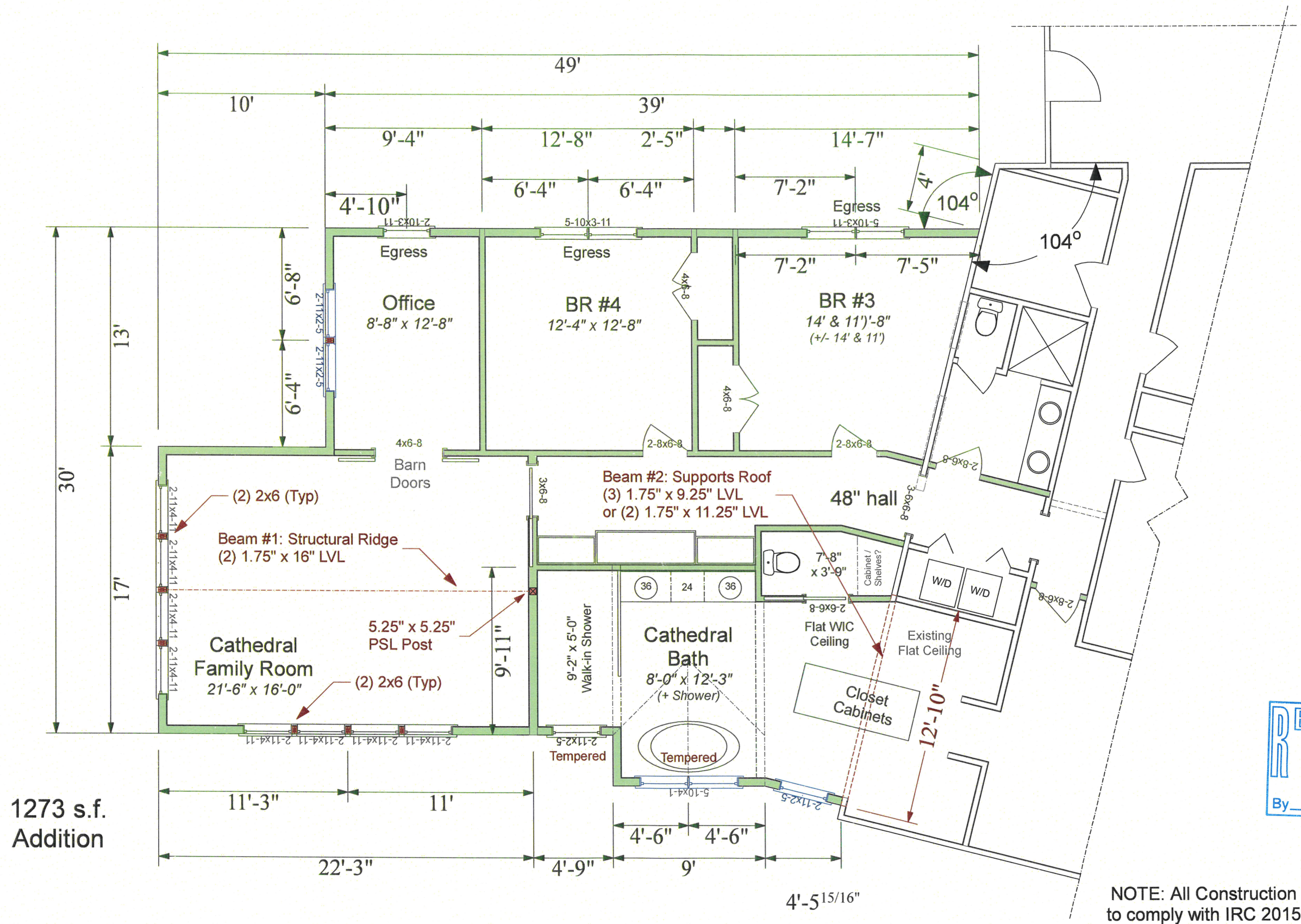
<b>Michelle Shields Design</b> 6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Smart Creative Architecture Cell: 207-752-7623 <a href="http://www.MichelleShieldsDesign.com">www.MichelleShieldsDesign.com</a>	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review <b>ISSUE DATE:</b> September 21, 2020	<b>SCALE:</b> 1/16" = 1'-0" (Letter)	<b>TITLE:</b> Proposed Foundation	<b>SHEET:</b> <b>P2</b>
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<b>Michelle Shields Design</b> Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review <b>ISSUE DATE:</b> September 21, 2020	<b>SCALE:</b> 1/16" = 1'-0" (Letter)	<b>TITLE:</b> Proposed Elevations	<b>SHEET:</b> <b>P3</b>
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Design**

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www.MichelleShieldsDesign.com

6 Rudolph Avenue  
Kittery, Maine 03904  
207-438-9829  
Cell: 207-752-7623

**PROJECT:**

**Rob and Stephanie  
Cleary Residence**

**SITE:**

**7 Boat Club Way  
Stratham, NH**

**ISSUED FOR:**

**Review**

**DATE:**

**September 21, 2020**

**SCALE:**

**1/8" = 1'-0"  
(Letter)**

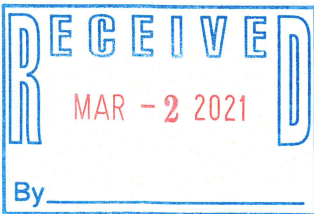
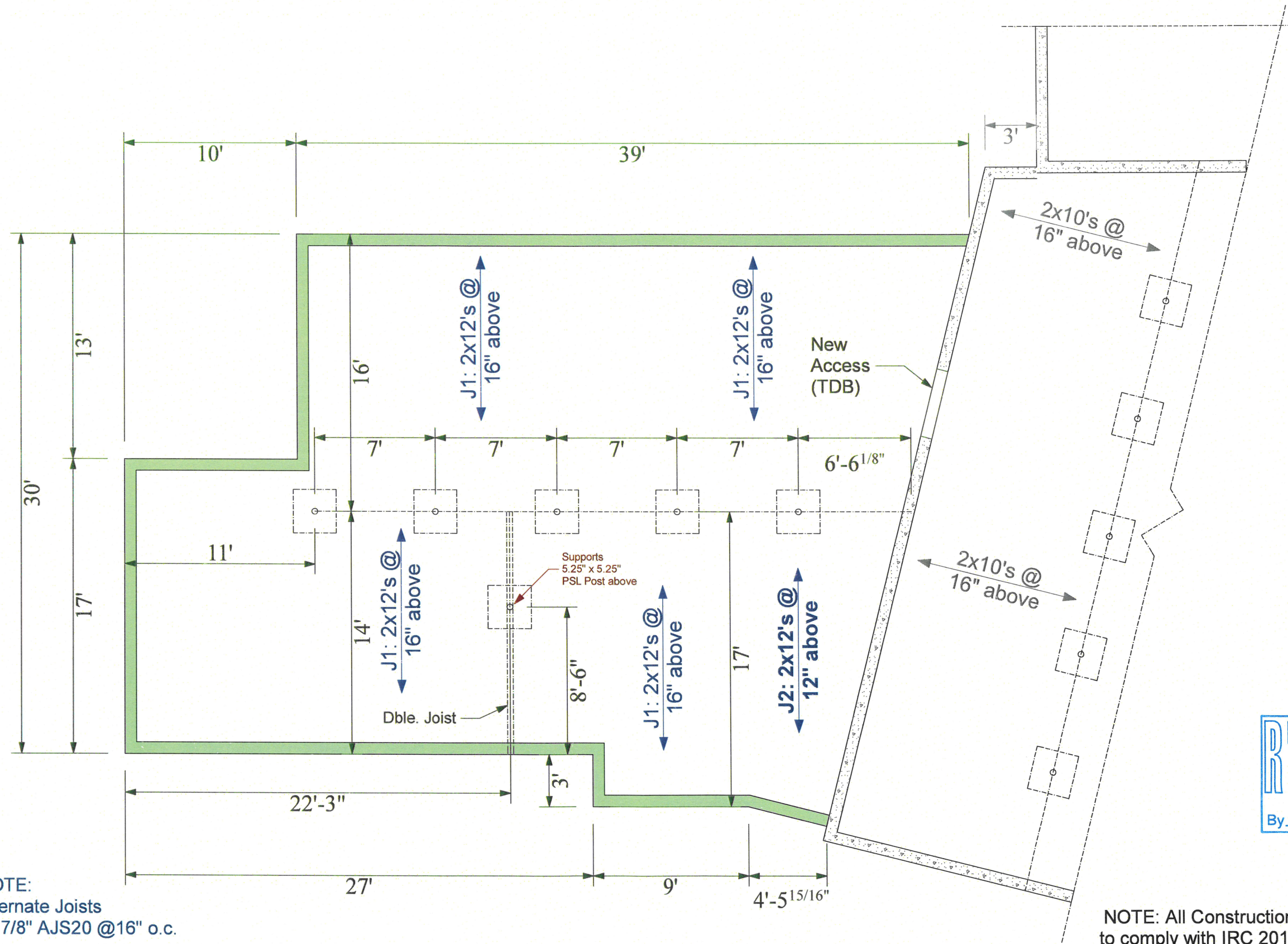
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**Proposed  
First Floor**

**SHEET:**

**P4**

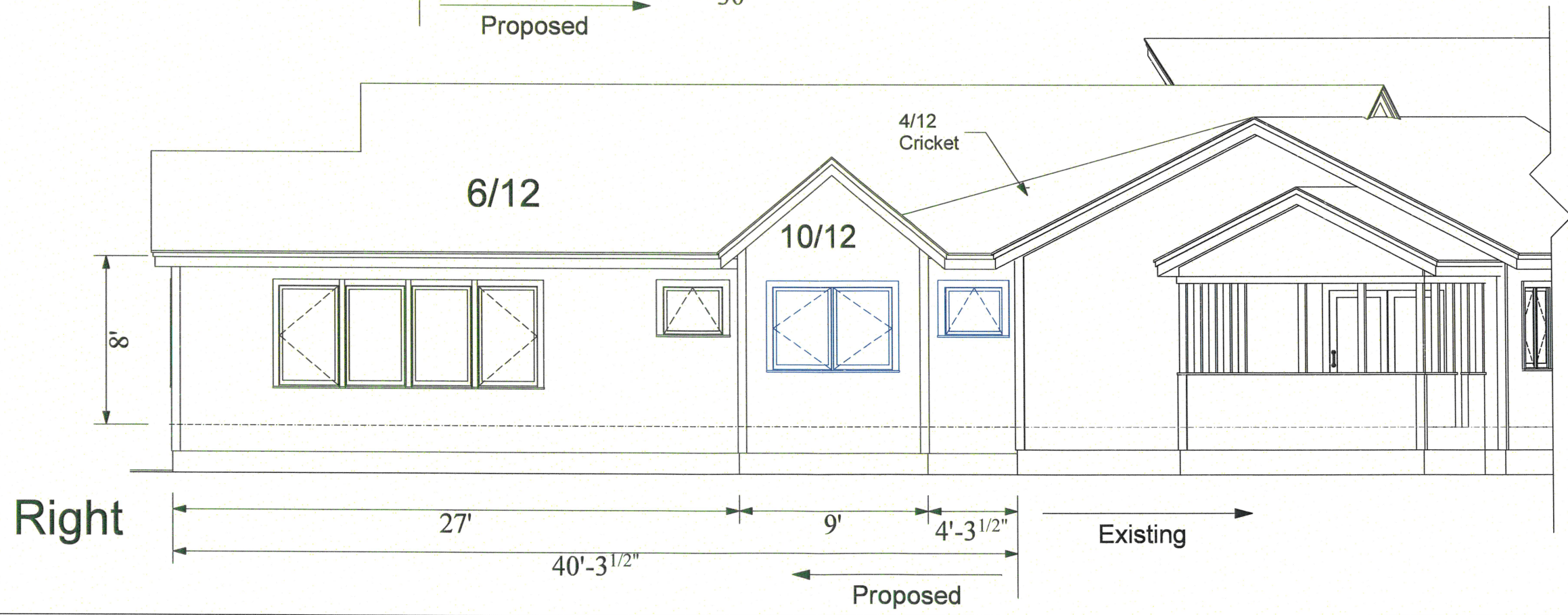
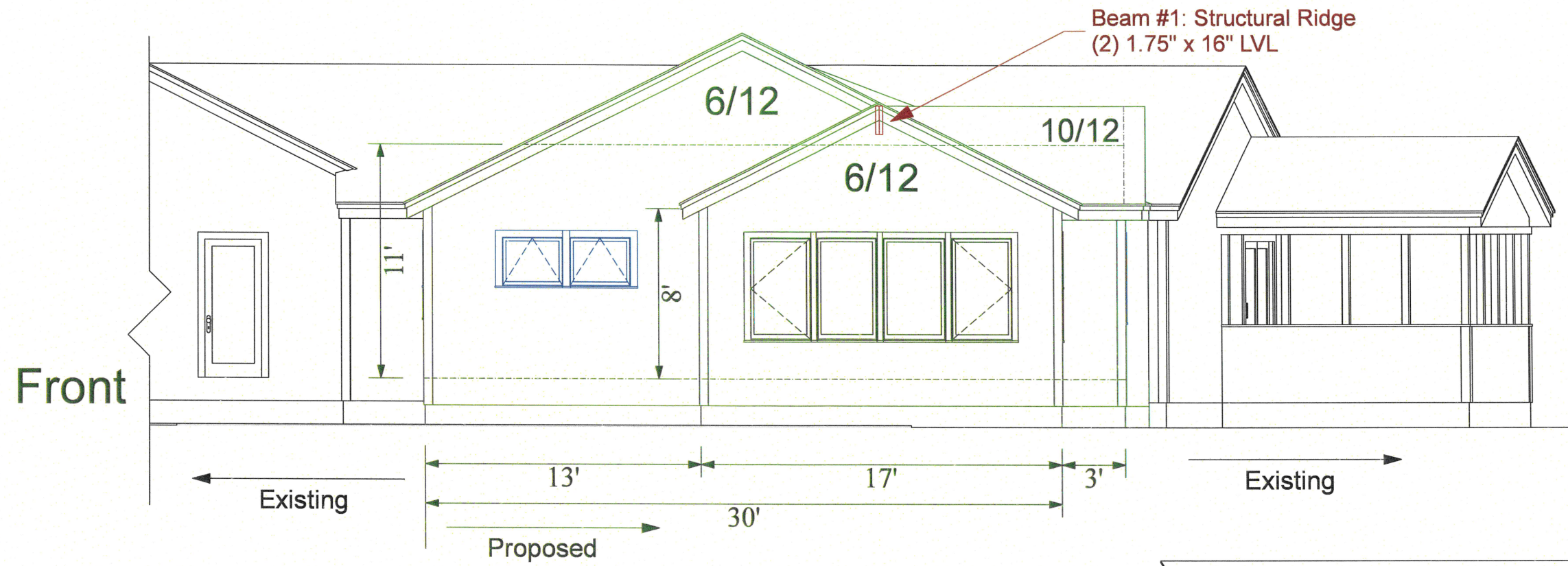




NOTE:  
Alternate Joists  
11 7/8" AJS20 @16" o.c.

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				<b>DATE:</b> September 21, 2020			

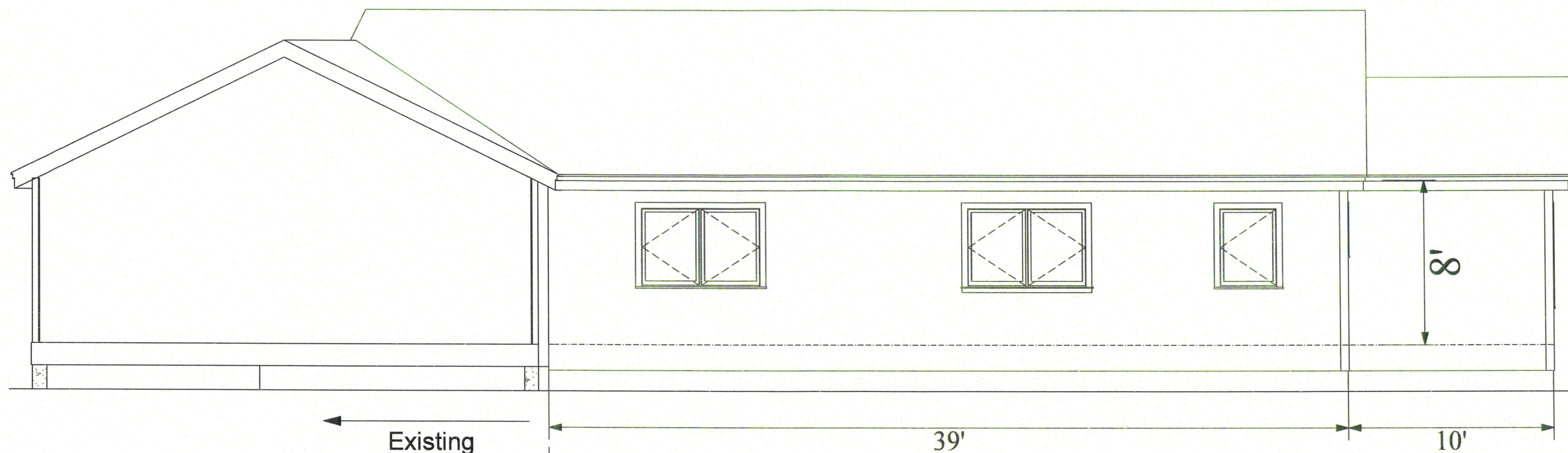




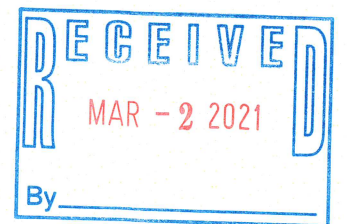
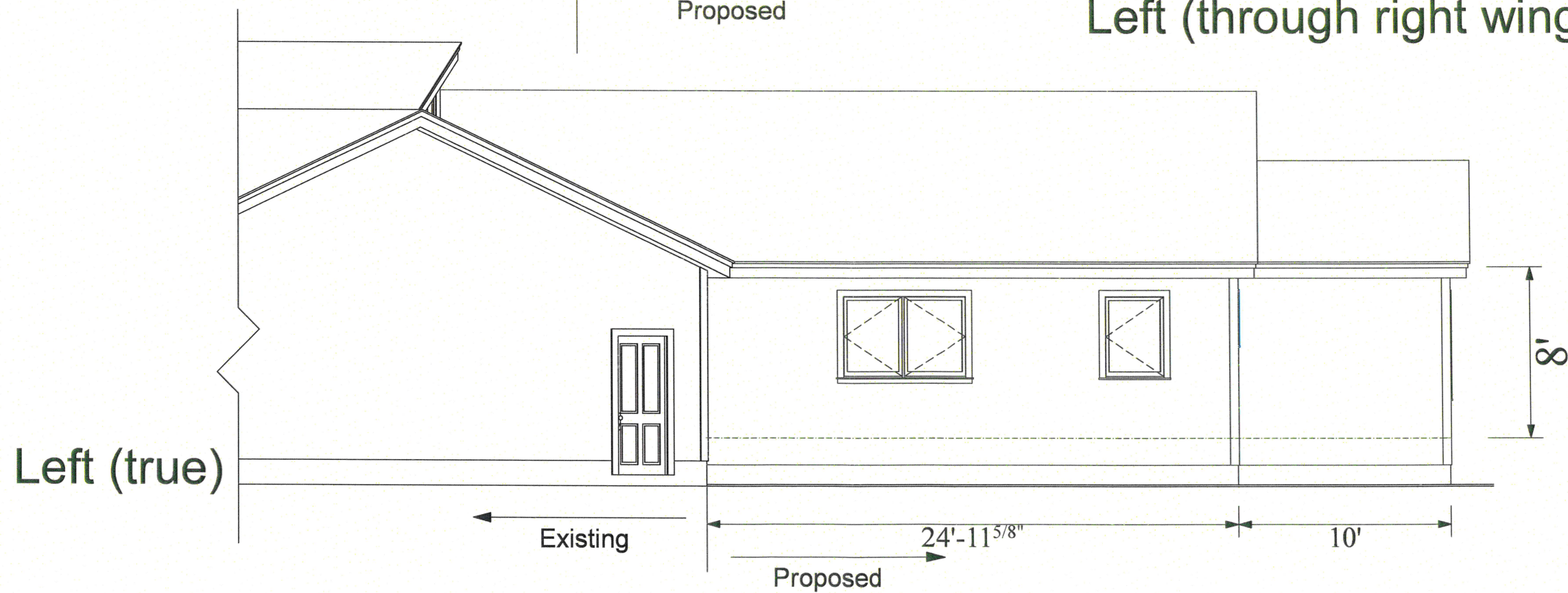
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				<b>DATE:</b> September 21, 2020			





Left (through right wing)



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207-438-9829  
Cell: 207-752-7623

PROJECT:

Rob and Stephanie  
Cleary Residence

SITE:

7 Boat Club Way  
Stratham, NH

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DATE:

September 21, 2020

SCALE:

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(Letter)


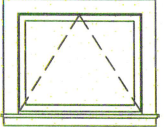
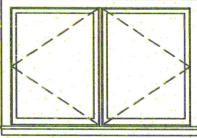

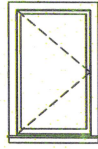
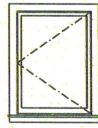
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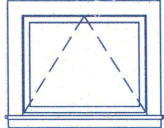
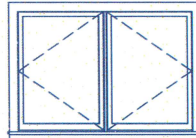
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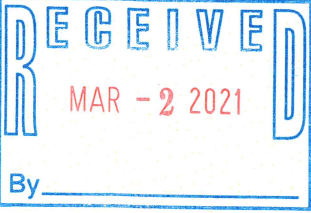
**P7**



New Pella Black Windows			
ID	Qty.	ELEVATION	DIMENSIONS
3559 Fixed	4		2'-11" X 4'-11"
A3529 Tempered	1		2'-11" X 2'-5"
C3547-2	2		5'-10" X 3'-11"
C3559L	2		2'-11" X 4'-11"
C3559R	2		2'-11" X 4'-11"
C3547L	1		2'-11" X 3'-11"

Solid Core Interior Doors		
ID	Qty.	DIMENSIONS
2668 Pkt	1	2'-6" X 6'-8"
2868	3	2'-8" X 6'-8"
3068 Pkt	1	3'-0" X 6'-8"
4068 Barn	1	4'-0" X 6'-8"
4068 Pair	2	4'-0" X 6'-8"

Re-install Existing Windows			
ID	Qty.	ELEVATION	DIMENSIONS
R1	3		2'-11" X 2'-5"
R2 Tempered	1		5'-10" X 4'-1"





**Typical Foundation:**

Foundation walls to be 8" thick with (2) #4 Rebar longitudinal top.\ and #6 @ 48". PerT 404.1.2(1). Footings to be 10" x 16" with (2) #4 longitudinal bottom & (1) #4 anchor @ 48". Foundation walls to be 7'-10" Maintain continuous 4' frost protection 1/2" Anchor Bolts @ 6'-0" O.C. (2 @ Each Corner / 2 @ Each Joint) Laly pads to be 2'-6" x 2'-6" (continuous) with (3) #4 bottom. Perimeter drains stone shall extend a minimum of 6" above the top of the footing (Section R 405.1)

**Typical Floor:**

L/360, 40 LL + 15 DL

J1: 2x12's @ 16" o.c.  
(Max unsupported span 17'-10")

J2: 2x12's @ 12" o.c.  
(Max unsupported span 20'-7")

Alternate: All 11 7/8" AJS20's @ 16" o.c.  
(Max unsupported span 21'-9")  
3/4" T&G Plywood Subfloor  
(Nailed and Glued)

**Typical Exterior Wall**

Cedar or Vinyl Siding  
1/2" OSB Sheathing  
Tyvar or equiv house wrap  
2x6 Studs @ 16" O.C.  
2x6 Sill and (2) 2x6 Top Plate  
R21 Batt insulation  
1/2" Drywall

**Typical New Frame Roof**

Architectural Shingles  
5/8" OSB Sheathing or 1/2" Fir Plywood  
2x12 Ridge  
2x10 Rafters @ 16" o.c.  
2x6 Collar ties @ 32" o.c.  
Ice and Snow barrier  
Vented Soffit or Ridge Vent  
R49 Batt Insulation  
NOTE: Alternate Truss roofs per manufacturers specs.

**Headers:**

Deflection criteria of L/360 Live Load and L/240 Total Load

Typical door and windows:  
For openings not exceeding 6'-4": (3) 2x10's with two Jack Studs

**Beams:**

Deflection criteria of L/360 Live Load and L/240 Total Load

Beam #1: Structural Ridge  
(17' House Span; 6/6 Pitch)  
(2) 1.75" x 16" x 23'-6" Versa-Lam 2.0 3100 SP

Beam #2: Supports Roof  
(24' House Span; 6/6 Pitch)  
(3) 1.75" x 9.25" x 23'-6" Versa-Lam 2.0 3100 SP  
or:  
(2) 1.75" x 11.25" x 23'-6" Versa-Lam 2.0 3100 SP

**Porch Foundation:**

12" Concrete filled Sonotube with spread footing and Anchor Bolt and Elevated 4x4 Post Base

**Deck / Porch:**

Connection bolt / screw per R502.2.2.1  
Lateral connection per R502.2.2.3

**Windows**

Egress windows to have minimum clear openable width of 20", clear openable height of 24", and clear openable area of 5.7 s.f.  
2nd Floor sills to be a minimum of 24" from floor.

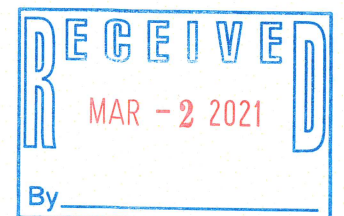
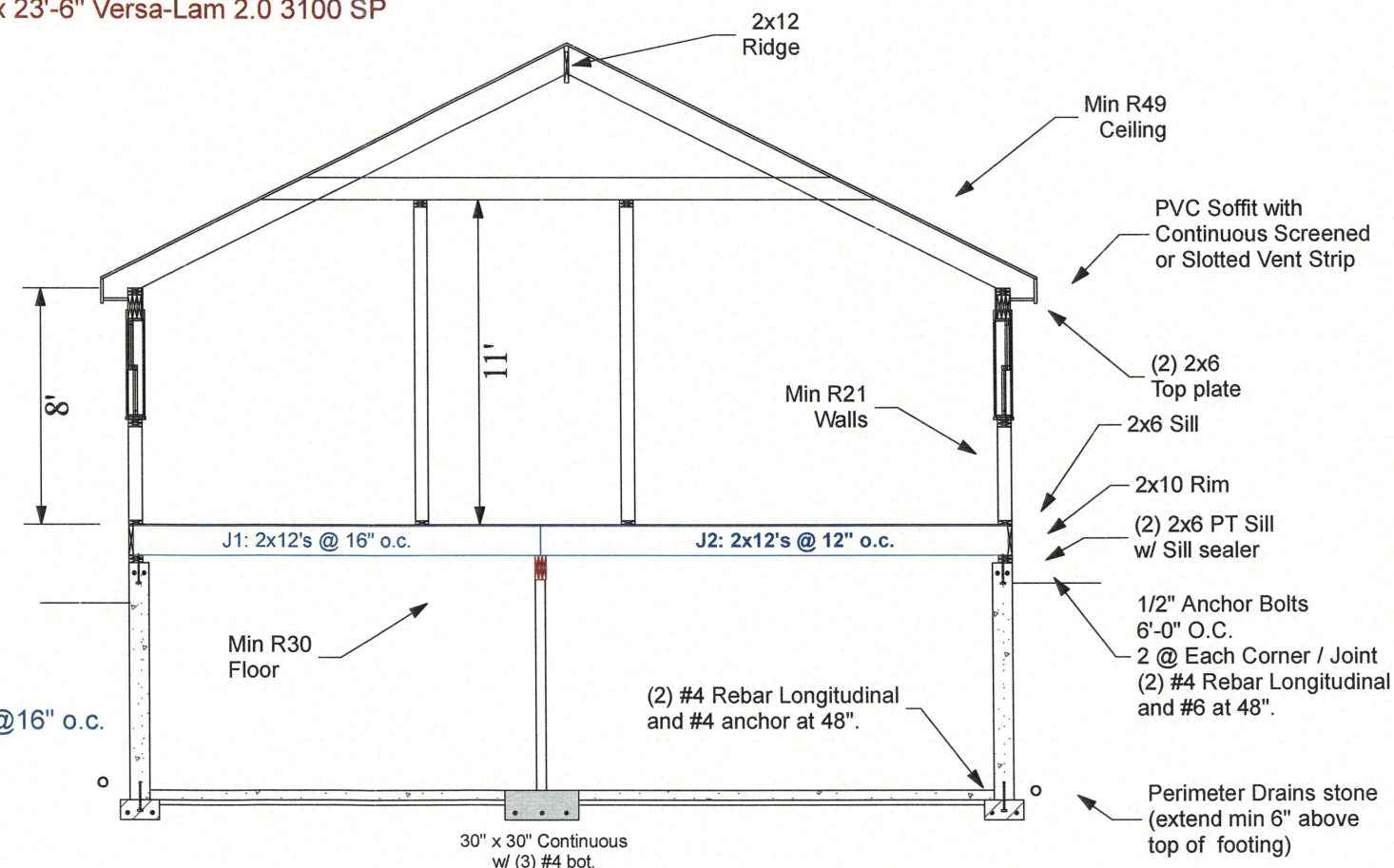
**Stair notes:**

Handrail height above nose: 34"  
Balluster spacing: Max 4" clear  
Min (3) 2 x12 Stringers  
Rise: Min 7 1/4" Max 7 3/4"  
Run: 10" nosing to nosing  
Finish tread 11 1/4"  
Min 36" wide with 6'-8" Headroom

**Note:** Smoke / CO2 detectors in all bedrooms, and to code throughout.

NOTE: All Construction to comply with IRC 2015

NOTE:  
Alternate Joists  
11 7/8" AJS20 @16" o.c.



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Cell: 207-752-7623

**PROJECT:**

Rob and Stephanie  
Cleary Residence

**SITE:**

7 Boat Club Way  
Stratham, NH

**ISSUED FOR:**

Review

**DATE:**

September 21, 2020

**SCALE:**

1/8" = 1'-0"  
(Letter)

**TITLE:**

Typical Section  
Details

**SHEET:**

D1

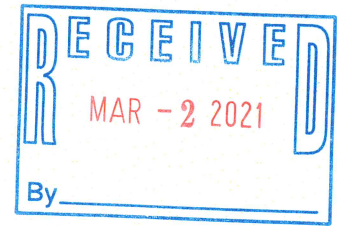




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November 30, 2020

Justin L. Pasay, Esq.  
Donahue, Tucker & Ciandella, PLLC  
111 Maplewood Ave., Suite D  
Portsmouth, NH 03801



RE: Cleary Addition – Boat Club Drive

Justin,

I'm writing in support of the Cleary's request to construct an addition to their home on Boat Club Drive, Stratham; a property that sits within the Town's Shoreland Protection District.

My name is Jamieson Duston and I am a licensed Realtor at the Bean Group; one of the largest real estate firms in New England, represented by hundreds of Realtors who are focused on meeting the needs of home buyers and sellers in Connecticut, Maine, Massachusetts, New Hampshire, and Vermont. My office is located at our corporate headquarters - 1150 Sagamore Avenue, Portsmouth, NH 03801. I've been a Realtor for 12 years and am an active member of the National Association of Realtors, the New Hampshire Association of Realtors and the Seacoast Board of Realtors. I have been Bean Group's top performing Agent since 2010 and have transacted nearly \$300M in property sales during that period. My specialty is listing/selling tidal waterfront properties along the inland coast of New Hampshire – Dover, Durham, Stratham, Greenland, Newington & Portsmouth.

As a matter of record, I have listed and sold what most would agree is (geographically speaking) the closest comparable property to the Cleary's home – 34 Raeder Drive, Stratham. Like the Cleary's home, 34 Raeder is uniquely positioned along the shores of the Squamscott River and I have been involved in all three transfers of that property since 2012. That is to say, I'm quite familiar with the Squamscott River, the real estate market within the Town of Stratham and to a larger extent, developed waterfront properties along Great Bay, Little Bay, the Piscataqua River, and the many river systems that flow into these water bodies.

The Cleary's have shared their plans with me so that I might guide them on the estimated value added from such a project. The plans call for a +/- 1,300 square foot, single level addition in keeping with the style of the existing structure. The addition is to be built on the East side of the home and will include 2 bedrooms, a small office, a family room and a master bathroom that will connect to the existing master bedroom. The plans are well thought out and professionally designed. It's my firm belief that the project described above will not diminish the value of surrounding





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properties. In point of fact, such an addition serves to elevate the value of not only the subject property but those surrounding it, as well.

One of the issues to be considered with the approval of any developed waterfront property within the Shoreland Protection District is the overall impact to surface area. My understanding is that the Cleary's are voluntarily removing 1,446 SF of impervious driveway surface (a net reduction of approximately 17%) to offset the impact of the addition. This will ensure that the project has a "net zero" impact on surface area within the Shoreland Protection District.

In conclusion, I believe the proposed addition serves the property quite well. It not only improves the value of the subject property but those (values) of the surrounding properties, as well. It has no impact on surface area and should serve as a model for other owners of developed waterfront properties to follow.

Should you have any follow up questions, please feel free to reach me. I've included my contact information below.

Kind Regards,

Jamieson Duston  
Cell - 603-365-5848  
Email - [jd@beangroup.com](mailto:jd@beangroup.com)

ROBERT & STEPHANIE CLEARY  
7 BOAT CLUB DRIVE, TAX MAP 8, LOT 39  
ABUTTER LIST

OWNER/APPLICANT:

8/39

Robert & Stephanie Cleary  
7 Boat Club Drive  
Stratham, NH 03885

STRATHAM ABUTTERS:

8/32

Thomas & Chelsea Diguseppee  
65 River Road  
Stratham, NH 03885

8/33

Barbara Flocco, Trustee  
Flocco Revocable Trust  
69 River Road  
Stratham, NH 03885

8/37

Town of Stratham  
10 Bunker Hill Avenue  
Stratham, NH 03885

8/38

Philip Malone  
72 River Road  
Stratham, NH 03885

8/40

Katrina Forest & Robert George  
4 Boat Club Drive  
Stratham, NH 03885

8/41

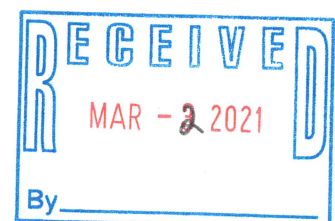
Michelle Richards, Trustee  
Finley Family Revocable Trust  
2 Boat Club Drive  
Stratham, NH 03885

8/42

Gary & Lisa Street  
66 River Road  
Stratham, NH 03885

12/1

David & Erika Kisver, Trustees  
EMK Realty Trust  
9 Boat Club Drive  
Stratham, NH 03885





12/3

Joshua & Stephanie Dobbins  
Dobbins Family Revocable Trust  
8 Boat Club Drive  
Stratham, NH 03885

12/4

Shane Comer & Marinda Crosier  
6 Boat Club Drive  
Stratham, NH 03885

12/5

Squamscott Scullers LTD  
PO Box 526  
Exeter, NH 03833

EXETER ABUTTERS:

38/8

Boston & Maine Railroad Corp.  
1700 Iron Horse Park  
Billerica, MA 01862

ATTORNEY:

Justin L. Pasay, Esq.  
Donahue, Tucker & Ciandella  
111 Maplewood Avenue  
Portsmouth, NH 03801

SURVEYOR:

Henry Boyd, P.E.  
Millenium Engineering  
PO Box 745  
Exeter, NH 03833

S:\CE-CL\Cleary, Robert & Stephanie\PB\2020 07 13 abutter list.docx



Robert & Stephanie Cleary  
 7 Boat Club Drive  
 Stratham, NH 03885

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 Stratham, NH 03885

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 7 Boat Club Drive  
 Stratham, NH 03885

7016 0600 0000 5129 1543

Thomas & Chelsea Diguseppee  
 65 River Road  
 Stratham, NH 03885

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Thomas & Chelsea Diguseppee  
 65 River Road  
 Stratham, NH 03885

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Barbara Flocco, Trustee  
 Flocco Revocable Trust  
 69 River Road  
 Stratham, NH 03885

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Town of Stratham  
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 Stratham, NH 03885

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 10 Bunker Hill Avenue  
 Stratham, NH 03885

Town of Stratham  
 10 Bunker Hill Avenue  
 Stratham, NH 03885

Philip Malone  
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Katrina Forest  
 Robert George  
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Katrina Forest  
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Joshua & Stephanie Dobbins  
 Dobbins Family Rev. Trust  
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Shane Comer & Marinda Crosier  
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Stratham, NH 03885

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Stratham, NH 03885

Shane Comer & Marinda Crosier  
6 Boat Club Drive  
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Exeter, NH 03833

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Billerica, MA 01862

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1700 Iron Horse Park  
Billerica, MA 01862

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December 1, 2020

Gary Dolan, Chair  
Zoning Board of Adjustment  
Town of Stratham  
10 Bunker Hill Avenue  
Stratham, NH 03885

Re: Map 8, Lot 39, 7 Boat Club Drive (the "Property")  
Applications for Variance and Special Exception

Dear Chair Dolan and Board Members:

Enclosed please find an original and nine (9) copies of Applications for Variance and Special Exception together with the supporting materials. Also enclosed is a check in the amount of \$425.00 for filing fees.

We respectfully request that this matter be placed on the Board's December 22, 2020 meeting agenda. In the meantime, if you have any questions do not hesitate to contact me.

Very truly yours,  
DONAHUE, TUCKER & CIANDELLA, PLLC

Justin L. Pasay  
JLP/sac  
Enclosures  
cc: Robert & Stephanie Cleary  
Henry Boyd

S:\CE-CL\Cleary, Robert & Stephanie\ZBA\2020 12 01 ZBA letter.docx

DONAHUE, TUCKER & CIANDELLA, PLLC  
16 Acadia Lane, P.O. Box 630, Exeter, NH 03833  
111 Maplewood Avenue, Suite D, Portsmouth, NH 03801  
Towle House, Unit 2, 164 NH Route 25, Meredith, NH 03253  
83 Clinton Street, Concord, NH 03301





**TOWN OF STRATHAM  
ZONING BOARD OF ADJUSTMENT**

10 Bunker Hill Avenue · Stratham, NH 03885

(603) 772-4741 · Fax 603-775-0517

[www.StrathamNH.gov](http://www.StrathamNH.gov)

Zoning Board of Adjustment – Variance Application

**FOR OFFICE USE ONLY**

ZBA Case Number: 656 B

Public Notification Date: 12/8/2020

Date Application Filed: 12/1/2020

Public Hearing Date: \_\_\_\_\_

Received By: DJL (Initials Only)

Approval/Denial Date: \_\_\_\_\_

Fees Received: \$212.50

ZB A Decision Date: \_\_\_\_\_

**Section 1. General Information (Please print or Type)**

**APPLICANT/AGENT**

Phone#: 781-771-8397 Fax #: \_\_\_\_\_

Robert & Stephanie Cleary

Email Address: rob@clearcutdsgn.com

7 Boat Club Drive, Stratham, NH 03885

Street Address Town/City State ZIP

**PROPERTY OWNER (If different from Applicant)**

Phone#: \_\_\_\_\_ Fax #: \_\_\_\_\_

same

Email Address: \_\_\_\_\_

Street Address Town/City State ZIP

Tax Map: 8 Total parcel area: 351,900 (s.f.) Property Deed Information:  
Lot(s): 39 8.1 (acres) Book: 5936 Page: 2884

ZONING DISTRICT(S): RA

**OVERLAY DISTRICT(S):**

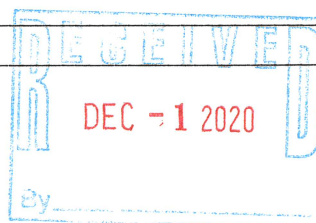
(Check all that apply)

- ☐ Aquifer Protection District ☐ Wetland Conservation District  
☒ Shoreline Protection ☐ Floodplain Management  
☐ Gateway Commercial Business District

**Section 2. Background**

Please provide a brief description of your project, including your intended use of the property and/or intended improvements to the property, if applicable:

see attached



**Section 3. Variance Request**

A variance is requested from Section XII Article 12.6.1(a) of the Zoning Ordinance and asks that said terms be waived to permit the following:

see attached

The applicant bears the burden of presenting evidence sufficient to allow the Zoning Board to reach conclusions and make findings to support the authorization of a variance. To do so, the undersigned alleges that the following legal criteria for granting a variance are satisfied, and submits the accompanying written statement, records, photographs, and other materials to justify the granting of the variance and to explain how each of the criteria for the variance is or will be satisfied.

Facts supporting this request:

- i. The variance will not be contrary to the public interest because:

see attached

- ii. The spirit of the ordinance is observed because:

see attached

- iii. Substantial justice is done because:

see attached

- iv. The values of surrounding properties are not diminished because:

see attached



- v. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
1. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:
    - a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:  
see attached

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And:

- b. The proposed use is a reasonable one because:  
see attached

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2. Explain how, if the criteria in subparagraph 1. are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties on the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. :  
see attached

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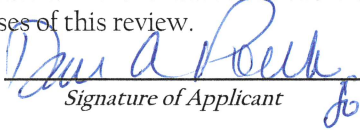
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3. The definition of “unnecessary hardship” set forth in this section shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance.

**Section 4. Applicant's Certification**

I declare under penalty of perjury that all of the submitted information is true and valid to the best of my knowledge and belief and that there is no violation of the approved ordinances, codes, and/or regulations of the Town of Stratham. I have read and agree to abide by the regulations and conditions of approval listed on this application. I understand that my misrepresentations of submitted data may invalidate any approval of this application. I further authorize the Members of the Board and/or their staff to enter onto my property for the purposes of this review.

  
Signature of Applicant

Justin L. Pasay, duly authorized

Print Applicant's Name

12/01/2020

Date

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Print Owner's Name

\_\_\_\_\_  
Date

**NOTES:**

1. Application must be sign signed by the owner of the property or other person having the legal right to apply as an agent of the owner. If signed by a person other than the owner of the property documentation of the legal right to apply as an agent of the owner must be supplied at the time the application submittal.
2. If applicant is renting/leasing subject property/structures, said applicant must have a signed letter from the owner stating their permission to conduct the proposed business project on their property. This letter must include the property owner's name, current address, and telephone number.



## APPLICATION CHECKLIST

### Section 4. Applicant's Certification

- ☒ Completed and signed application (check to ensure the proper section is filled out).
  - ☐ Section 1. APPEAL FROM AN ADMINISTRATIVE DECISION
  - ☐ Section 2. APPLICATION FOR A SPECIAL EXCEPTION
  - ☐ Section 3. APPLICATION FOR VARIANCE
  - ☐ Section 4. APPLICATION FOR EQUITABLE WAIVER OF DIMENSIONAL REQUIREMENTS
- ☒ Submission of a plat or drawing, which should provide information in support of the appeal. (9 sets)
- ☒ Completed abutters list with three (3) address labels, no envelopes
- ☒ Fees: \$250 plus \$5 for each abutter
  - \*\*Town of Stratham and all individuals requiring notification (property owner, legal counsel, engineering firms, etc.) must be included on the abutter list.
- ☒ Check for the appropriate amount made out to the Town of Stratham.

SPECIAL EXCEPTION AND VARIANCE APPLICATIONS FOR ROBERT AND  
STEPHANIE CLEARY (the “**Applicants**”)

The Applicants request a special exception pursuant to Section 5.1.3 of the Zoning Ordinance and a variance from Section 12.6.1(a) of the Zoning Ordinance to construct a 1,363 s.f. addition (the “**Proposed Addition**”) on the single family residence on their property located at 7 Boat Club Drive, which property is further identified as Town Tax Map 8, Lot 39 (the “**Property**”). The entire dwelling, and the Proposed Addition, are located within the Town’s Shoreland Protection Overlay District (the “**District**” or the “**Shoreland District**”), which extends 150’ horizontal distance from the shoreline and upland extend of any tidal marsh adjacent to the Squamscott River and Great Bay Estuary, as depicted in three sheet plan set titled “NHDES Shoreland Plan” filed by the Applicants with the State of New Hampshire, which is enclosed herewith as **Enclosure 1**.

**I.     Introduction**

Currently, the Property is 11.2 acres in size and is bound to the west by the Squamscott River, to the east by Boat Club Drive, and to the north and south by other residential properties. In September, the Planning Board approved a minor subdivision of the Property which will carve off 3.1 acres of the southern portion of the Property to create a distinct building lot, as depicted in the plan included herewith as **Enclosure 2**. A tax map depicting the Property and surrounding properties along Boat Club Drive and River Road is included as **Enclosure 3**.

The entire existing single-family dwelling on the Property, with a footprint of 5,484 s.f., is located within the Town’s Shoreland Protection Overlay District. Additionally, the Property contains 2,809 s.f. of impervious driveway surface within the District. *See* **Enclosure 4**. As a result of these site conditions, the Property contains approximately 8,293 s.f. of existing impervious surface area within the District and constitutes a nonconforming use.<sup>1</sup> Current photographs of the Property are included as **Enclosure 5**.

The Applicants, who are expecting a second child soon, intend to improve the Property by constructing the Proposed Addition and the detached garage depicted in **Enclosure 1**. Both of those structures are within the State of New Hampshire’s 250’ Shoreland Zone. *See* **Enclosure 1**. As such, the Applicants were required to obtain a Shoreland Permit from the New Hampshire Department of Environmental Services, which permit was recently approved. *See* **Enclosure 6**. However, as noted above, only the Proposed Addition is within the Town’s Shoreland District. As such, only the Proposed Addition, and not the proposed detached garage, is the subject of the Applicants’ filings with the Zoning Board of Adjustment (the “**ZBA**”).

The Proposed Addition will consist of two additional bedrooms, an office, a family room, and an extended master bathroom, and will create 1,363 s.f. of footprint/impervious surface area, as depicted in the floor plans and renderings included herewith as **Enclosure 7**. *See also* **Enclosure 1**. Of the 1,363 s.f. addition, however, 48 s.f. of same will be constructed over

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<sup>1</sup> Defined by Section 2.1.47 of the Zoning Ordinance as “use of land, building or premises which is not a use permitted by the provisions of [the Zoning Ordinance] for the district in which such land, building or premises is situated.”



existing impervious driveway surface. As a result, the total proposed increase of impervious surface area within the District created by the Proposed Addition is approximately 1,315 s.f. With the Proposed Addition, the total approximate impervious surface area within the District would increase by approximately 16% to approximately 9,608 s.f.<sup>2</sup> **However, to offset the additional proposed impervious surface area within the Shoreland District caused by the Proposed Addition, the Applicants propose to remove the 2,761 s.f. of impervious driveway surface within the District and replace the same with pervious crushed stone, gravel, or other pervious materials, which will permit the infiltration of water. The removal of the existing impervious driveway surface in the District will result in a greater than 17% (1,446 s.f.)<sup>3</sup> net decrease in impervious surface area within the District on the Property.**

Nonconforming structures may only be expanded via special exception from the ZBA pursuant to Section 5.1.3 of the Zoning Ordinance. Here, because the Applicants seek to expand the footprint of the single-family dwelling on the Property, which is a nonconforming structure based on its location within the District as noted above, the Applicants seek a special exception pursuant to Section 5.1.3. Additionally, Section 12.6.1(a) of the Zoning Ordinance prohibits the “erection of structure[s]” within the District, which is why variance relief from that provision is also sought.

The Applicants address both the special exception criteria outlined in Section 5.1.3 as well as the statutory variance criteria below.

## **II. Special Exception Pursuant to Section 5.1.3 of the Zoning Ordinance**

Nonconforming structures may be expanded in accordance with the terms of a special exception issued by the ZBA in Stratham. The ZBA must find that seven individual factors exist before granting that special exception. The Applicants respectfully submit that each of those factors are satisfied in this case, as depicted below.

- a. The proposed expansion must intrude no further into any setback area than does the existing structure.**

This requirement is satisfied. As depicted in **Enclosure 1**, the Proposed Addition will be constructed on the front/eastern side of the house. As a result, the expansion will not be intruding further into the applicable District Setback, which is measured from the shoreline of the Squamscott River, which is located on the western side of the Property behind the house.

- b. The expansion must have no further adverse impact on the view, light, and air of any abutter.**

This requirement is satisfied. As depicted in **Enclosure 1**, the Property is large and the single-family dwelling and Proposed Addition are insulated by hundreds of feet from the closest

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<sup>2</sup> +/- 8,293 s.f. existing impervious surface area plus +/- 1,315 s.f. proposed additional impervious surface area.

<sup>3</sup> +/- 8,293 s.f. existing impervious surface area plus +/- 1,315 s.f. proposed additional impervious surface area less +/- 2,761 s.f. impervious driveway area.

abutter. The Proposed Addition will cause no adverse impact on the view, light, or air of any abutter.

**c. The expansion must not cause property values to deteriorate.**

This requirement is satisfied. The Proposed Addition will beautify the Property which in turn increase its value. The anticipated increase in the value of the Property will positively affect the value of surrounding properties. No deterioration in property value will be suffered by any surrounding properties, particularly as the Applicants' proposal will decrease the impervious surface area within the District on the Property by more than 17%. *See also Enclosure 8.*

**d. The expansion must not impede existing rights of access or egress.**

This requirement is satisfied. The Proposed Addition to the single-family structure will in no way affect any existing rights of access or egress, either to the Applicants, or any abutter.

**e. That portion of the proposed expansion, which will intrude into the setback must, in no event, exceed the footprint square footage of that portion of the structure which presently intrudes into the setback, regardless of the number of applications made over time under this subsection.**

This requirement is satisfied. The existing dwelling on the Property has an approximately 5,474 s.f. footprint. The Proposed Addition will add approximately 1,315 s.f. of impervious surface within the Shoreland District. *See Enclosures 1, 4.* Accordingly, the expansion footprint is less than quarter of the size of the existing footprint. Beyond this and more importantly, the net result of the Applicants' proposal is a reduction by greater than 17% of the impervious surface area within the District.

**f. In the event the nonconforming structure contains a commercial use, there must be no adverse impact on access, traffic, parking, lighting or other safety or visibility features of the existing structure.**

This requirement is satisfied. The Proposed Addition is entirely residential in nature and will cause no adverse impact on access, traffic, parking, lighting or other safety or visibility feature of the existing structure.

**g. A special exception under this subsection may be granted only as to expansions into the side, front, and rear setbacks, and is not available for expansions which violate height restrictions of this ordinance.**

This requirement is satisfied. The Proposed Addition will be located within the District off the front of the single-family dwelling's façade and will not violate the Zoning Ordinance's height restrictions. Beyond this, the Applicants' proposal will result in a net decrease of impervious surface area within the District of greater than 17%.



As the Applicants squarely meet each of the seven delineated factors contained within Section 5.1.3 of the Zoning Ordinance, they respectfully request that the ZBA vote to approve their special exception application.

### **III. Variance from Section 12.6.1(a) of the Zoning Ordinance**

Pursuant to Section 17.8.3 of the Zoning Ordinance and RSA 674:33, to obtain a variance in New Hampshire, an applicant must show that: (1) the variance will not be contrary to the public interest; (2) the spirit of the ordinance is observed; (3) substantial justice is done; (4) the values of surrounding properties are not diminished; and (5) literal enforcement of the provisions of the ordinance would result in an unnecessary hardship, where said term means that, owing to special conditions of the property that distinguish it from other properties in the area: no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and the Proposed use is a reasonable one; or if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. *See* RSA 674:33, I (b).

In this case, and as detailed below, the ZBA should grant the Applicants' variance request because their proposal will not be inconsistent with the essential character of the surrounding area, will not compromise the public health in any way, will provide substantial justice, will not compromise the property values of surrounding properties, and because there is no rational connection between the general intent of the Zoning Ordinance and the implied intent of the Shoreland Protection Overlay District Ordinance and its application to the Property under the unique circumstances of this case.

#### **1. The variance will not be contrary to the public interest.**

The New Hampshire Supreme Court has indicated that the requirement that a variance not be "contrary to the public interest" is coextensive and related to the requirement that a variance be consistent with the spirit of the ordinance. *See Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 580 (2005); *Malachy Glen Associates, Inc. v. Town of Chichester*, 155 N.H. 102, 105-06 (2007); and *Farrar v. City of Keene*, 158 N.H. 684, 691 (2009). A variance is contrary to the public interest only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." *Chester Rod & Gun Club*, 152 N.H. at 581; *Farrar*, 158 N.H. at 691. *See also Harborside Associates, L.P. v. Parade Residence Hotel, LLC*, 162 N.H. 508, 514 (2011) ("[m]ere conflict with the terms of the ordinance is insufficient.") Moreover, these cases instruct boards of adjustment to make the determination as to whether a variance application "unduly" conflicts with the zoning objectives of the ordinance "to a marked degree" by analyzing whether granting the variance would "alter the essential character of the neighborhood" or "threaten the public health, safety or welfare" and to make that determination by examining, where possible, the language of the Zoning Ordinance.

The general purposes of the Zoning Ordinance are to promote the health, safety, convenience and general welfare of the Town of Stratham and to protect and conserve the value

of property and the appropriate use of land. *See* Zoning Ordinance, Section 1.2. The express purpose of the Shoreland Protection Overlay District Ordinance is to “protect and promote environmental quality, public health, resource conservation, and the general welfare of the public, with particular attention to the special cultural and ecological significance of the Great Bay estuarine system.” Zoning Ordinance, Section 12.2.

Integral to the advancement of the Zoning Ordinance’s general purposes and the express purpose of the Shoreland Protection Overlay District Ordinance, is the prevention of impervious surfaces within the District. Impervious surfaces collect stormwater and deliver drainage to ecologically sensitive areas, like the 150’ shoreland area from the Squamscott River. That is why the erection of “structures”<sup>4</sup> is prohibited in the District.

Here, while the Proposed Addition will add approximately 1,315 s.f. of impervious surface area in the District, that addition will be more than offset by a corresponding reduction of impervious surface caused by the removal of the impervious driveway surface within the District and its replacement with previous crushed stone, gravel, or other previous material, which will permit the infiltration of water. As detailed above, the net result of the Applicants’ proposal is a decrease by more than 17% of the impervious surface area within the District on the Property. As a result, and as a foundational matter, granting the variance will permit construction of the Proposed Addition and replacement of the impervious driveway surface within the District such that the Property is in *greater* conformance with the Zoning Ordinance and its purposes, than it is today.

Based on these realities, the proposed variance will not be contrary to the public interest advanced by the general purposes of the Zoning Ordinance or the express purpose of the Shoreland Protection Overlay District Ordinance because strictly enforcing the ordinance will not advance those purposes. In fact, the opposite is true: strictly enforcing the Shoreland Protection Overlay District Ordinance would be contrary to its stated purposes. In other words, the variance will not “unduly” or “in a marked degree” conflict with the ordinance such that it violates the ordinance’s basic zoning objectives, because the Zoning Ordinance’s basic zoning objectives, and the objectives of the Shoreland Protection Overlay district are met by the proposal, which significantly decreases impervious surface area within the District. See Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691; Harborside Associates, L.P. 162 N.H. at 514.

Beyond this, the proposed variance will not impact the essential character of the area. Rather, the Proposed Addition will beautify the Property and enhance its value and that of surrounding properties, and will reduce the impervious surface area within the District, which will enhance the character of area by bringing it into greater conformity with the provisions of the Zoning Ordinance.

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<sup>4</sup> Defined broadly by the Zoning Ordinance to be “[a]nything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground. Structure includes, but are not limited to, buildings, mobile home, bridges, trestles, towers, framework, hoop houses, tanks or group of tanks exceeding a total of 500 gallons (excluding septic tanks), tunnels, stadiums, platforms, shelters, piers, wharfs, signs, fences and retaining walls over six feet (6’) in height, swimming pools, or the like.”



Similarly, the variance will not threaten the public health or safety because the Applicants' proposal will result in a 17% *reduction* of the impervious surface area within the Shoreland District, which in turn will better-advance the goals of the Zoning Ordinance and the Shoreland Protection Overlay District Ordinance by further promoting the health, safety, and welfare of the public and the environmental quality and resource conservation of the District, than the Property as it is currently situated.

Because the Applicants' proposal advances the general purposes of the Zoning Ordinance and the express purposes of the Shoreland Protection Overlay District Ordinance beyond what currently exists today, and because the Applicants' proposal is consistent with the character of the neighborhood and will not threaten the public's health or safety, granting the variance will not be contrary to the public interest.

## **2. The spirit of the Ordinance is observed.**

As referenced in Section 1 above, the requested variance observes the general purposes of the Zoning Ordinance and the express purposes of the Shoreland Protection Overlay District Ordinance, as well as New Hampshire jurisprudence regarding the "public interest" prong of the variance criteria, because the Applicants' proposal will result in a Property with less impervious surface within the District than what exists today, thereby advancing the purposes of the Zoning Ordinance. As the New Hampshire Supreme Court has indicated in both Chester Rod & Gun Club and in Malachy Glen, the requirement that the variance not be "contrary to the public interest" is coextensive and is related to the requirement that the variance be consistent with the spirit of the ordinance. *See Chester Rod & Gun Club*, 152 N.H. at 580. A variance is contrary to the spirit of the ordinance only if it "unduly, and in a marked degree conflicts with the ordinance such that it violates the ordinance's basic zoning objectives." Chester Rod & Gun Club, 152 N.H. at 581; Farrar, 158 N.H. at 691.

As discussed above, the requested variance is consistent with the general purposes of the Zoning Ordinance and the express purposes of the Shoreland Protection Overlay District Ordinance because of the reasons stated in Section 1. As a result, for the reasons stated above, the Applicants respectfully assert that it would be reasonable and appropriate for the ZBA to conclude that the requested variance will observe the spirit of the Zoning Ordinance.

## **3. Substantial justice is done.**

As noted in Malachy Glen, *supra*, "perhaps the only guiding rule [on this factor] is that any loss to the individual that is not outweighed by a gain to the general public is an injustice." Malachy Glen, *supra*, citing 15 P. Loughlin, New Hampshire Practice, Land Use Planning and Zoning § 24.11, at 308 (2000) (quoting New Hampshire Office of State Planning, The Board of Adjustment in New Hampshire, A Handbook for Local Officials (1997)). In short, there must be some gain to the general public from denying the variance that outweighs the loss to the Applicant from its denial.

In this case, the public does not stand to gain anything from denying the variance requested. Rather, denial of the variance would be contrary to the public interest because it will

prevent the reduction of impervious surface area within the District which would make the Property more compliant with the Shoreland Protection Overlay District Ordinance.

On the contrary, the requested variance will permit the Applicants to exercise their real property rights and will authorize the construction of the Proposed Addition which will facilitate a better living situation for the Applicants, who are, as noted above, expecting a second child. Beyond this, however, the Applicants' proposal will also reduce the impervious surface area in the District which is a great benefit to the surrounding ecology and, by translation, the public.

As there is no gain to the general public from denying the variance that outweighs the loss to the Applicants from its denial, granting the requested variance will accomplish substantial justice.

**4. The proposal will not diminish surrounding property values.**

Given the nature of the neighborhood as described above, none of the surrounding properties will suffer any diminution in value. First, the impacts to the Shoreland Protection Overlay District will not have any impact on surrounding properties, especially as the net impervious footprint within the District will be decreasing as a result of the Applicants' proposal. Further, the variance will permit the construction of the Proposed Addition which will beautify the Property and, in turn, increase the Property's value. Common sense dictates that the increase in value to the Property will have a corresponding positive effect on the value of surrounding properties. These conclusions are further evidenced by the letter filed herewith from Jamieson Duston of the Bean Group in Portsmouth. *See Enclosure 8.* Accordingly, the Applicant respectfully requests that the ZBA find that the requested variance will not diminish surrounding property values.

**5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

As set forth in the provisions of RSA 674:33, I, there are two options by which the ZBA can find that an unnecessary hardship exists:

(A) For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:

- (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and
- (ii) The Proposed use is a reasonable one.

or,

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.



The “special conditions” of the Property for purposes of this variance criterion include the size of the Property, which is significantly larger than the surrounding properties (*see Enclosure 3*), the location of the single-family dwelling completely within the District, and the Property’s ability to accommodate the Proposed Addition in a manner that will ultimately reduce the impervious surface area within the District, making literal enforcement of the same unreasonable.

In Harborside Assocs. v. Parade Residence Hotel, the New Hampshire Supreme Court upheld the Portsmouth Board of Adjustment’s finding that the physical improvements on a property, in that case the size of a building when compared to other buildings in the area within the context of sign variance request, could be considered “special circumstances.” Affirming the analysis of the Board of Adjustment, the Supreme Court stated:

The [Respondent] is not attempting to meet the ‘special conditions’ test by showing that its *signs* would be unique in their settings, but that its *property* – the hotel and conference center – has unique characteristics that make the signs themselves a reasonable use of the property.

Harborside, 162 N.H. at 518 (emphasis added). *Cf Farrar*, 158, N.H. 689 (where variance sought to convert large, historical single use residence to mixed use of two residence and office space, size of residence was relevant to determining whether property was unique in its environment).

Here, like the size of the building in Harborside, and the size of the residence in Farrar, the Property’s physical characteristics and improvements make the Proposed Addition reasonable under the circumstances. More specifically, the Property is large and insulated from abutting properties, making expansion of the existing dwelling abundantly reasonable. Further, the entirety of the single-family dwelling is located within the District as a nonconforming use, which makes any expansion of same impossible without a variance. However, based on the Applicants’ proposal to remove the impervious driveway surface area within the District, expansion of the house can be reasonably obtained in a manner that advances the general purposes of the Zoning Ordinance and the express purposes of the Shoreland Protection Overlay District Ordinance by significantly reducing, by 17%, the impervious surface area within the District.

Due to these special conditions of the Property, there is no fair and substantial relationship between the public purposes of the underlying ordinance and its specific application to the Property. On the contrary and as noted above, the Applicants’ proposed improvements are consistent with the public purposes Zoning Ordinance and Shoreland Protection Overlay District Ordinance because they facilitate reasonable use of the Property whilst advancing those ordinances’ express purpose to protect the environment and public health and welfare.

Put another way, strictly enforcing the underlying Shoreland Protection Overlay District Ordinance will not advance the public purposes of the same, but granting the requested variance will because it will translate into 17% less impervious surface area within the District on the Property.

The Applicant respectfully reminds the ZBA that the mere fact that the Applicant is seeking a variance from the express provisions of the Zoning Ordinance is not a valid reason for denying the variance. *See Malachy Glen Associates, Inc. v. Town of Chichester*, 155 N.H. 102, 107 (2007); *see also Harborside Associates*, 162 N.H. at 2011 (“mere conflict with the terms of the ordinance is insufficient”).

Finally, because the Applicants’ Proposed Addition will reduce impervious surface within the District and complement the existing residential use, it is reasonable under the circumstances. *See Vigeant v. Town of Hudson*, 151 N.H. 747, 752 - 53 (2005); and *Malachy Glen*, 155 N.H. at 107; *see also Harborside* at 518-519 (applicant did not need to show signs were “necessary” rather only had to show signs were a “reasonable use”).

Accordingly, the Applicant respectfully asserts that its application complies with the standard for Option A of the unnecessary hardship criterion and the Board of Adjustment should so find.

#### **IV. Conclusion**

The Applicant respectfully submits that all of the special exception and variance criteria for the underlying applications have been satisfied as outlined above and requests that the ZBA approve a motion to grant the same at its next public hearing.



**SPECIAL EXCEPTION SUPPLEMENT FOR ROBERT  
AND STEPHANIE CLEARY (the “Applicants”)**

The Applicants have requested a special exception pursuant to Section 5.1.3 of the Zoning Ordinance to expand a nonconforming structure within the Town’s Shoreland Protection Overlay District. The Applicants detailed their compliance with the special exception criteria depicted within Section 5.1.3 of the Zoning Ordinance in their original filing. This supplemental narrative addresses the general special exception criteria depicted within Section 17.8.2(c) to the extent this additional analysis is required. As described below, the Applicants’ proposal plainly meets each of these additional special exception criteria.

**i. The proposed use meets the standards provided by this Ordinance for the particular use permitted by special exception.**

This requirement is satisfied. The Proposed Addition constitutes the expansion of a nonconforming use which meets all of the specific special exception criteria outlined in Section 5.1.3 of the Zoning Ordinance, as detailed above. Moreover, the proposed use is reasonable and will lead to a 17% reduction in impervious surface area within the Shoreland District which advances the purposes of the Shoreland Protection Overlay District Ordinance.

**ii. No hazard to the public or adjacent property on account of any potential fire, explosion, or release of toxic materials will result.**

The special exception use is the expansion of a single-family residential use in a neighborhood. There will be no hazardous activity conducted by virtue of this use. The development will reduce the impervious surface area within the Shoreland District and beautify the Property. As a result, no adjacent properties will be negatively impacted. *See Enclosure 8.*

**iii. No detriment to property values in the vicinity or change in the essential character of a residential neighborhood on account of the location or scale of buildings and other structures, parking area, access ways, odor, smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials will occur.**

Surrounding property values will not decrease. If anything, they will increase as a result of the Applicants’ proposal which will beautify the Property and increase the Property’s value. *See Enclosure 8.* The special exception use is limited to a single-story addition to an existing residential structure to be used for residential purposes. There are no impacts to surrounding buildings, parking areas, access ways, etc. Further, there will be no generation of odor, smoke, gas, dust, or other pollutants, noise, glare, heat, vibration or unsightly outdoor storage of equipment caused by the special exception residential use. The character of the neighborhood will be preserved and enhanced as described above.

**iv. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity as a result of the proposal will occur.**

The special exception use will cause no more traffic or safety hazards than the existing use because the existing single-family residential use will remain the use on the Property.

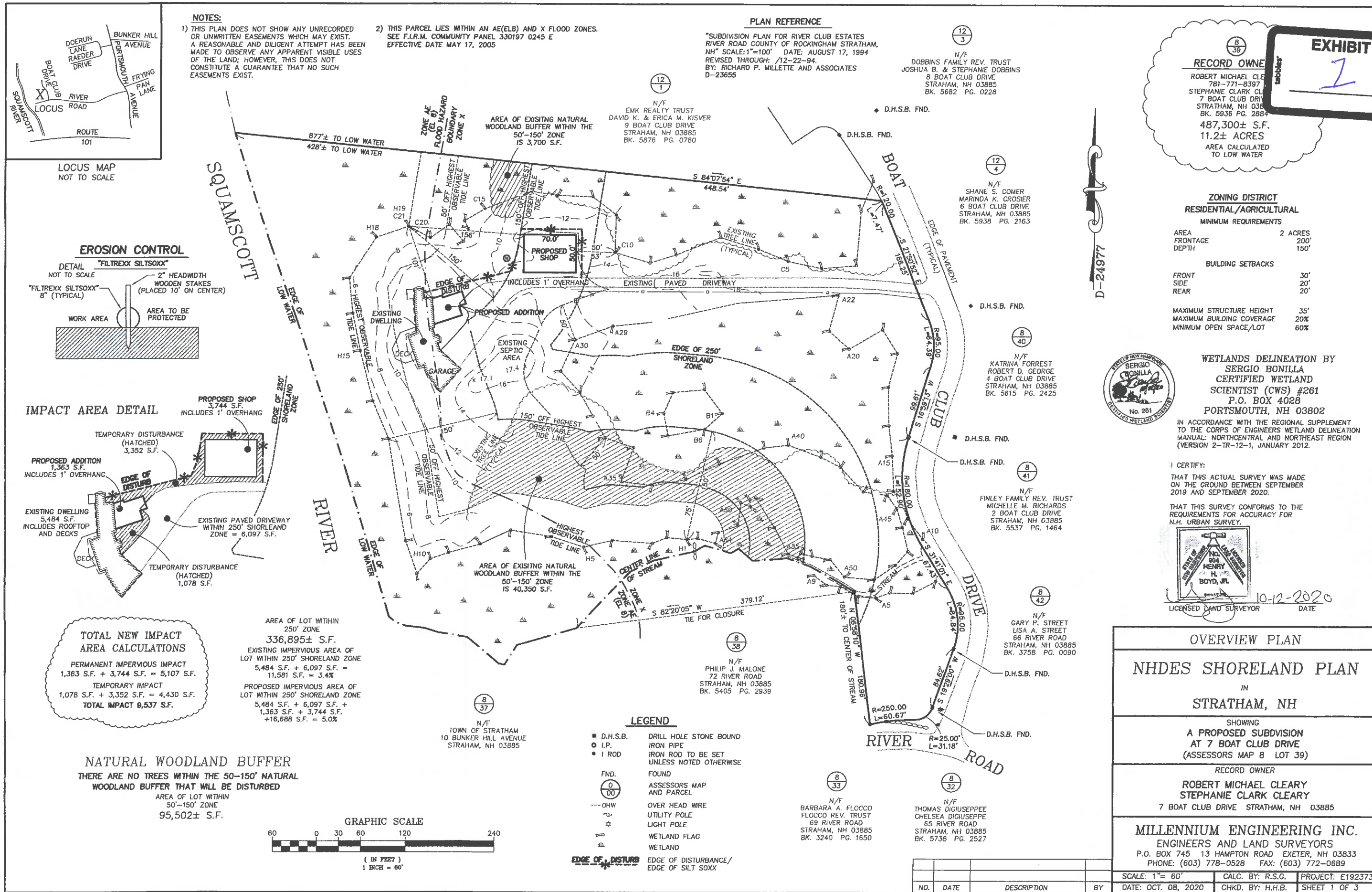
- v. The use will not result in the excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.**

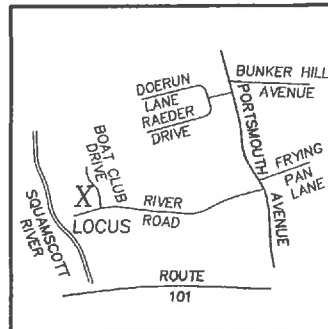
The special exception use is the limited expansion of a single-family residential use. The Property is serviced by septic and well-water. The Property will cause no more demand on municipal services than what exists today. In no way will the special exception use on the Property cause an “excessive demand” on municipal services.

- vi. There will be no significant increase of storm water runoff onto adjacent property or streets as a result of the proposed use.**

The special exception use and Proposed Addition will cause no increase at all of storm water runoff onto adjacent properties or the public street. The dwelling structure on the Property and the Proposed Addition are well insulated by hundreds of feet from any surrounding abutters. Moreover, the Applicants’ proposal will result in a 17% decrease in impervious surfaces within the Shoreland District and will therefore be greatly reducing stormwater discharge altogether.







**NOTES:**  
1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.  
2) THIS PARCEL LIES WITHIN AN AE(ELB) AND X FLOOD ZONES. SEE F.I.R.M. COMMUNITY PANEL 330197 0245 E EFFECTIVE DATE MAY 17, 2005



**WETLANDS DELINEATION BY**  
SERGIO BONILLA  
CERTIFIED WETLAND  
SCIENTIST (CWS) #261  
P.O. BOX 4028  
PORTSMOUTH, NH 03802  
IN ACCORDANCE WITH THE REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION (VERSION 2-TR-12-1, JANUARY 2012)

**NATURAL WOODLAND BUFFER**  
THERE ARE NO TREES WITHIN THE 50'-150' NATURAL WOODLAND BUFFER THAT WILL BE DISTURBED  
AREA OF LOT WITHIN 50'-150' ZONE  
95,502± S.F.

LOCUS MAP  
NOT TO SCALE

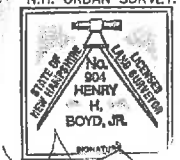
D-24977

SQUAMSCOTT RIVER

SEE SHEET 1 FOR IMPACT  
AREA CALCULATIONS AND DETAIL

I CERTIFY:  
THAT THIS ACTUAL SURVEY WAS MADE  
ON THE GROUND BETWEEN SEPTEMBER  
2019 AND SEPTEMBER 2020.

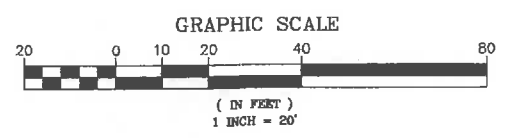
THAT THIS SURVEY CONFORMS TO THE  
REQUIREMENTS FOR ACCURACY FOR  
N.H. URBAN SURVEY.



10-12-2020  
DATE

**LEGEND**

WETLAND FLAG  
WETLAND



EDGE OF LOW WATER  
RIVER

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TIDAL MARSH

TIDAL MARSH

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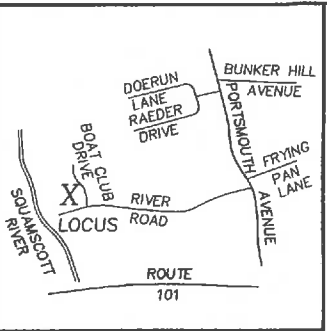
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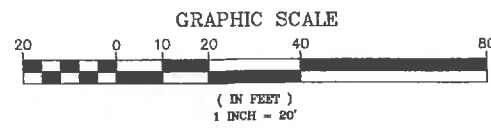
LOCUS MAP  
NOT TO SCALE

SQUAMSCOTT

D-24977

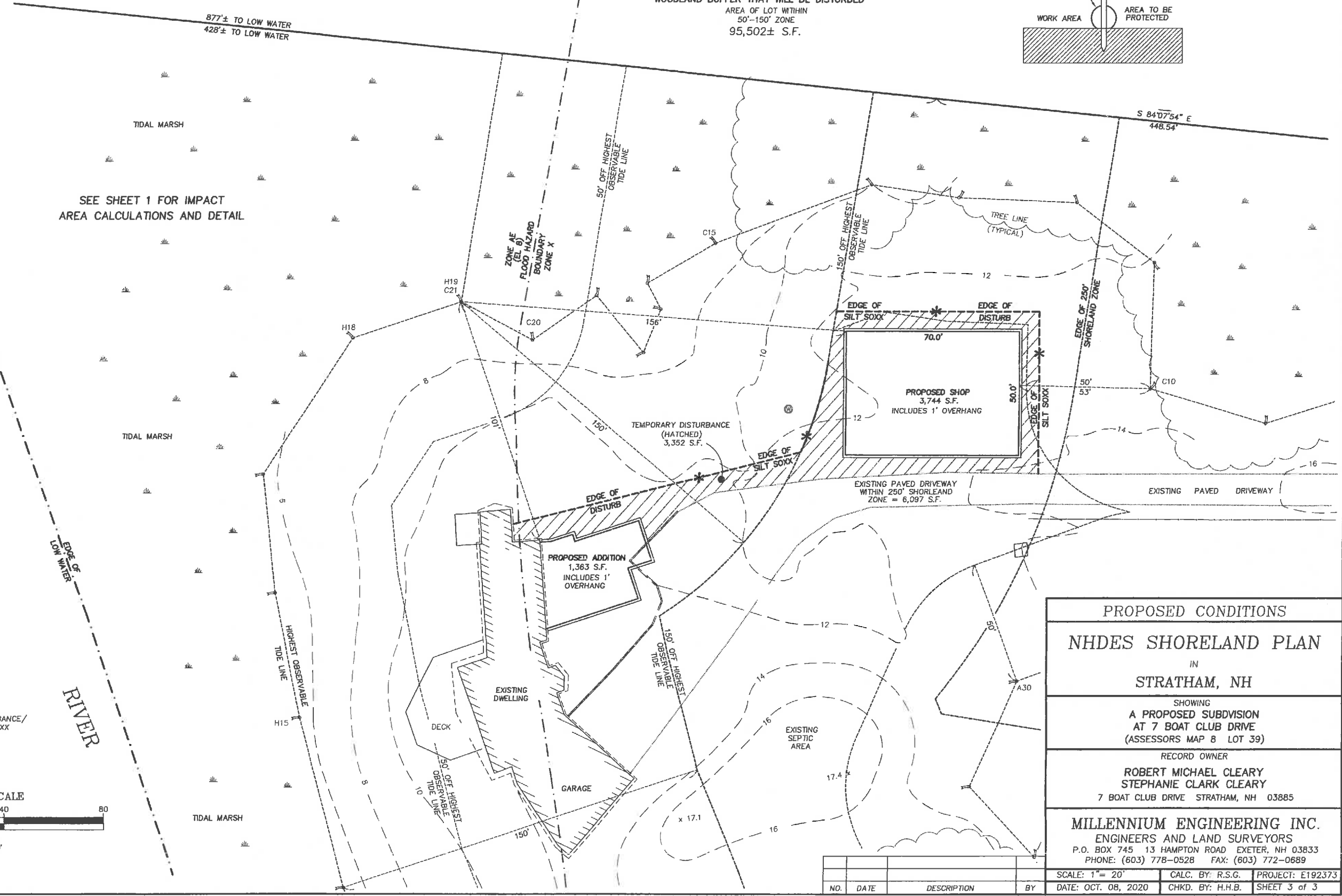
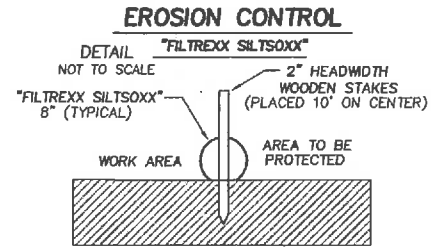
LEGEND

WETLAND FLAG  
WETLAND  
EDGE OF DISTURBANCE  
EDGE OF SILT SOXX



- NOTES:**
- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
  - 2) THIS PARCEL LIES WITHIN AN AE(EL8) AND X FLOOD ZONES. SEE F.I.R.M. COMMUNITY PANEL 330197 0245 E EFFECTIVE DATE MAY 17, 2005

**NATURAL WOODLAND BUFFER**  
THERE ARE NO TREES WITHIN THE 50-150' NATURAL WOODLAND BUFFER THAT WILL BE DISTURBED  
AREA OF LOT WITHIN 50'-150' ZONE  
95,502± S.F.

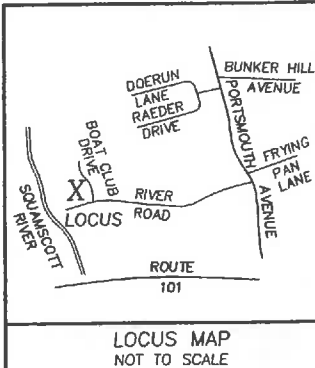


PROPOSED CONDITIONS		
NHDES SHORELAND PLAN		
IN		
STRATHAM, NH		
SHOWING		
A PROPOSED SUBDIVISION		
AT 7 BOAT CLUB DRIVE		
(ASSESSORS MAP 8 LOT 39)		
RECORD OWNER		
ROBERT MICHAEL CLEARY		
STEPHANIE CLARK CLEARY		
7 BOAT CLUB DRIVE STRATHAM, NH 03885		
MILLENNIUM ENGINEERING INC.		
ENGINEERS AND LAND SURVEYORS		
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833		
PHONE: (603) 778-0528 FAX: (603) 772-0689		
SCALE: 1" = 20'	CALC. BY: R.S.G.	PROJECT: E192373
DATE: OCT. 08, 2020	CHKD. BY: H.H.B.	SHEET 3 of 3

NO.	DATE	DESCRIPTION	BY

## NOTES:

- 1) THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.
- 2) THIS PARCEL LIES WITHIN AN AE(EL8) AND X FLOOD ZONES. SEE F.I.R.M. COMMUNITY PANEL 330197 0245 E EFFECTIVE DATE MAY 17, 2005
- 3) ELEVATIONS SHOWN ARE BASED ON N.G.V.D.29.
- 4) SHEET 2 ON FILE AT OWN OF STRATHAM.



WETLANDS DELINEATION BY  
SERGIO BONILLA  
CERTIFIED WETLAND  
SCIENTIST (CWS) #281  
P.O. BOX 4028  
PORTSMOUTH, NH 03802

IN ACCORDANCE WITH THE REGIONAL SUPPLEMENT  
TO THE CORPS OF ENGINEERS WETLAND DELINEATION  
MANUAL: NORTH-CENTRAL AND NORTHEAST REGION  
(VERSION 2-TR-12-1, JANUARY 2012)

## LOT LOADING - LOT 7B:

NRCS SOILS INFORMATION:  
SYMBOL: 32A NAME: BOXFORD  
SOIL GROUP: 3 LOT AREA: 0.41± ACRES\*\*\*  
SLOPE CLASS: A LOADING FACTOR: 1.60

SYMBOL: 33A NAME: SOTICO  
SOIL GROUP: 5 LOT AREA: 1.20± ACRES\*\*\*  
SLOPE CLASS: A LOADING FACTOR: 3.00

SYMBOL: 313B NAME: DEERFIELD  
SOIL GROUP: 3 LOT AREA: 0.04± ACRES\*\*\*  
SLOPE CLASS: B LOADING FACTOR: 1.60

\*\*\* LOT AREAS USED IN THIS CALCULATION DO NOT INCLUDE ANY LAND WITHIN THE PROTECTIVE WELL RADIUS OR LAND CONTAINING VERY POORLY DRAINED SOILS. FOR THE PURPOSE OF THIS CALCULATION ALL ONSITE WETLANDS HAVE BEEN ASSUMED TO CONTAIN VERY POORLY DRAINED SOILS AND ARE EXCLUDED FROM THE CALCULATION

DETERMINING FLOW EXISTING LOT/ACREAGE CAN ACCOMMODATE:  
(2,000 X 0.41± ACRES [GROUP 32A]) / 1.60 [LOADING FACTOR] = 512.5 GPD  
(2,000 X 1.20± ACRES [GROUP 33A]) / 3.00 [LOADING FACTOR] = 800.0 GPD  
(2,000 X 0.04± ACRES [GROUP 313B]) / 1.60 [LOADING FACTOR] = 50.0 GPD  
TOTAL FLOW EXISTING LOT CAN ACCOMMODATE = 1,362.5 GPD

TOTAL FLOW PROPOSED FOR NEW 4 BEDROOM USE = 600.0 GPD

## SOIL TESTING RESULTS

T.PIT# DATE ELEV.	DEPTH (INCHES)	HORIZON	USDA TEXTURE	MUNSELL COLOR	ESHWIT WEEPING STND WATER	PERC. TEST DEPTH RESULTS (MPI)	NOTES
01-19 12/4/19 14.5	0-7 7-21 21-45 45-57+	A Bw C1 C2	F.S.LOAM F.L.SAND S.L.C.LOAM CLAY	10YR 4/2 2.5Y 5/6 5Y 5/2 5Y 5/2	ESHWIT=18" NO WEEPING NO STANDING	6"+13" = 19" 8 MPI	ROOTS @ 22"
02-19 12/4/19 13.6	0-12 12-16 16-22 22-41 41-61+	A Bw BC C1 C2	F.S.LOAM L.F.SAND LOAM S.L.C.LOAM CLAY	10YR 3/3 10YR 4/4 2.5Y 5/3 5Y 5/2 5Y 5/2	ESHWIT=20" NO WEEPING NO STANDING	---	ROOTS @ 15"

TEST PITS PERFORMED BY: MATTHEW A. STEINEL, S.E. / LICENSE #01713  
TOWN WITNESSED: MICHAEL CUOMO OF ROCKINGHAM COUNTY CONSERVATION DISTRICT

N/F  
EMK REALTY TRUST  
DAVID K. & ERICA M. KISVER  
9 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5876 PG. 0780

N/F  
DOBBINS FAMILY REV. TRUST  
JOSHUA B. & STEPHANIE DOBBINS  
8 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5682 PG. 0228

N/F  
SHANE S. COMER  
MARINDA K. CROSIER  
6 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5938 PG. 2163

N/F  
KATRINA FORREST  
ROBERT D. GEORGE  
4 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5615 PG. 2425

N/F  
FINLEY FAMILY REV. TRUST  
MICHELLE M. RICHARDS  
2 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5537 PG. 1464

N/F  
GARY P. STREET  
LISA A. STREET  
65 RIVER ROAD  
STRAHAM, NH 03885  
BK. 3758 PG. 0090

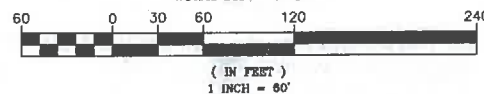
N/F  
PHILIP J. MALONE  
72 RIVER ROAD  
STRAHAM, NH 03885  
BK. 5405 PG. 2939

N/F  
BARBARA A. FLOCCO  
FLOCCO REV. TRUST  
69 RIVER ROAD  
STRAHAM, NH 03885  
BK. 3240 PG. 1650

N/F  
THOMAS DIGIUSEPPE  
CHELSEA DIGIUSEPPE  
65 RIVER ROAD  
STRAHAM, NH 03885  
BK. 5738 PG. 2527

SEE SHEET 2 FOR  
PROPOSED SEPTIC AREA

GRAPHIC SCALE



## RECORD OWNER

ROBERT MICHAEL CLEARY  
781-771-8397  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE  
STRAHAM, NH 03885  
BK. 5936 PG. 2884  
487,300± S.F.  
11.2± ACRES  
AREA CALCULATED  
TO LOW WATER

ZONING DISTRICT  
RESIDENTIAL/AGRICULTURAL

MINIMUM REQUIREMENTS	
AREA	2 ACRES
FRONTAGE	200'
DEPTH	150'
BUILDING SETBACKS	
FRONT	30'
SIDE	20'
REAR	20'
MAXIMUM STRUCTURE HEIGHT	35'
MAXIMUM BUILDING COVERAGE	20%
MINIMUM OPEN SPACE/LOT	60%

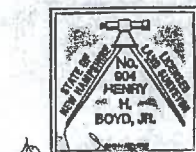
## PLAN REFERENCE

"SUBDIVISION PLAN FOR RIVER CLUB ESTATES  
RIVER ROAD COUNTY OF ROCKINGHAM STRATHAM,  
NH" SCALE: 1"=100' DATE: AUGUST 17, 1994  
REVISED THROUGH: 12-22-94  
BY: RICHARD P. MILLETTE AND ASSOCIATES  
D-23655

I CERTIFY:

THAT THIS ACTUAL SURVEY WAS MADE  
ON THE GROUND BETWEEN SEPTEMBER  
2019 AND JANUARY 2020.

THAT THIS SURVEY CONFORMS TO THE  
REQUIREMENTS FOR ACCURACY FOR  
N.H. URBAN SURVEY.



08-14-2020  
LICENSED LAND SURVEYOR DATE

SEE STATE OF NH SUBDIVISION  
APPROVAL #202002676

## TEST PITS/LOT LOADING SHEET

## PLAT OF LAND

IN  
STRATHAM, NH

SHOWING  
A PROPOSED SUBDIVISION  
AT 7 BOAT CLUB DRIVE  
(ASSESSORS MAP 8 LOT 39)

RECORD OWNER

ROBERT MICHAEL CLEARY  
STEPHANIE CLARK CLEARY  
7 BOAT CLUB DRIVE STRATHAM, NH 03885

## MILLENNIUM ENGINEERING INC.

ENGINEERS AND LAND SURVEYORS  
P.O. BOX 745 13 HAMPTON ROAD EXETER, NH 03833  
PHONE: (603) 778-0528 FAX: (603) 772-0689

NO.	DATE	DESCRIPTION	BY	SCALE: 1"= 60'	CALC. BY: R.S.G.	PROJECT: E192373
1	08-14-20	REVISED TIDAL OFFSET	K.I.R.	DATE: JUNE 25, 2020	CHKD. BY: H.H.B.	SHEET 2 OF 4



tabbies  
**EXHIBIT**  
**3**



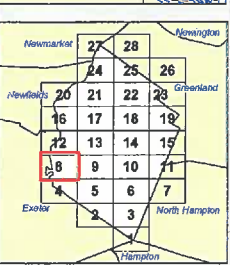
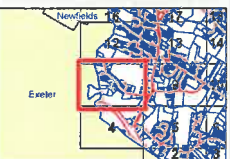
**STRATHAM**  
NEW HAMPSHIRE



**LEGEND**

- PROPERTY LINE
- OLD PROPERTY LINE
- PUBLIC RIGHT-OF-WAY
- PRIVATE RIGHT-OF-WAY
- RAILROAD RIGHT-OF-WAY
- CITY/TOWN LIMIT
- TOWN OWNED PARCELS
- STATE OF NH FISH & GAME
- COMMON LAND PARCELS
- EASEMENT
- CONSERVATION EASEMENT
- UTILITY RIGHT-OF-WAY
- HYDROGRAPHY
- WETLAND
- 3 PARCEL NUMBER
- 2 DISJOINTED PARCEL NUMBER
- 2 SURVEY LOT NUMBER
- 80 DIMENSION

INTENDED FOR ASSESSMENT PURPOSES ONLY. COMPILED FROM TAX MAPS, ORTHOPHOTOGRAPHY, AND OTHER PUBLIC RECORDS AND DATA. USERS SHOULD CONSULT THE PUBLIC PRIMARY SOURCE DOCUMENTS FOR VERIFICATION OF THE INFORMATION APPEARING ON THIS MAP.



Date of Revisions

9-1-2012	
4-1-2013	
4-1-2014	
7-9-2015	
5-17-2016	
5-30-2017	
5-15-2018	
4-1-2019	

REVISED & REPRINTED BY  
**CAI Technologies**  
117 BASINS STREET, LITTLETON, NH 03051  
603.322.4840 - WWW.CAI-TECH.COM  
Plot Date: 5/3/2019 Sheet: 8

Exeter





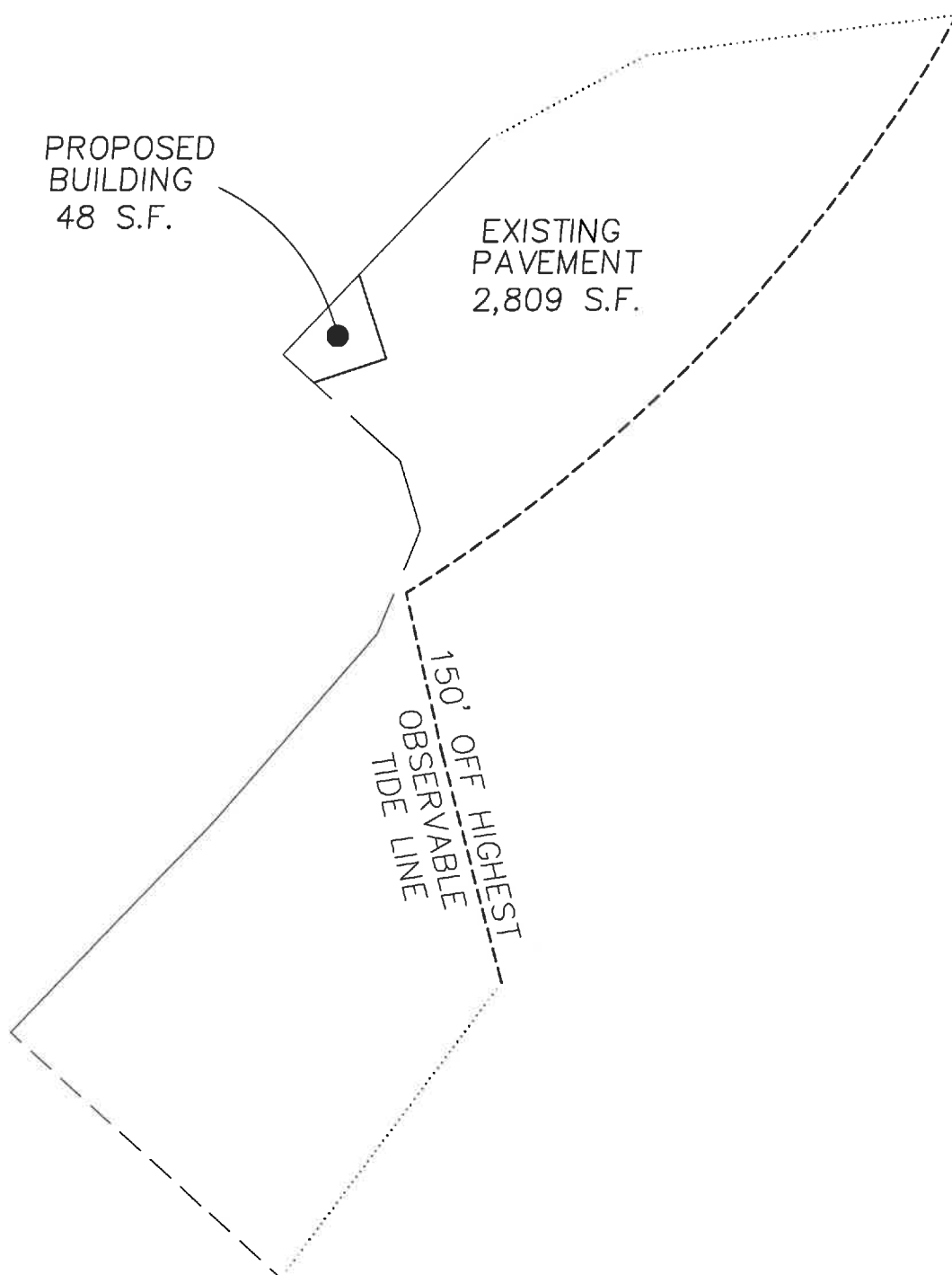
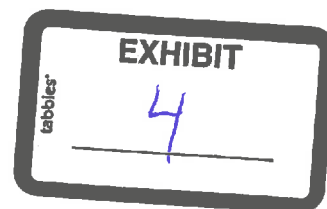




PHOTO LOG  
7 Boat Club Drive  
Stratham, New Hampshire

Photos Taken: October 5, 2020



Photograph No. 1: Easterly view of 7 Boat Club Drive in Stratham, New Hampshire.



Photograph No. 2: Northeasterly view of proposed housing addition area.

**PHOTO LOG**  
**7 Boat Club Drive**  
**Stratham, New Hampshire**

**Photos Taken: October 5, 2020**



**Photograph No. 3: Southeasterly view of maintained lawn in the proposed housing addition area.**



**Photograph No. 4: Southerly view of maintained lawn adjacent to Squamscott River.**



**PHOTO LOG**  
**7 Boat Club Drive**  
**Stratham, New Hampshire**

**Photos Taken: October 5, 2020**



**Photograph No. 5: Southerly view of Squamscott River from 7 Boat Club Drive maintained lawn.**



**Photograph No. 6: Northeasterly view of proposed shop location from driveway of 7 Boat Club Drive.**

## EXHIBIT

tabbles

6

2020-02690

10/19/2020

ROBERT CLEARY

7 BOAT CLUB DR STRATHAM, ROCKINGHAM

8

39

SQUAMSCOTT RIVER

Application Type SHORELAND STANDARD

Preliminary Category SHORELAND STANDARD

Application Status PERMIT APPROVED

Final Category SHORELAND STANDARD

DES Reviewer ROSEMARY AURES

Agent GZA GEOENVIRONMENTAL INC

Impact 9,537 square feet of protected shoreland in order to construct an addition onto the nonconforming primary structure a detached accessory structure.

Impervious Surface Percentage Approved: 5.0%

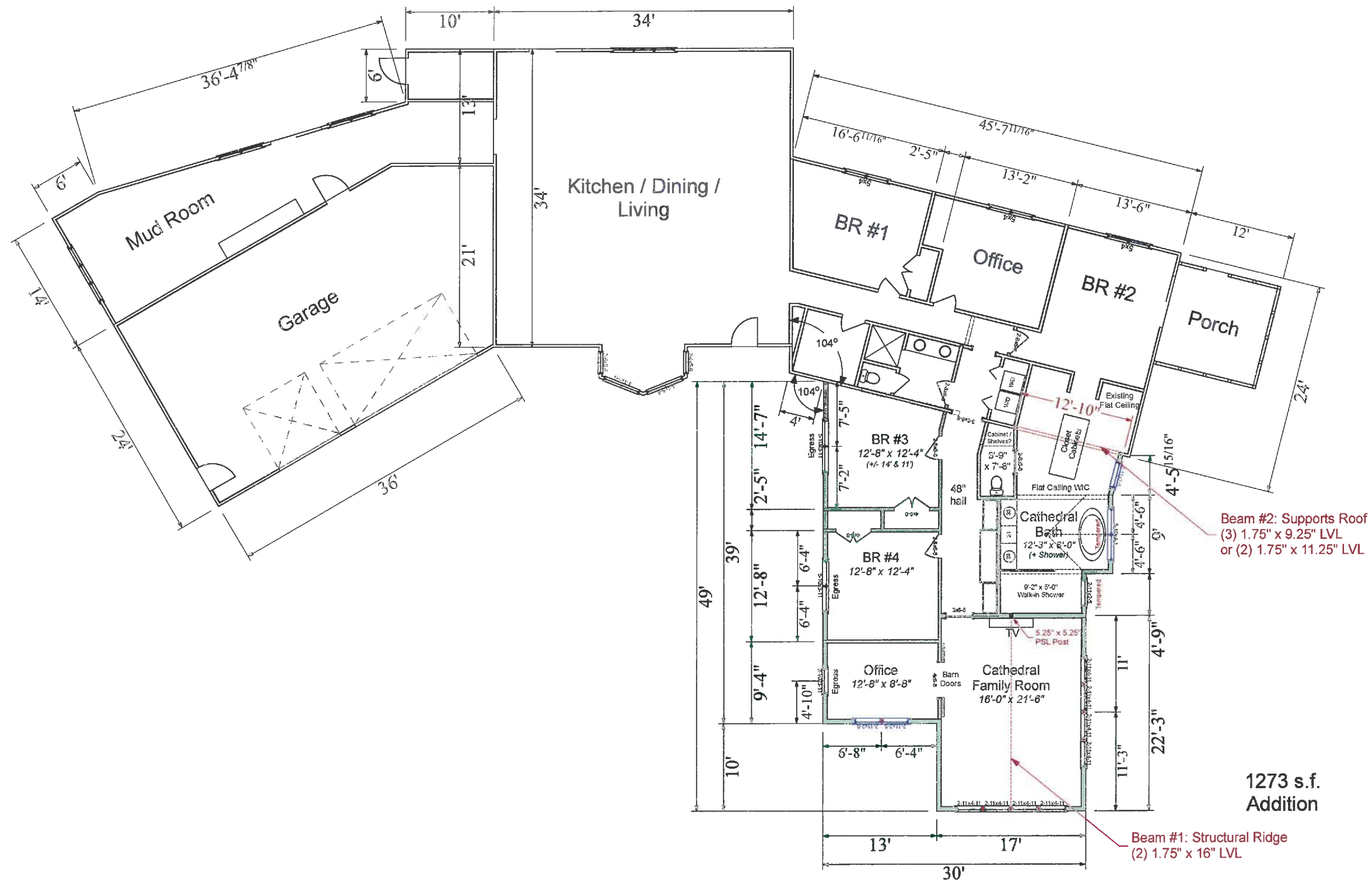
Natural Woodland Area Required per RSA 492-B:0 V (b): 22,975 square feet.

EXETER-SQUAMSCOTT RIVER

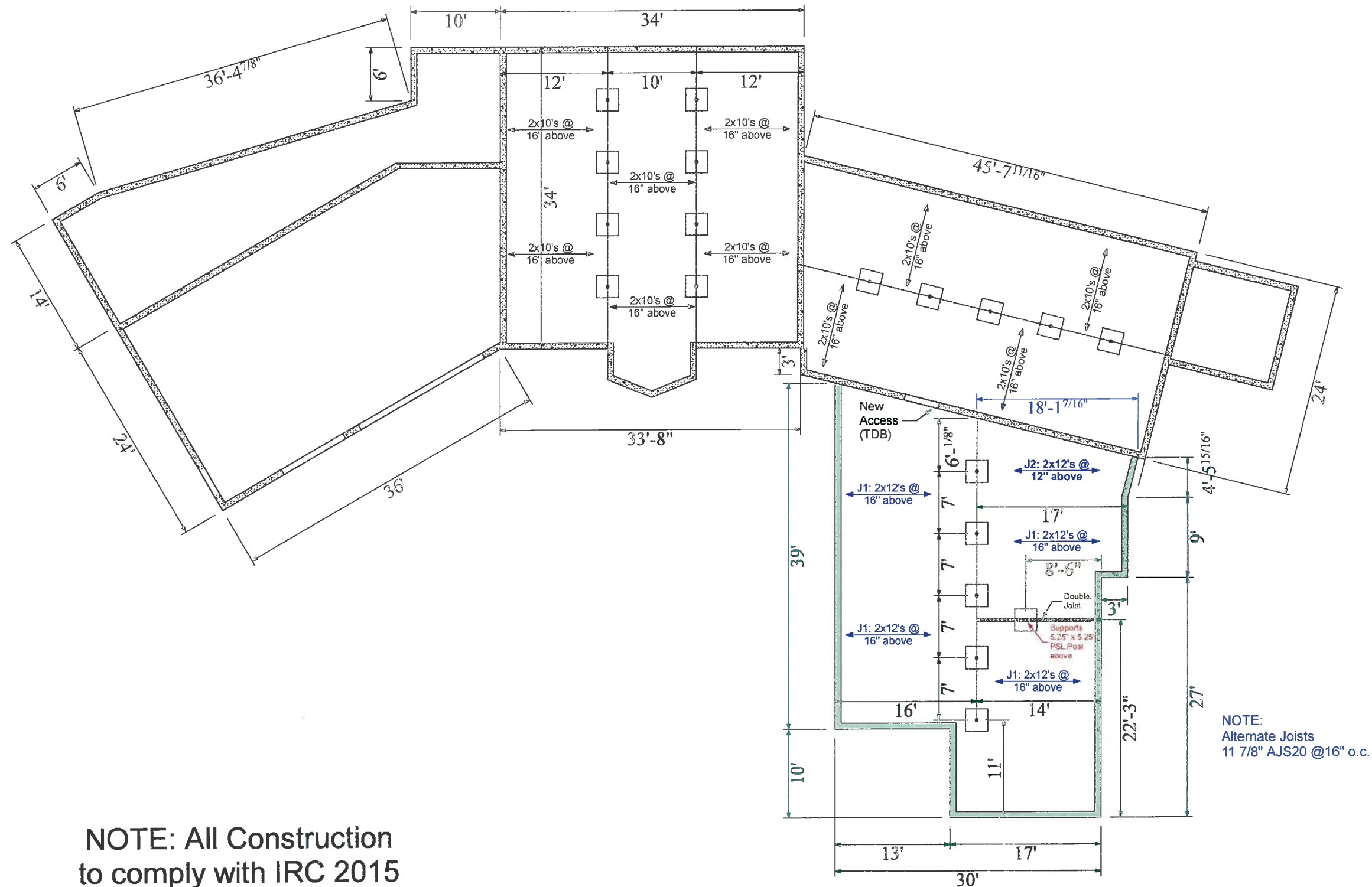
	Letter Name	Owner	Document Signed Date
<a href="#">View</a>	ACCEPT_SHORE	WSDMB	10/20/2020

Total Documents Returned: 1





<b>Michelle Shields Design</b> Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review	<b>SCALE:</b> 1/16" = 1'-0" (Letter)	<b>TITLE:</b> Proposed First Floor	<b>SHEET:</b> <b>P1</b>
				<b>ISSUE DATE:</b> September 21, 2020			



Michelle Shields Design  
Smart Creative Architecture  
www.MichelleShieldsDesign.com

6 Rudolph Avenue  
Kittery, Maine 03904  
207-438-9829  
Cell: 207-752-7623

PROJECT:  
Rob and Stephanie  
Cleary Residence

SITE:  
7 Boat Club Way  
Stratham, NH

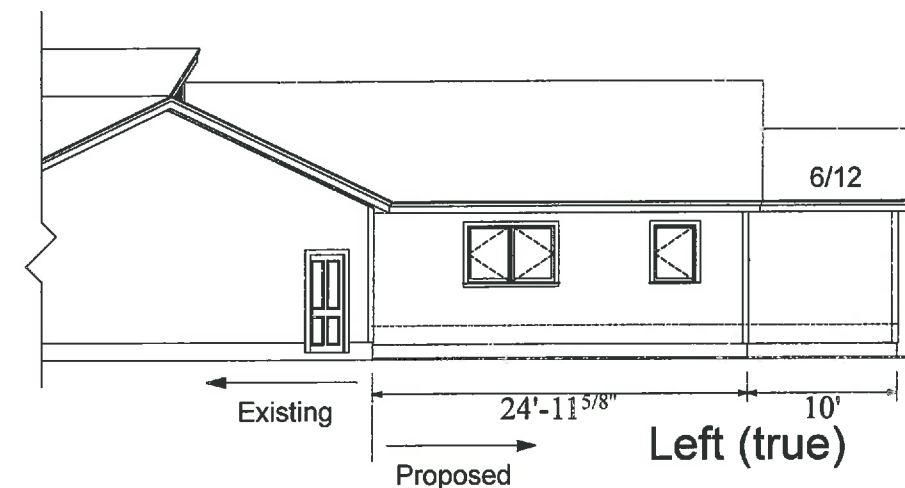
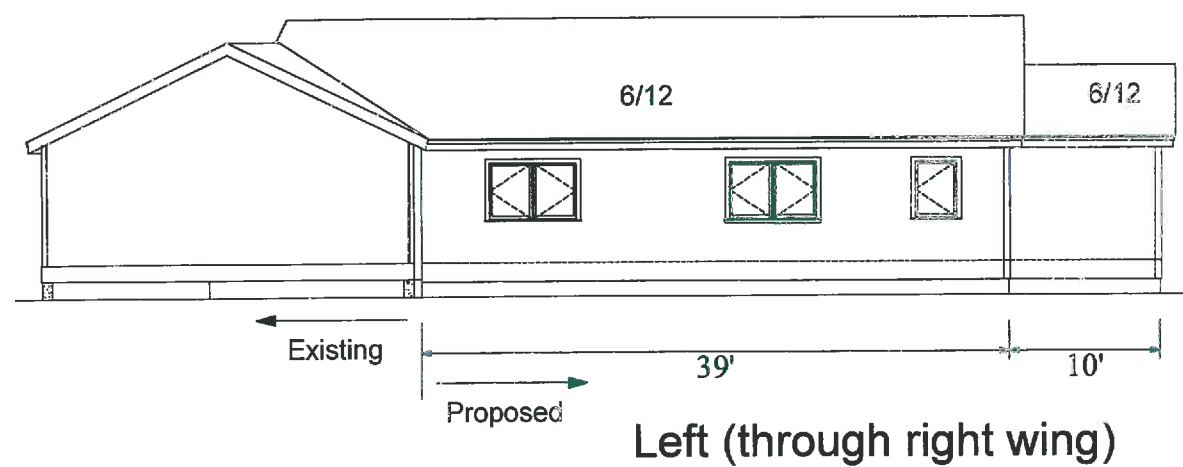
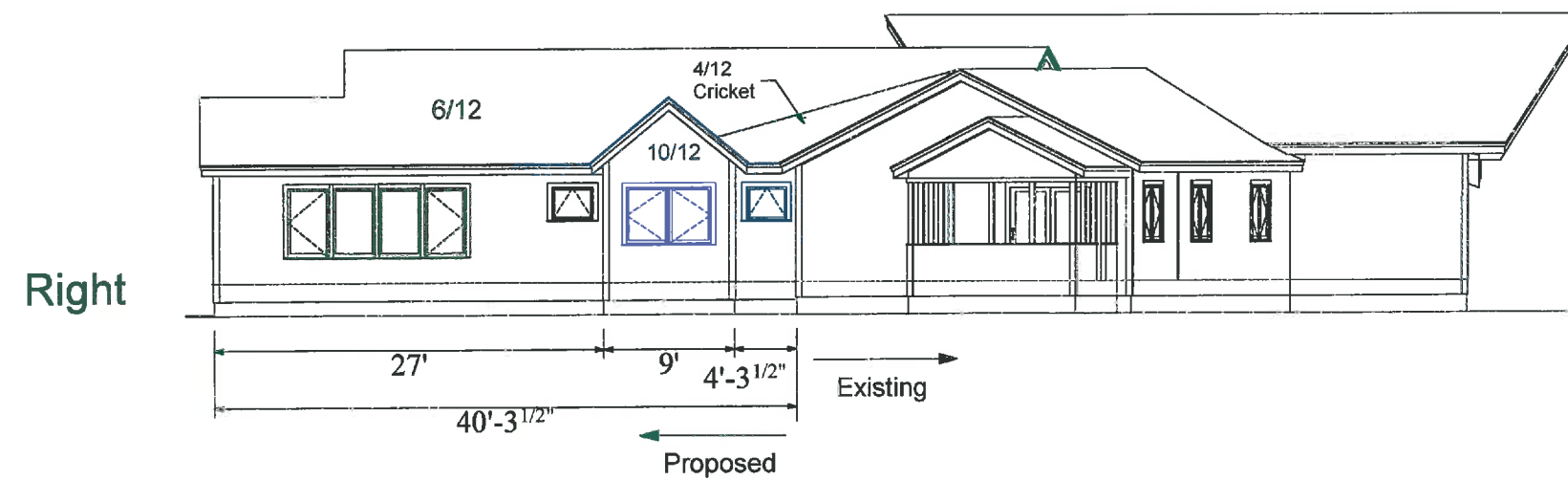
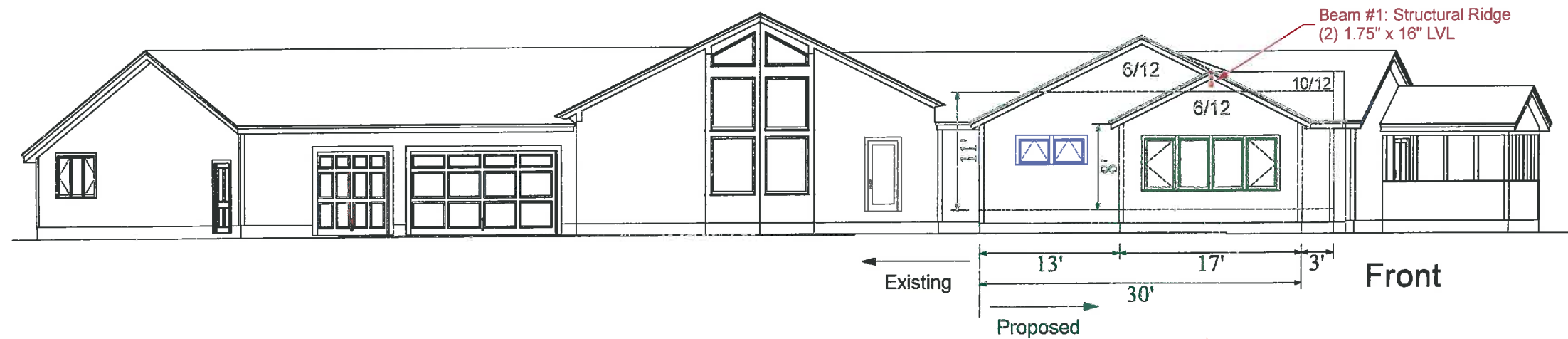
ISSUED FOR:  
Review  
ISSUE DATE:  
September 21, 2020

SCALE:  
1/16" = 1'-0"  
(Letter)

TITLE:  
Proposed  
Foundation

SHEET:  
P2

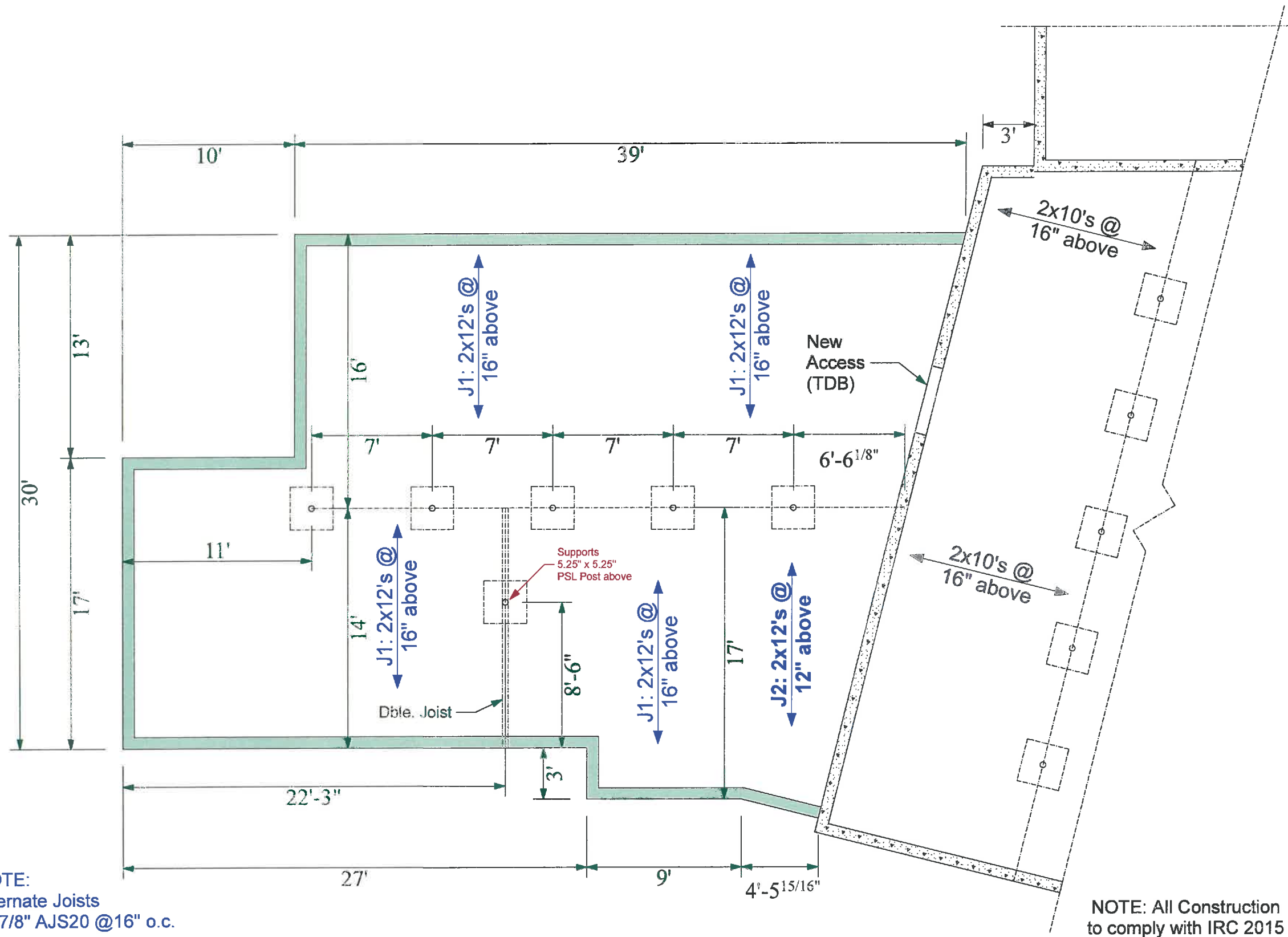




<b>Michelle Shields Design</b> Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review	<b>SCALE:</b> 1/16" = 1'-0" (Letter)	<b>TITLE:</b> Proposed Elevations	<b>SHEET:</b> <b>P3</b>
				<b>ISSUE DATE:</b> September 21, 2020			

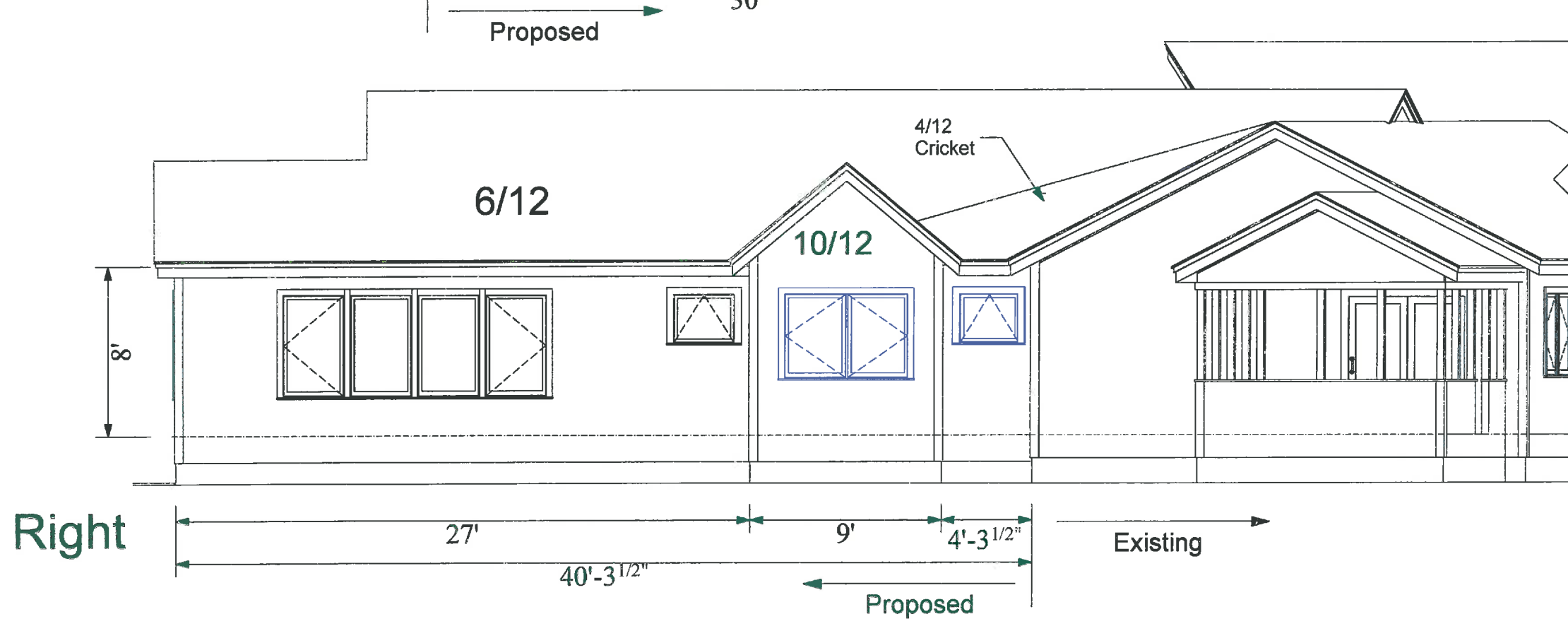
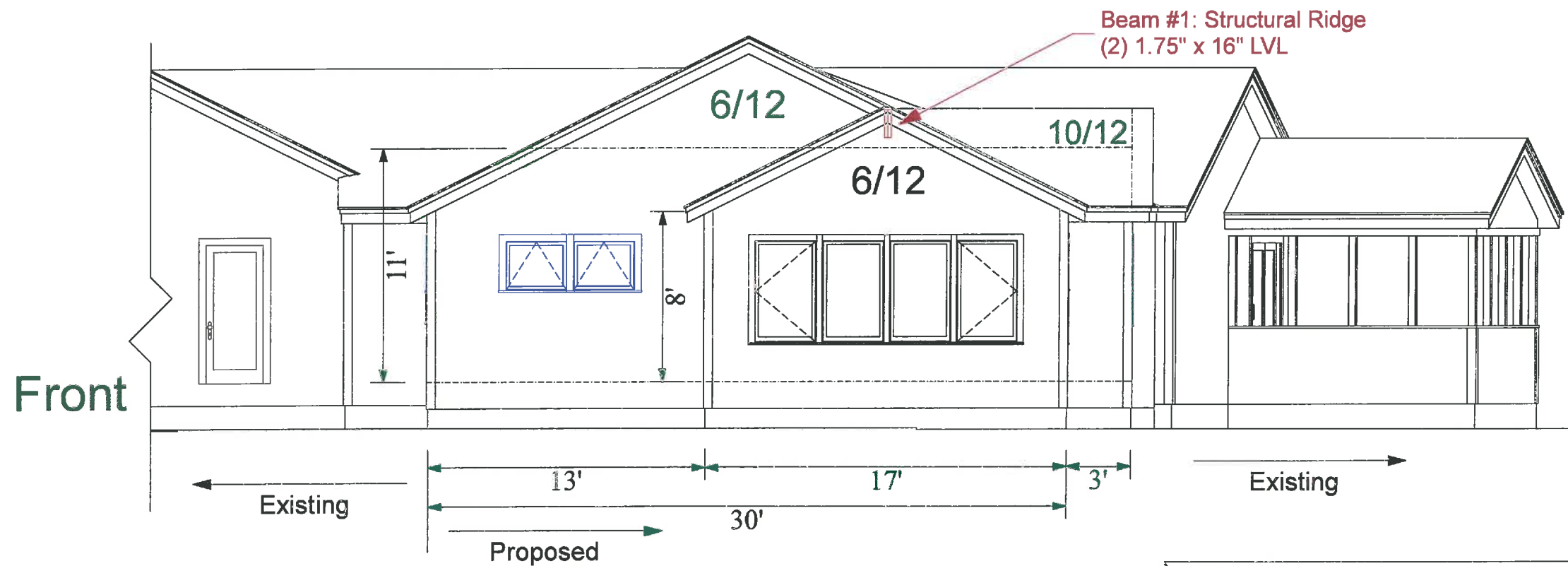






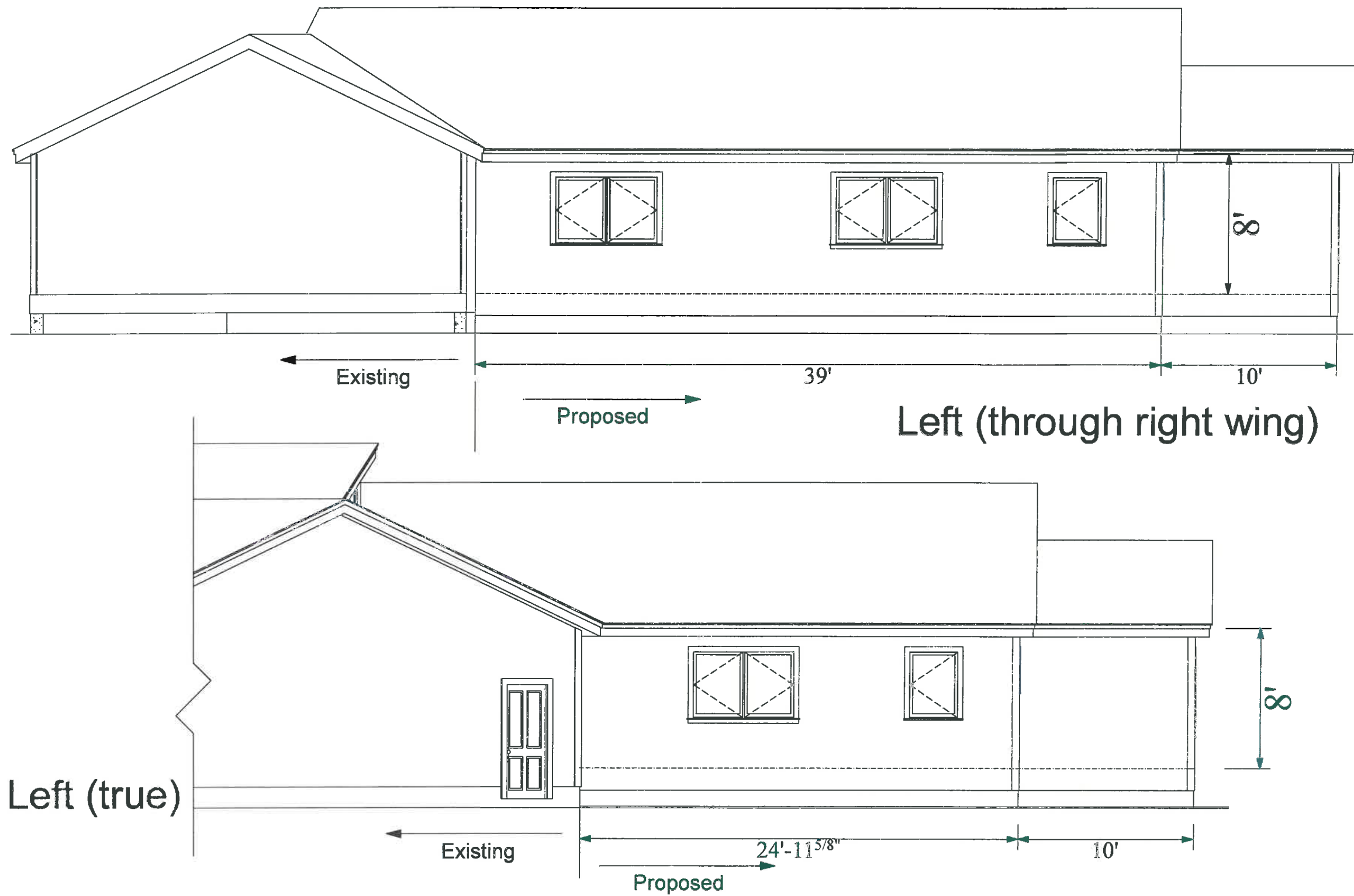
NOTE:  
Alternate Joists  
11 7/8" AJS20 @16" o.c.

<b>Michelle Shields Design</b> Smart Creative Architecture www.MichelleShieldsDesign.com	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review <b>DATE:</b> September 21, 2020	<b>SCALE:</b> 1/8" = 1'-0" (Letter)	<b>TITLE:</b> Proposed Foundation	<b>SHEET:</b> <b>P5</b>
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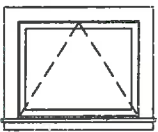
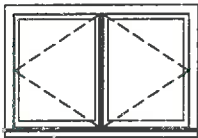

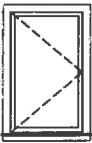
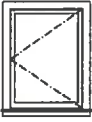


<b>Michelle Shields Design</b> Smart Creative Architecture <a href="http://www.MichelleShieldsDesign.com">www.MichelleShieldsDesign.com</a>	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review	<b>SCALE:</b> 1/8" = 1'-0" (Letter)	<b>TITLE:</b> Proposed Elevation	<b>SHEET:</b> <b>P6</b>
				<b>DATE:</b> September 21, 2020			

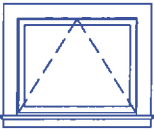
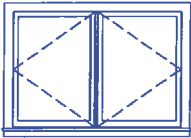




<b>Michelle Shields Design</b> Smart Creative Architecture <a href="http://www.MichelleShieldsDesign.com">www.MichelleShieldsDesign.com</a>	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	<b>PROJECT:</b> Rob and Stephanie Cleary Residence	<b>SITE:</b> 7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review	<b>SCALE:</b> 1/8" = 1'-0" (Letter)	<b>TITLE:</b> Proposed Elevation	<b>SHEET:</b> <b>P7</b>
				<b>DATE:</b> September 21, 2020			

New Pella Black Windows			
ID	Qty.	ELEVATION	DIMENSIONS
3559 Fixed	4		2'-11" X 4'-11"
A3529 Tempered	1		2'-11" X 2'-5"
C3547-2	2		5'-10" X 3'-11"
C3559L	2		2'-11" X 4'-11"
C3559R	2		2'-11" X 4'-11"
C3547L	1		2'-11" X 3'-11"

Solid Core Interior Doors		
ID	Qty.	DIMENSIONS
2668 Pkt	1	2'-6" X 6'-8"
2868	3	2'-8" X 6'-8"
3068 Pkt	1	3'-0" X 6'-8"
4068 Barn	1	4'-0" X 6'-8"
4068 Pair	2	4'-0" X 6'-8"

Re-install Existing Windows			
ID	Qty.	ELEVATION	DIMENSIONS
R1	3		2'-11" X 2'-5"
R2 Tempered	1		5'-10" X 4'-1"



**Typical Foundation:**

Foundation walls to be 8" thick with (2) #4 Rebar longitudinal top.\ and #6 @ 48". PerT 404.1.2(1). Footings to be 10" x 16" with (2) #4 longitudinal bottom & (1) #4 anchor @ 48". Foundation walls to be 7'-10" Maintain continuous 4' frost protection 1/2" Anchor Bolts @ 6'-0" O.C. (2 @ Each Corner / 2 @ Each Joint) Laly pads to be 2'-6" x 2'-6" (continuous) with (3) #4 bottom. Perimeter drains stone shall extend a minimum of 6" above the top of the footing (Section R 405.1)

**Typical Floor:**

L/360, 40 LL + 15 DL

J1: 2x12's @ 16" o.c.  
(Max unsupported span 17'-10")

J2: 2x12's @ 12" o.c.  
(Max unsupported span 20'-7")

Alternate: All 11 7/8" AJS20's @ 16" o.c.  
(Max unsupported span 21'-9"),  
3/4" T&G Plywood Subfloor  
(Nailed and Glued)

**Typical Exterior Wall**

Cedar or Vinyl Siding  
1/2" OSB Sheathing  
Tyvar or equiv house wrap  
2x6 Studs @ 16" O.C.  
2x6 Sill and (2) 2x6 Top Plate  
R21 Batt insulation  
1/2" Drywall

**Typical New Frame Roof**

Architectural Shingles  
5/8" OSB Sheathing or 1/2" Fir Plywood  
2x12 Ridge  
2x10 Rafters @ 16" o.c.  
2x6 Collar ties @ 32" o.c.  
Ice and Snow barrier  
Vented Soffit or Ridge Vent  
R49 Batt Insulation  
NOTE: Alternate Truss roofs  
per manufacturers specs.

**Headers:**

Deflection criteria of L/360 Live Load  
and L/240 Total Load

Typical door and windows:  
For openings not exceeding 6'-4": (3) 2x10's  
with two Jack Studs

**Beams:**

Deflection criteria of L/360 Live Load  
and L/240 Total Load

Beam #1: Structural Ridge  
(17' House Span; 6/6 Pitch)  
(2) 1.75" x 16" x 23'-6" Versa-Lam 2.0 3100 SP

Beam #2: Supports Roof  
(24' House Span; 6/6 Pitch)  
(3) 1.75" x 9.25" x 23'-6" Versa-Lam 2.0 3100 SP  
or:  
(2) 1.75" x 11.25" x 23'-6" Versa-Lam 2.0 3100 SP

**Porch Foundation:**

12" Concrete filled Sonotube with  
spread footing and Anchor Bolt and  
Elevated 4x4 Post Base

**Deck / Porch:**

Connection bolt / screw per R502.2.2.1  
Lateral connection per R502.2.2.3

**Windows**

Egress windows to have minimum clear openable  
width of 20", clear openable height of 24",  
and clear openable area of 5.7 s.f.  
2nd Floor sills to be a minimum of 24" from floor.

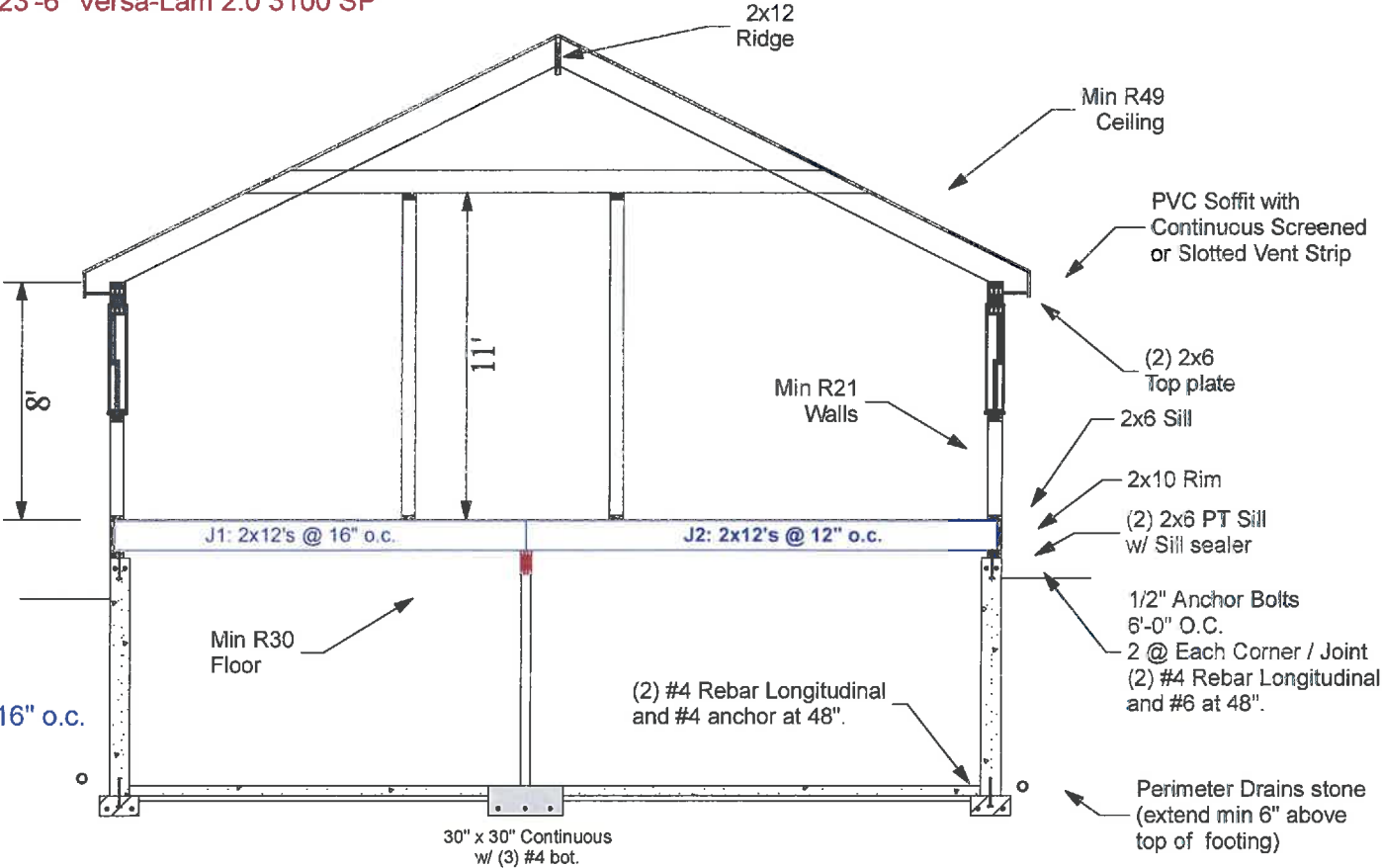
**Stair notes:**

Handrail height above nose: 34"  
Balluster spacing: Max 4" clear  
Min (3) 2 x12 Stringers  
Rise: Min 7 1/4" Max 7 3/4"  
Run: 10" nosing to nosing  
Finish tread 11 1/4"  
Min 36" wide with 6'-8" Headroom

**Note:** Smoke / CO2 detectors in all  
bedrooms, and to code throughout.

NOTE: All Construction  
to comply with IRC 2015

NOTE:  
Alternate Joists  
11 7/8" AJS20 @16" o.c.



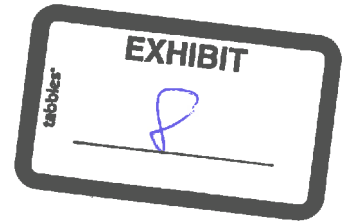
<b>Michelle Shields Design</b> Smart Creative Architecture www.MichelleShieldsDesign.com	6 Rudolph Avenue Kittery, Maine 03904 207-438-9829 Cell: 207-752-7623	<b>PROJECT:</b>  Rob and Stephanie Cleary Residence	<b>SITE:</b>  7 Boat Club Way Stratham, NH	<b>ISSUED FOR:</b> Review	<b>SCALE:</b>  1/8" = 1'-0" (Letter)	<b>TITLE:</b>  Typical Section Details	<b>SHEET:</b>  D1
				<b>DATE:</b> September 21, 2020			



**Bean Group | Portsmouth**  
1150 Sagamore Avenue  
Portsmouth, NH 03801  
PH (603) 766-1980 FX (603) 218-7134  
[www.beangroup.com](http://www.beangroup.com)

November 30, 2020

Justin L. Pasay, Esq.  
Donahue, Tucker & Ciandella, PLLC  
111 Maplewood Ave., Suite D  
Portsmouth, NH 03801



RE: Cleary Addition – Boat Club Drive

Justin,

I'm writing in support of the Cleary's request to construct an addition to their home on Boat Club Drive, Stratham; a property that sits within the Town's Shoreland Protection District.

My name is Jamieson Duston and I am a licensed Realtor at the Bean Group; one of the largest real estate firms in New England, represented by hundreds of Realtors who are focused on meeting the needs of home buyers and sellers in Connecticut, Maine, Massachusetts, New Hampshire, and Vermont. My office is located at our corporate headquarters - 1150 Sagamore Avenue, Portsmouth, NH 03801. I've been a Realtor for 12 years and am an active member of the National Association of Realtors, the New Hampshire Association of Realtors and the Seacoast Board of Realtors. I have been Bean Group's top performing Agent since 2010 and have transacted nearly \$300M in property sales during that period. My specialty is listing/selling tidal waterfront properties along the inland coast of New Hampshire – Dover, Durham, Stratham, Greenland, Newington & Portsmouth.

As a matter of record, I have listed and sold what most would agree is (geographically speaking) the closest comparable property to the Cleary's home – 34 Raeder Drive, Stratham. Like the Cleary's home, 34 Raeder is uniquely positioned along the shores of the Squamscott River and I have been involved in all three transfers of that property since 2012. That is to say, I'm quite familiar with the Squamscott River, the real estate market within the Town of Stratham and to a larger extent, developed waterfront properties along Great Bay, Little Bay, the Piscataqua River, and the many river systems that flow into these water bodies.

The Cleary's have shared their plans with me so that I might guide them on the estimated value added from such a project. The plans call for a +/- 1,300 square foot, single level addition in keeping with the style of the existing structure. The addition is to be built on the East side of the home and will include 2 bedrooms, a small office, a family room and a master bathroom that will connect to the existing master bedroom. The plans are well thought out and professionally designed. It's my firm belief that the project described above will not diminish the value of surrounding

Portsmouth, NH | Nashua, NH | Bedford, NH | Londonderry, NH | Meredith, NH | Wolfeboro, NH | Franklin, NH | Stratton, VT | York, ME | Newburyport, MA  
Amherst, NH | Dover, NH | Mashpee, MA | Andover, MA | Winchester, MA





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properties. In point of fact, such an addition serves to elevate the value of not only the subject property but those surrounding it, as well.

One of the issues to be considered with the approval of any developed waterfront property within the Shoreland Protection District is the overall impact to surface area. My understanding is that the Cleary's are voluntarily removing 1,446 SF of impervious driveway surface (a net reduction of approximately 17%) to offset the impact of the addition. This will ensure that the project has a "net zero" impact on surface area within the Shoreland Protection District.

In conclusion, I believe the proposed addition serves the property quite well. It not only improves the value of the subject property but those (values) of the surrounding properties, as well. It has no impact on surface area and should serve as a model for other owners of developed waterfront properties to follow.

Should you have any follow up questions, please feel free to reach me. I've included my contact information below.

Kind Regards,

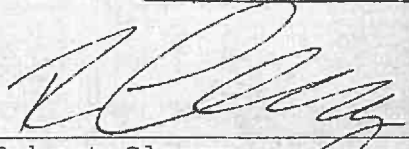
Jamieson Duston  
Cell - 603-365-5848  
Email - [jd@beangroup.com](mailto:jd@beangroup.com)

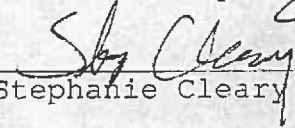
LETTER OF AUTHORIZATION

We, Robert and Stephanie Cleary, owners of property depicted on Tax Map 8, Lot 39, do hereby authorize Donahue, Tucker and Ciandella, PLLC and Millennium Engineering, to execute any land use applications to the Town of Stratham and to take any action necessary for the application and permitting process, including but not limited to, attendance and presentation at public hearings, of the said property.

Dated:

2/19/20

  
Robert Cleary

  
Stephanie Cleary

S:\CE-CL\CLEARY, ROBERT & STEPHANIE\LETTER OF AUTHORIZATION.DOCX



**ROBERT & STEPHANIE CLEARY  
7 BOAT CLUB DRIVE, TAX MAP 8, LOT 39  
ABUTTER LIST**

**OWNER/APPLICANT:**

8/39                      Robert & Stephanie Cleary  
                             7 Boat Club Drive  
                             Stratham, NH 03885

**STRATHAM ABUTTERS:**

8/32                      Thomas & Chelsea Digioseppie  
                             65 River Road  
                             Stratham, NH 03885

8/33                      Barbara Flocco, Trustee  
                             Flocco Revocable Trust  
                             69 River Road  
                             Stratham, NH 03885

8/37                      Town of Stratham  
                             10 Bunker Hill Avenue  
                             Stratham, NH 03885

8/38                      Philip Malone  
                             72 River Road  
                             Stratham, NH 03885

8/40                      Katrina Forest & Robert George  
                             4 Boat Club Drive  
                             Stratham, NH 03885

8/41                      Michelle Richards, Trustee  
                             Finley Family Revocable Trust  
                             2 Boat Club Drive  
                             Stratham, NH 03885

8/42                      Gary & Lisa Street  
                             66 River Road  
                             Stratham, NH 03885

12/1                      David & Erika Kisver, Trustees  
                             EMK Realty Trust  
                             9 Boat Club Drive  
                             Stratham, NH 03885

12/3	Joshua & Stephanie Dobbins Dobbins Family Revocable Trust 8 Boat Club Drive Stratham, NH 03885
12/4	Shane Comer & Marinda Crosier 6 Boat Club Drive Stratham, NH 03885
12/5	Squamscott Scullers LTD PO Box 526 Exeter, NH 03833
EXETER ABUTTERS: 38/8	Boston & Maine Railroad Corp. 1700 Iron Horse Park Billerica, MA 01862
ATTORNEY:	Justin L. Pasay, Esq. Donahue, Tucker & Ciandella 111 Maplewood Avenue Portsmouth, NH 03801
SURVEYOR:	Henry Boyd, P.E. Millenium Engineering PO Box 745 Exeter, NH 03833



Robert & Stephanie Cleary  
7 Boat Club Drive  
Stratham, NH 03885

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7 Boat Club Drive  
Stratham, NH 03885

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7 Boat Club Drive  
Stratham, NH 03885

Thomas & Chelsea Digiuseppe  
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Stratham, NH 03885

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Barbara Flocco, Trustee  
Flocco Revocable Trust  
69 River Road  
Stratham, NH 03885

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Town of Stratham  
10 Bunker Hill Avenue  
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Philip Malone  
72 River Road  
Stratham, NH 03885

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Katrina Forest  
Robert George  
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Finley Family Rev. Trust  
2 Boat Club Drive  
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EMK Realty Trust  
9 Boat Club Drive  
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9 Boat Club Drive  
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Joshua & Stephanie Dobbins  
Dobbins Family Rev. Trust  
8 Boat Club Drive  
Stratham, NH 03885

Joshua & Stephanie Dobbins  
Dobbins Family Rev. Trust  
8 Boat Club Drive  
Stratham, NH 03885

Joshua & Stephanie Dobbins  
Dobbins Family Rev. Trust  
8 Boat Club Drive  
Stratham, NH 03885

Shane Comer & Marinda Crosier  
6 Boat Club Drive  
Stratham, NH 03885

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6 Boat Club Drive  
Stratham, NH 03885

Shane Comer & Marinda Crosier  
6 Boat Club Drive  
Stratham, NH 03885

Squamscott Scullers LTD  
PO Box 526  
Exeter, NH 03833

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PO Box 526  
Exeter, NH 03833

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PO Box 526  
Exeter, NH 03833

Boston & Maine Railroad  
1700 Iron Horse Park  
Billerica, MA 01862

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Boston & Maine Railroad  
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Portsmouth, NH 03801

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