



Town of Belmont

APPLICATION FOR A SPECIAL PERMIT

Date: 8/16/17

Zoning Board of Appeals
Homer Municipal Building
19 Moore Street
Belmont, MA 02478

To Whom It May Concern:

Pursuant to the provisions of Massachusetts General Laws, Chapter 40A, Section 9, as amended, and the Zoning By-Laws of the Town of Belmont, I/we the undersigned, being the owner(s) of a certain parcel of land (with the buildings thereon) situated on 41 R Holt Street Street/Road, hereby apply to your Board for a **SPECIAL PERMIT** for the erection or alteration on said premises or the use thereof under the applicable Section of the Zoning By-Law of said Town for a
Special Permit pursuant to a Remand by the Land Court
of the Zoning Board of Appeals Case # 15-35 to replace
a previously existing 4 bay garage with storage unit with
a 3 bay garage structure.

on the ground that the same will be in harmony with the general purpose and intent of said Zoning By-Law.

Signature of Petitioner	<u>Anthony L. Carbone</u> <u>by his Attorney</u>
Print Name	<u>Guy A. Carbone, Esq.</u>
Address	<u>6 Beacon Street, Suite 215</u> <u>Boston, MA 02108</u>
Daytime Telephone Number	<u>617-227-3305</u>

*Law Offices of
Guy A. Carbone
Attorney at Law*

SIX BEACON STREET, SUITE 415 2 / 5
BOSTON, MASSACHUSETTS 02108-3802

TEL. (617) 227-3305

FAX (617) 227-7690

August 24, 2017

BY HAND

Ara Yogurtian
Assistant Director
Belmont Office of Community Development
Homer Municipal Building
Belmont, MA 02478

RE: Carbone v. Belmont Zoning Board of Appeals et al.
Land Court
Misc. Case No. 16-000143
REMAND FROM LAND COURT

**STATEMENT SUPPLEMENTING DOCUMENTS
FILED WITH THE OFFICE OF COMMUNITY DEVELOPMENT
ON AUGUST 16, 2017**

Mr. Yogurtian:

In a Notice of Docket Entry dated December 7, 2016 in the above referenced civil action, the Land Court allowed the substitution of Anthony L. Carbone as the plaintiff in place of his uncle Domenic S. Carbone. Anthony L. Carbone purchased the property known and numbered as 41R Holt Street, Belmont, from his uncle Domenic S. Carbone in November 2016. The deed recording the purchase of the locus by Anthony L. Carbone was recorded in the Middlesex South District Registry of Deeds on November 17, 2016.

The Land Court published a Notice of Pre-Trial Conference to be held on March 6, 2017. In that Notice the Court stated that "Prior to the pre-trial conference the parties should discuss: (1) the issues presented by the case, and (2) whether ADR may be an appropriate route to narrow the issues or resolve the case." As a result of the foregoing, on June 23, 2017 Anthony L. Carbone filed a Motion with the Court under which he offered to substantially reduce the size of the building, which building was the subject of the original Application for Special Permit, and which the Zoning Board of Appeals (the "Board") denied by its Decision dated February 19, 2016.

On June 30, 2017 the Court issued a Notice of Docket Entry which is attached hereto as

RE: Carbone v. Belmont Zoning Board of Appeals et al.
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Exhibit 1. The proposed smaller structure presented to the Court had a footprint of 31' x 100', a constant height of 27', and three bays. The original structure which was demolished was approximately 30' x 125' with a 5' rear setback according to records in the Belmont Engineering Department and had four bays plus a storage area at its easterly end. See **Exhibit 2** attached. The volume of the proposed smaller structure is 20 percent smaller than the structure which was presented to the Board in the Application for Special Permit dated October 30, 2015. Included herein by reference is that entire Application for Special Permit with the five exhibits attached thereto and a further document captioned "ANNEX A: CHRONOLOGY OF EVENTS AND NARRATIVE," which at the request of the Board was submitted to the Board on January 4, 2016. The proposed smaller structure is smaller than the **westerly portion** of the original structure which was demolished and which had a constant height as shown in **Exhibit 2**. Records in the Belmont Assessors Office show that the length of the westerly portion of the structure which was demolished to be approximately 109'.

Exhibit 3 attached is the proposed plot plan dated 8/13/17 for the proposed smaller structure together with the Zoning Compliance Check List. It is to be noted that the rear setback has been increased from 5' to 7' for the proposed smaller structure.

Exhibit 4 contains a perspective of the proposed smaller building, its elevations, floor plans and a section of the proposed smaller structure, all prepared by Architect Norman Kherlop, the principal of the firm of Nordesign & Build LLC, Architects, whose office is in Belmont. The original architect Helena Eckert has retired and has returned to her native Czech Republic. Accordingly, Norman Kherlop was retained who also viewed the locus and then prepared the drawings which are included in **Exhibit 4**. The windows with shed roofs shown on the proposed smaller structure were provided because of the shed roofs on porches and shed dormers on houses which are in close proximity to the locus. The windows with shed roofs shown on the proposed smaller structure can be replaced with skylights. None of the houses in close proximity to the locus have skylights on the roofs.

Exhibit 5 attached is part of the original Application for Special Permit, which exhibit includes a plan showing the locus in relationship to the surrounding dwellings and six pages of photographs showing all the residential structures which are in close proximity to the locus. Please note that all of the residences are at least 2.5 stories high and have gable roofs. Note the shed roofs over porches and shed dormers. The proposed smaller structure is only 1.5 stories high.

CONCLUSION

Anthony L. Carbone respectfully suggests that the proposed smaller structure presented

Ara Yogurtian
Belmont Office of Community Development

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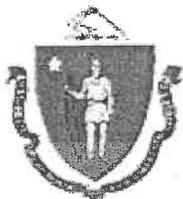
herein overcomes all the objections of the Board which the Board relied upon to deny the Application for Special Permit in its Decision dated February 19, 2016 concerning the larger structure. That larger structure had a constant height of the building throughout its length of 125' and had eight shed dormers. The Board concluded that the sheer volume of the entire structure then being proposed taken together were such that (1) the structure proposed would increase the nonconforming nature of the structure, (2) would be substantially more detrimental than the prior nonconforming structure to the neighborhood, and (3) would not be in keeping with the character of the neighborhood in which it was located. It is to be noted that two separate architects each proposed a building with a constant roof line, shed dormers and a gable roof.

Anthony L. Carbone requests that the Board issue the requested Special Permit with such conditions as the Board deems appropriate under the Zoning By-law.

Respectfully submitted,
ANTHONY L. CARBONE
By His Attorney


Guy A. Carbone, Esq.

GAC/ac
Enclosure



THE COMMONWEALTH OF MASSACHUSETTS
LAND COURT
DEPARTMENT OF THE TRIAL COURT
Suffolk County Courthouse
3 Pemberton Square, Room 507
Boston, MA 02108
PHONE: 617-788-7497
Jennifer.noonan@jud.state.ma.us

June 30, 2017

Guy A. Carbone, Esq. ✓
Serra, Jordan & Carbone, PA
6 Beacon Street
Suite 215
Boston, MA 02108

Christina Marshall, Esq.
Arthur Paul Kreiger, Esq.
Anderson & Kreiger, LLP
50 Milk Street, Suite 2100
Boston, MA 02109

NOTICE OF DOCKET ENTRY

Notice is hereby given that the following docket entry has been made in:

16 MISC 000143 – Anthony Carbone v. Town of Belmont Zoning Board of Appeals, et al. (KFS)

June 30, 2017: “The court is in receipt of Plaintiff’s Motion to Continue Pre-Trial Conference presently scheduled for July 7, 2017, as well as Defendants’ response to Plaintiff’s motion. After review of both submissions, the court hereby enters the following order:

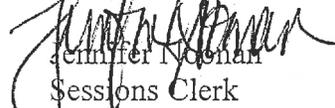
The Pre-Trial Conference schedule for July 7, 2017 is canceled in order to give the parties time to pursue a remand to the Zoning Board of Appeals. Plaintiff shall prepare a set of plans showing his revised proposal for a project at 81R Holt Street for submission to the Board for consideration at its September 11, 2017 meeting. The submission must be accompanied by a new application for special permit and present a complete set of plans consistent with the Board’s requirements and any applicable Bylaw provisions. It is understood among the parties that the revised project will depict a building smaller than the one previously presented to the Board. The filing must be made early enough so as to comply with all publication and notice requirements in connection with applications for special permitting so that the Board may conduct a public hearing on September 11, 2017. The parties further understand and agree that the revised proposal will be presented and considered at an open public meeting, commencing on September 11, 2017. The costs associated with publication of notices will be borne by Plaintiff, in accordance with usual practice.

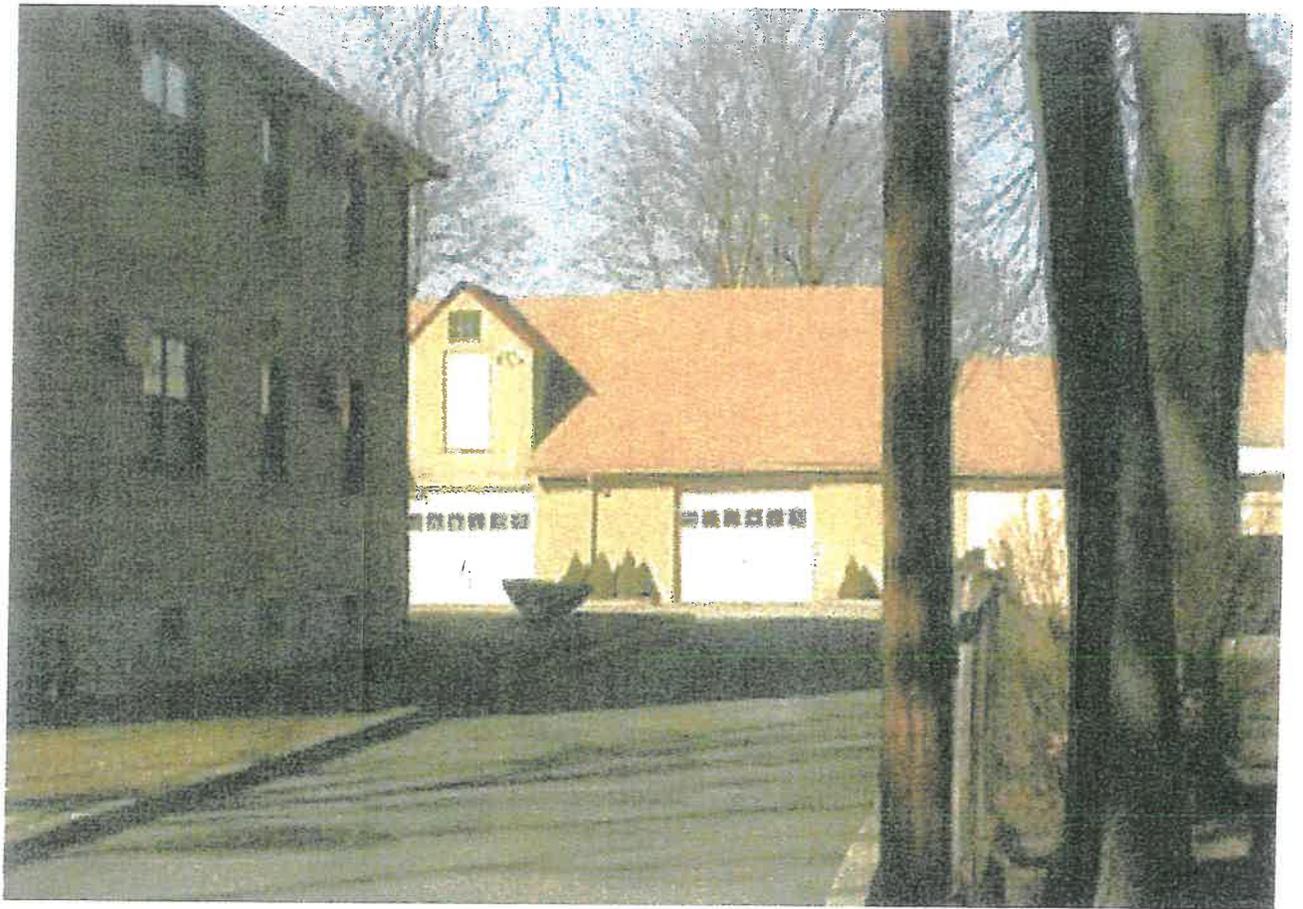
Assuming the Board’s hearing occurs on September 11, 2017, the parties will file a joint report of the Board’s decision or other action with the court not later than September 13, 2017, which report may be submitted by email. If the Board is unable to complete the public hearing and reach a decision at its first session

on September 11th, it will continue the hearing at its next scheduled meeting on October 2, 2017, and the parties will file a second joint report with the court by October 4, 2017, which also may be by email.

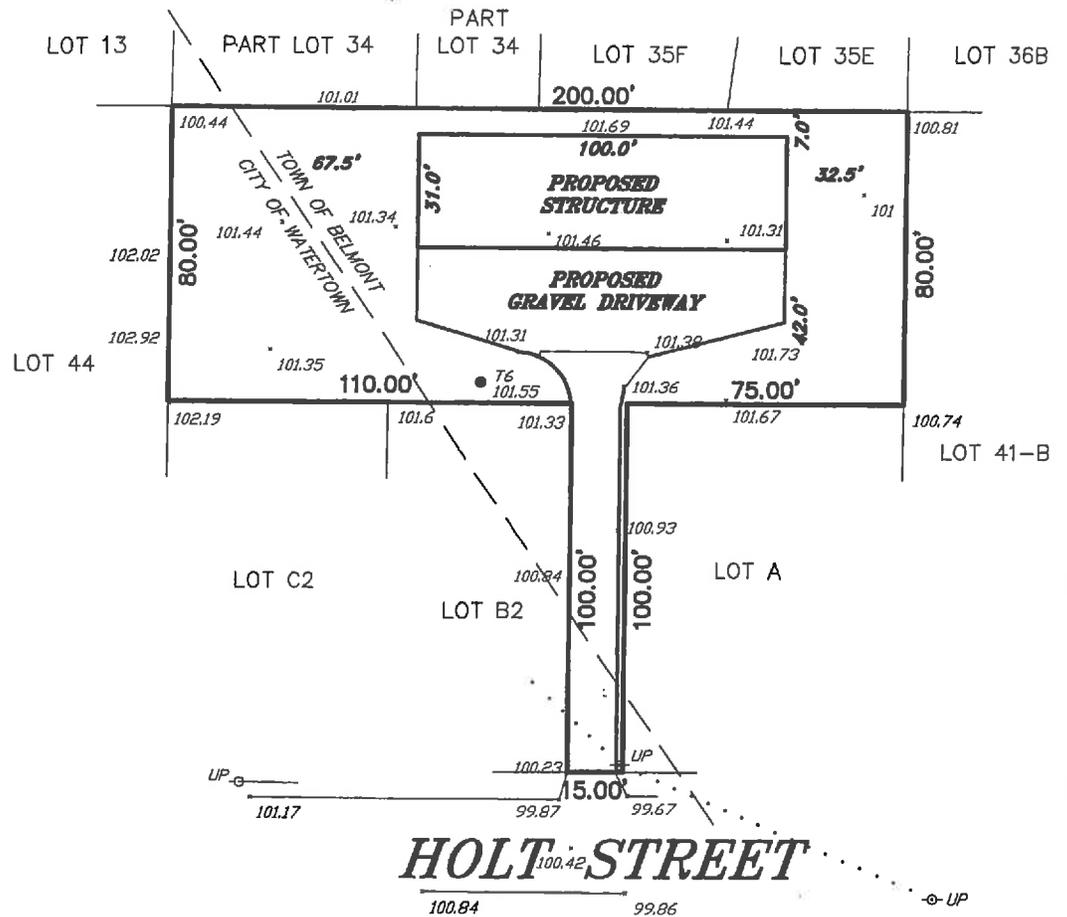
In the event the board, after hearing, does not approve Plaintiff's reduced project, the Board, through counsel, will participate with Plaintiff in the drafting and filing of a joint pre-trial conference memorandum in accordance with an order which will issue from the court setting the time and date for the conference and the requirements for such memorandum..” (Scheier, J.)

Very Truly Yours,


Jennifer Noonan
Sessions Clerk
617-788-7513





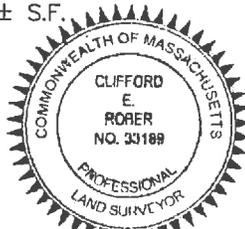


ZONING DISTRICT:	GR (GENERAL RESIDENCE)		
FRONT SETBACK:	REQ. 20'	EXISTING -	PROP. 142.0'
SIDE SETBACK:	10'	-	32.5'
REAR SETBACK:	12'	-	7.0'
MAXIMUM LOT COVERAGE:	30%	-	17.7%
MINIMUM OPEN SPACE:	40%	-	58.6%
LOT FRONTAGE:	50.00'	15.00'	

TOTAL LOT AREA: 17,500± S.F.

LOT D2
 17,500± S.F.(TOTAL)
 13,515± S.F.(BELMONT)
 3,985± S.F.(WATERTOWN)

OWNER: DOMENIC CARBONE
64420/345
 ASSESSORS MAP 28 - PARCEL 30



[Signature]
 CLIFFORD E. ROBER, PLS 8/13/17
 DATE

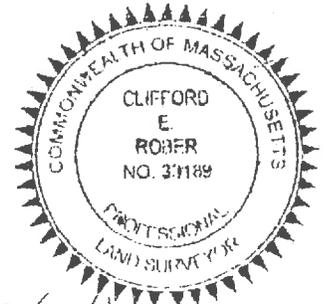
PROPOSED PLOT PLAN
#41R HOLT STREET
 IN
BELMONT, MA
 (MIDDLESEX COUNTY)

SCALE: 1" = 40' REV 8/13/2017 DATE: 7/7/2015



ROBER SURVEY
 1072 MASSACHUSETTS AVENUE
 ARLINGTON, MA 02476
 (781) 648-5533
 DWG. NO. 4206PP3.DWG

Zoning Compliance Check List
Properties Located within the GR Zoning Districts
 (To be Completed by a Registered Land Surveyor)

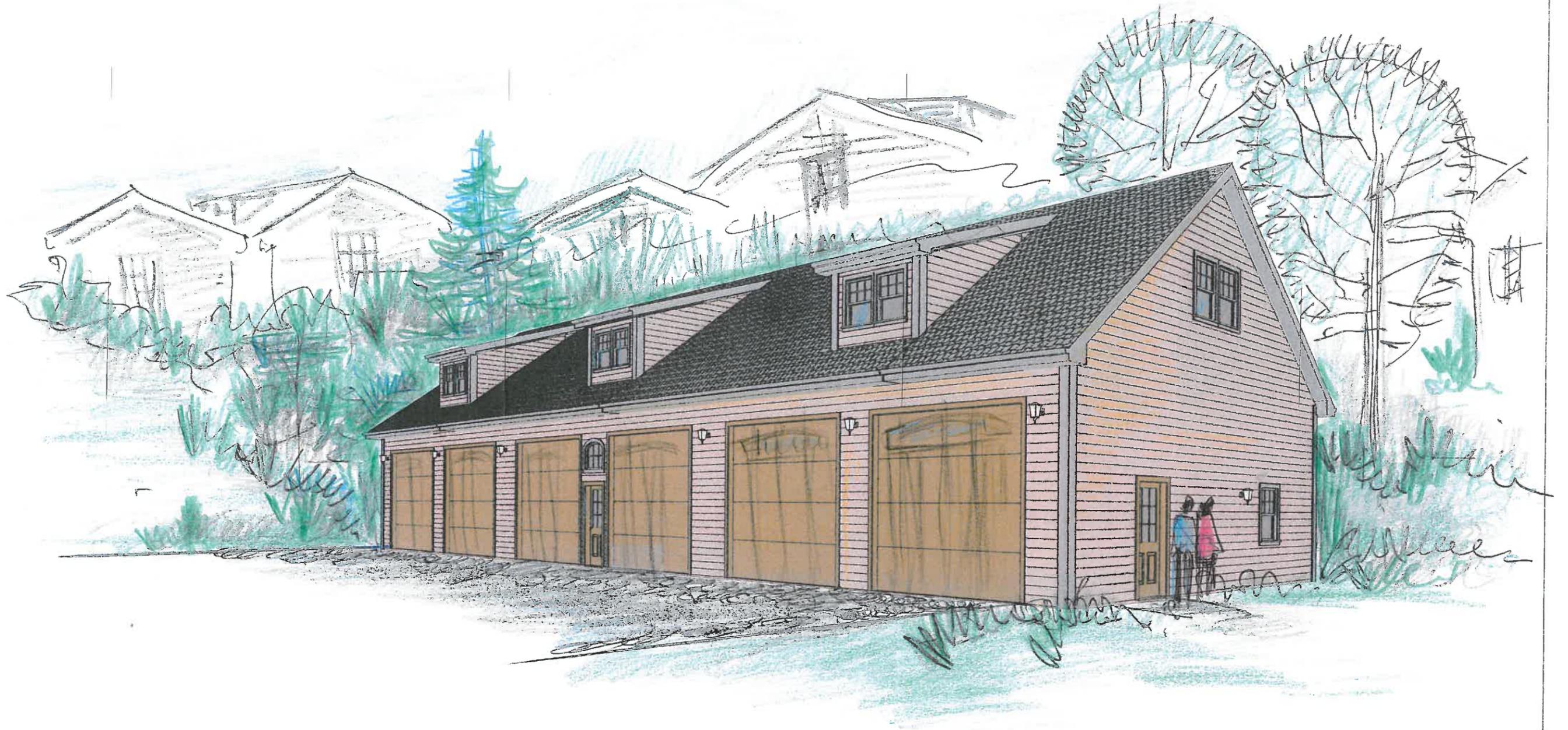


Property Address: 41 R HOLT STREET

Surveyor Signature and Stamp: *Clifford E. Rober* Date: 8/14/17

<u>Per §4.2 of the Zoning By-Laws</u>				
		REQUIRED	EXISTING	PROPOSED
Lot Area (sq. ft.)		5,000	17,500	—
Lot Frontage (feet)		50'	15'	—
Lot Area/Unit (sq. ft./d.u.)				
Lot Coverage (% of lot)		30%	PROR 21.6	17.7
Open Space (% of lot)		40%	PROR 46.4	58.6
Setbacks: (feet)	➤ Front	20		142.0
	➤ Side/Side	10 10		325 67.5
	➤ Rear	12		7.0
Building Height:	➤ Feet			
	➤ Stories			
1/2 Story (feet) (Per §1.4)	➤ Perimeter			
	➤ Area			
	➤ Length			
<u>Per §6D of the Zoning By-Laws</u>				
		REQUIRED	EXISTING	PROPOSED
Front Doors:	➤ Face Street			
	➤ Setback			
Curb Cut				
HVAC:	➤ Front Yard			
	➤ Side/Rear Setbacks			

SUBMIT CALCULATIONS for all of the requirements listed above on a separate piece of paper(s) to verify how they were calculated

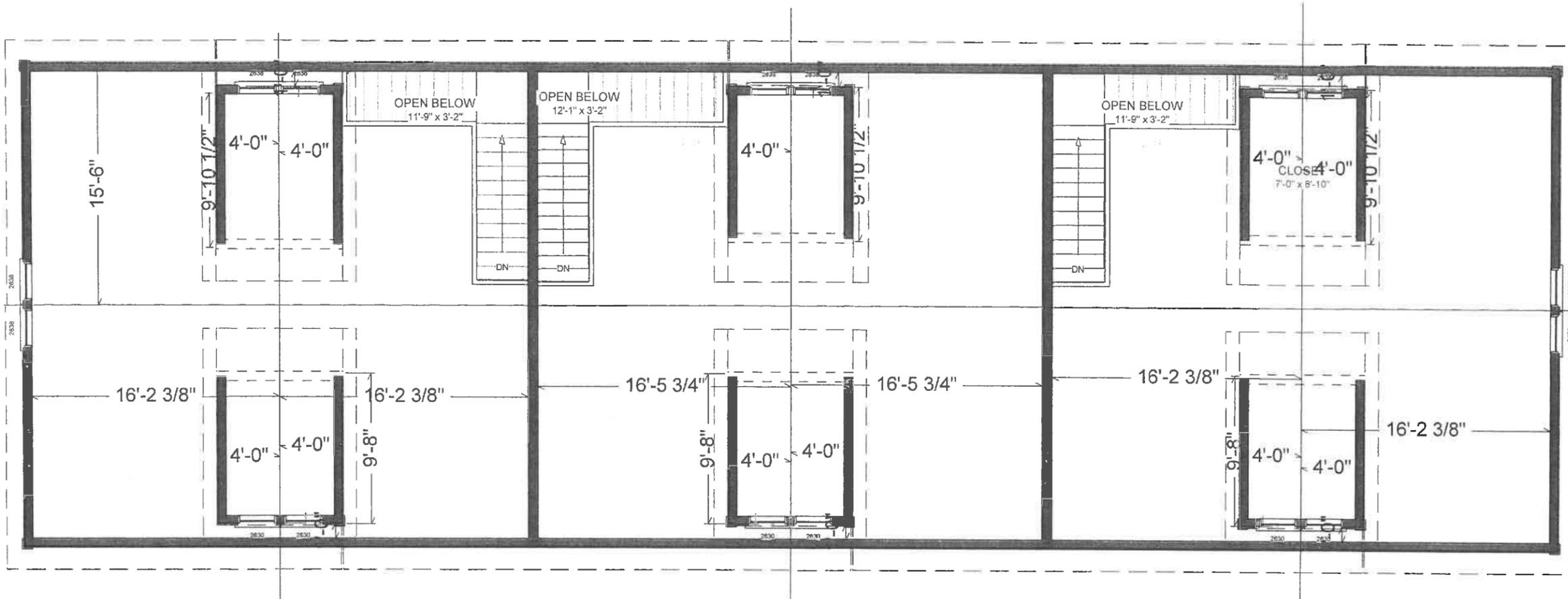


41R HOLT STREET BELMONT MA
FOR ANTHONY L. CARBONE

NORDESIGN & BUILD LLC ARCHITECTS
21 HOUGH ROAD BELMONT MA 02478 617-283-5299

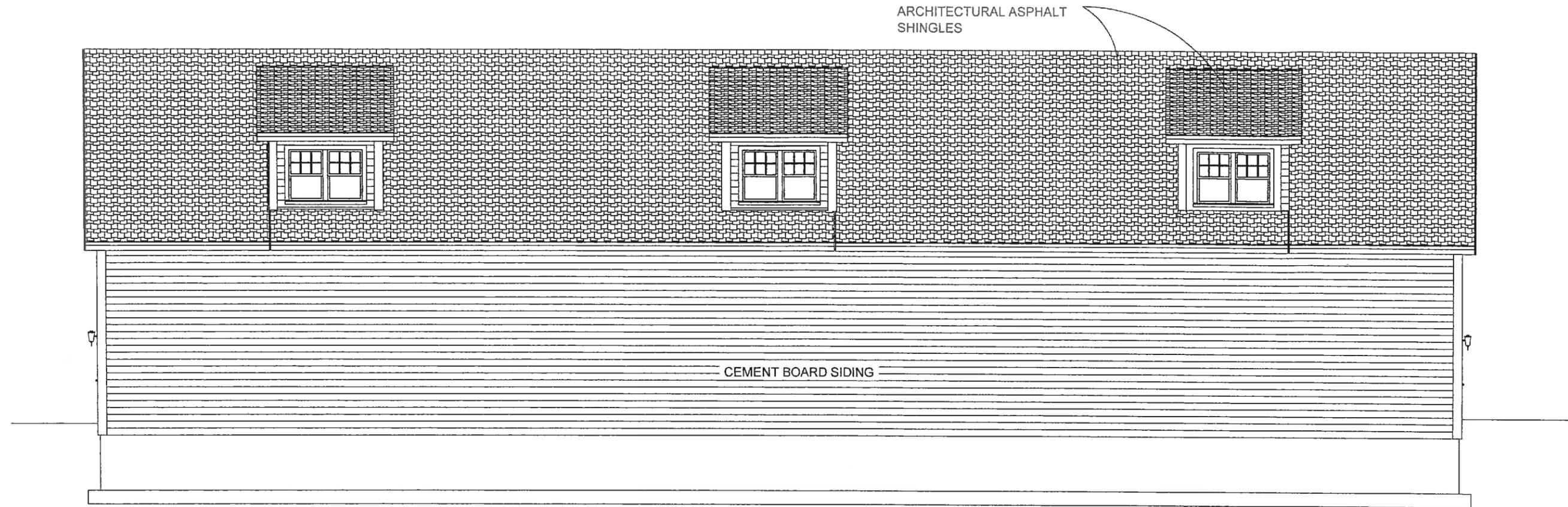
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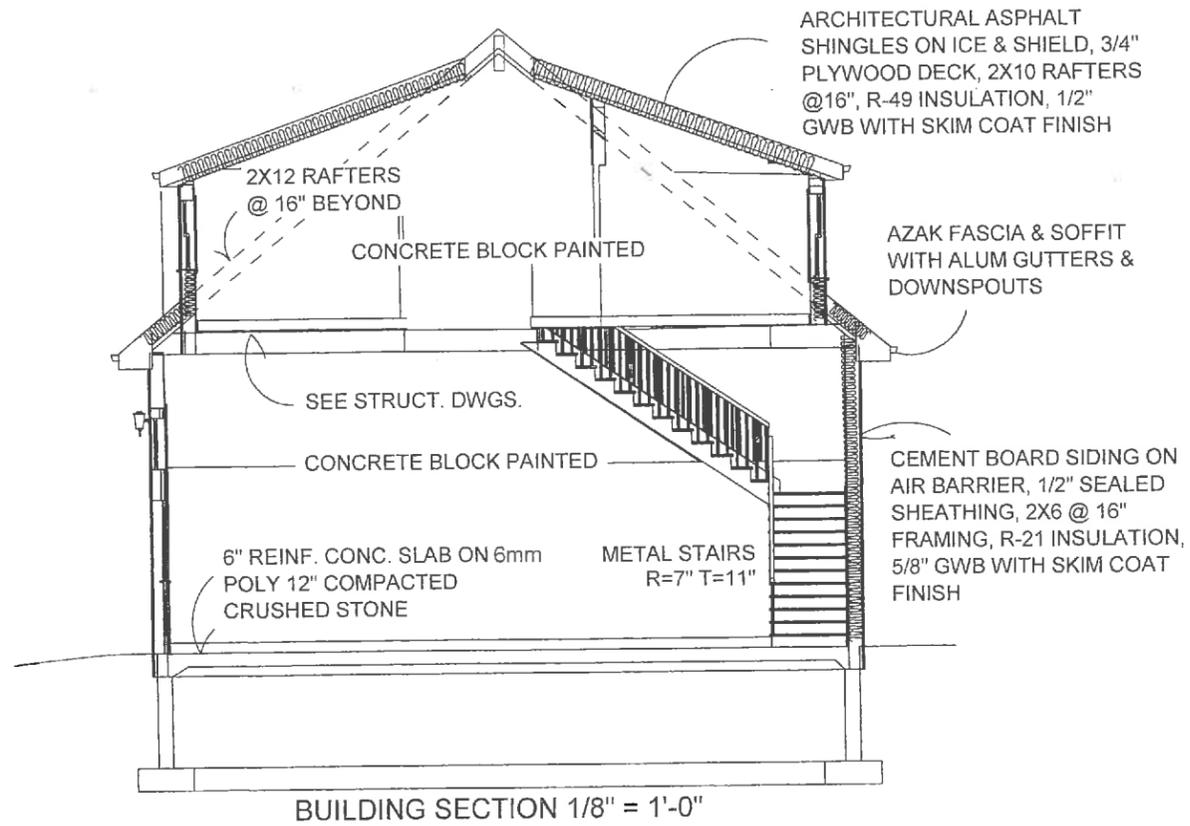
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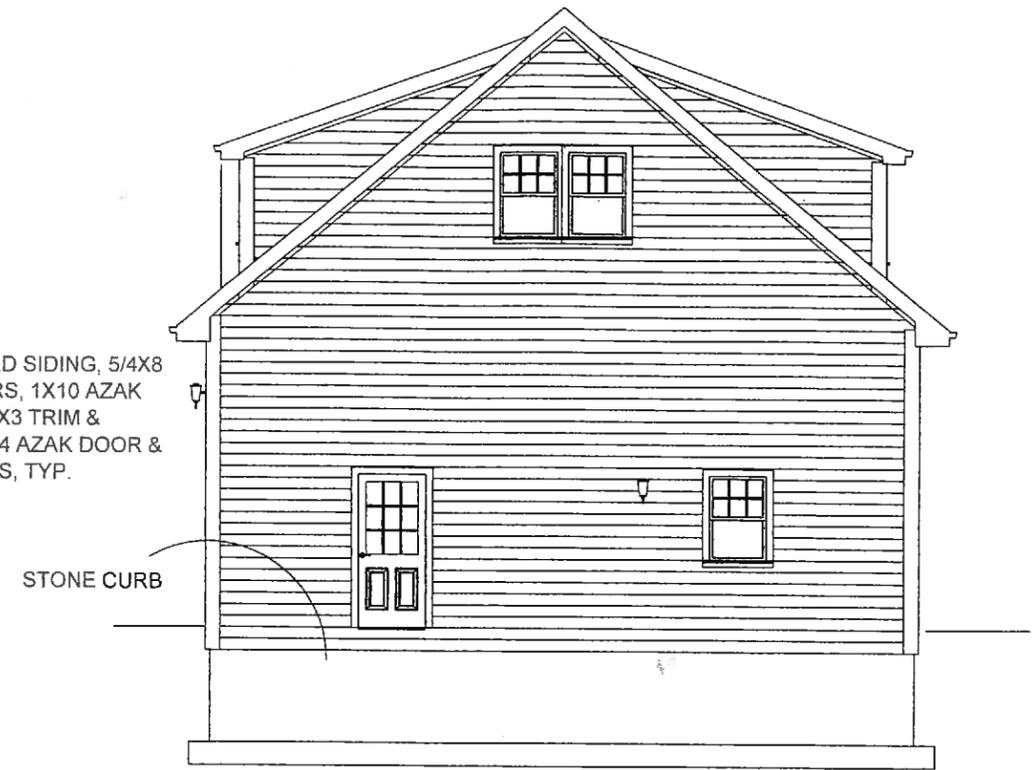


ARCHITECTURAL ASPHALT SHINGLES FOR ROOFS
 CEMENT BOARD SIDING WITH 5/4X8 CORNER BOARDS
 5/4X4 DOOR & WINDOW TRIMS
 5/4X8 FIREZE AT EAVES
 10" STONE CURB AT BASE OF BUILDING
 ALL DOORS STAINED





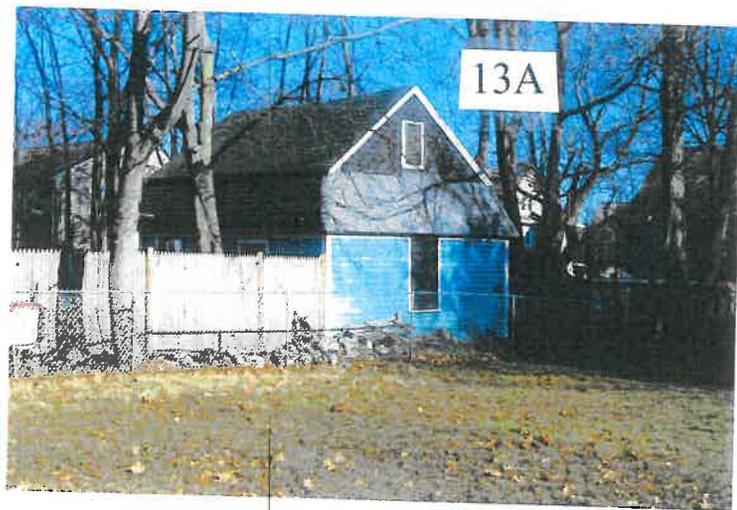
CEMENT BOARD SIDING, 5/4X8 CORNER BOARDS, 1X10 AZAK RAKES WITH 1X3 TRIM & MOLDING, 5/4X4 AZAK DOOR & WINDOW TRIMS, TYP.



EAST ELEVATION,
WEST ELEVATION IS
OPPOSITE HANDED



4/6



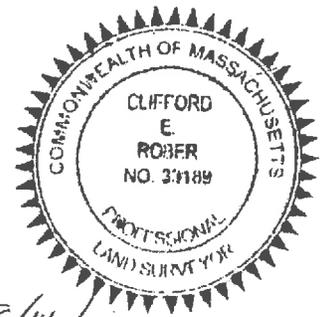


6/6



EAST END OF LOCUS LOOKING EAST

Zoning Compliance Check List
Properties Located within the GR Zoning Districts
 (To be Completed by a Registered Land Surveyor)



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Surveyor Signature and Stamp: *Clifford E. Robber*

Date: 8/14/17

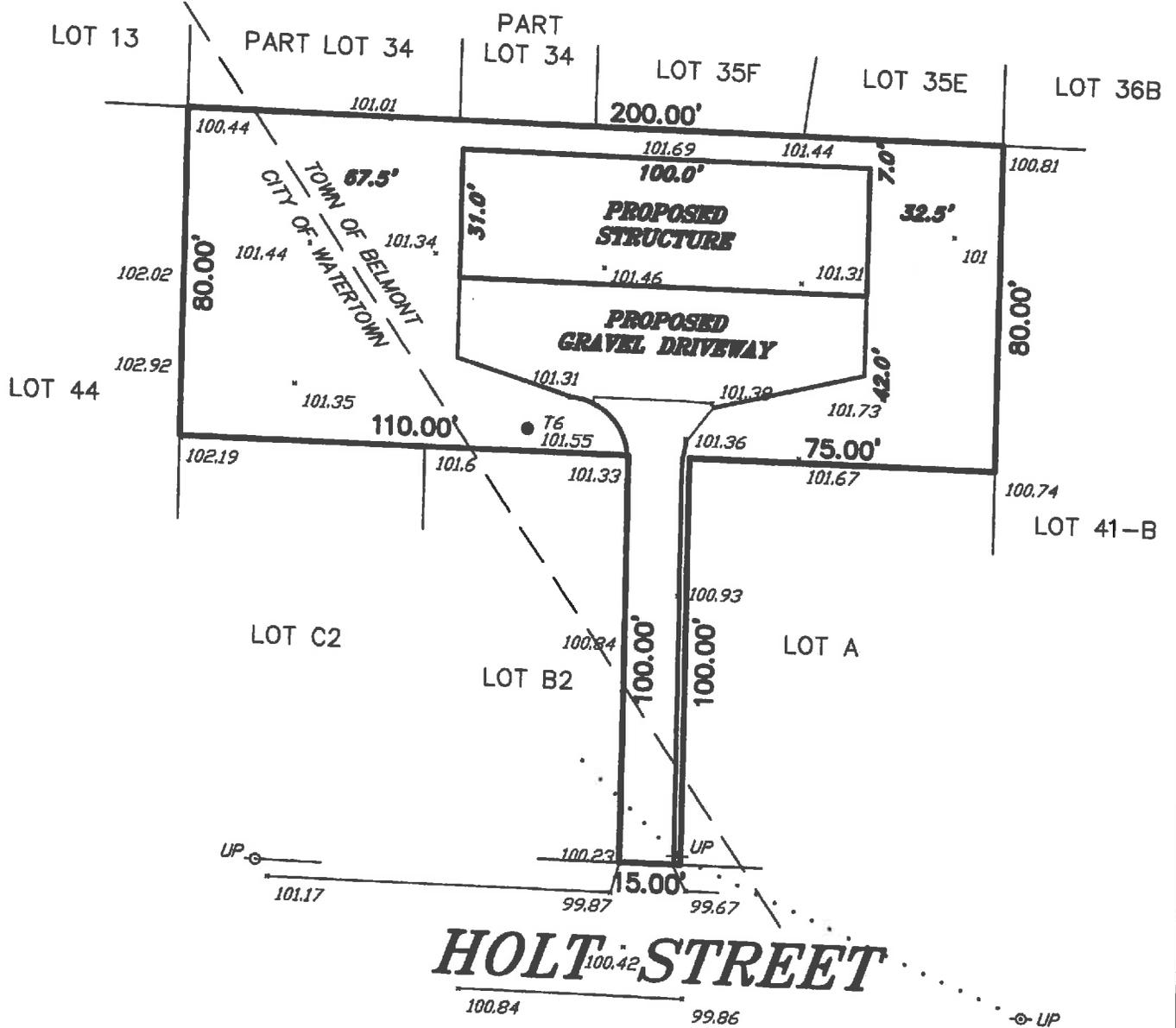
Per §4.2 of the Zoning By-Laws

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Building Height:	➤ Feet			
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1/2 Story (feet) (Per §1.4)	➤ Perimeter			
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Per §6D of the Zoning By-Laws

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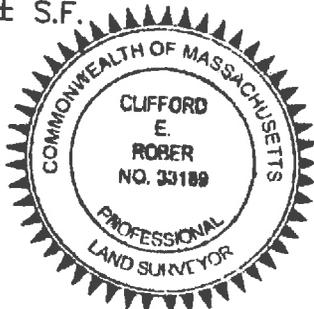
LOT D2

17,500± S.F.(TOTAL)
 13,515± S.F.(BELMONT)
 3,985± S.F.(WATERTOWN)

ZONING DISTRICT:	GR (GENERAL RESIDENCE)		
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LOT FRONTAGE:	50.00'	15.00'	

OWNER: DOMENIC CARBONE
64420/345
 ASSESSORS MAP 28 - PARCEL 30

TOTAL LOT AREA: 17,500± S.F.



[Signature]
CLIFFORD E. ROBER, PLS **8/13/17**
 DATE

**PROPOSED PLOT PLAN
 #41R HOLT STREET
 IN
 BELMONT, MA
 (MIDDLESEX COUNTY)**

SCALE: 1" = 40' REV 8/13/2017
 DATE: 7/7/2015

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