

Town of Boston

Zoning Board of Appeals



Town Hall
Phone: (716) 941-6113

8500 Boston State Road
Boston, New York 14025

Zoning Board of Appeals AGENDA Thursday, January 5, 2023 7:00 PM

1. Work Session – Planning Board Room
2. Call Meeting to Order – Town Court Room
3. Pledge of Allegiance
4. ZBA Responsibility Reading
5. Minutes
6. Public Hearing
7. New Business
8. Old Business
9. Motion to adjourn

The ZBA will meet at the Town of Boston Town Hall on **Thursday, January 5, 2023 at 7:00 PM** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions:

Petition #607 – Michael Monin of 6440 Hillcroft Drive, Boston, seeking a 596 sqft Area variance for a gazebo and cabana. Exceeds limits on obstructions in required open space. Violates Town Code 123-136b(4).

TO: ZBA Chairman and Board members
FROM: Sarah desJardins, Planning Consultant
RE: January 5, 2023 ZBA petitions

Chairman and Board members:

Regarding Petition #607, Michael Monin, 6440 Hillcroft Drive, the applicant is seeking an area variance to construct a gazebo and cabana that would be 596 sq.ft. larger than what is allowed.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Respectfully submitted,
Sarah desJardins, Planning Consultant

Zoning Board of Appeals
Meeting minutes – 10.06.2022_draft

Attendees: Lisa Rood, Beth Pryor, Dave May, Robert Ballard, Mike Flattery, Tony Rosati, Attorney Kyle Calabrese, Tom Murphy/Code Enforcement Officer

Absent: Kelly Martin/Liaison

1. Work Session – Planning Board – 7pm

2. Call Meeting to Order

Meeting called to order by Ms. Rood at 728pm

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

3. Pledge of Allegiance

Lead by Mr. Flattery

4. ZBA Responsibility Reading

Read by Ms. Pryor

5. Minutes

Minutes from August meeting tabled

6. Public Hearing

Ms. Rood abstained from the first applicant - #602-Brett Borowiec

Public Notice read by Ms. Rood

PUBLIC NOTICE

TOWN OF BOSTON ZONING BOARD OF APPEALS

The ZBA will meet at the Town of Boston Town Hall on **Thursday, October 6, 2022 at 7:00 PM** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions:

Petition #602 – Brett Borowiec, 5932 Old Orchard Dr, requests 30 ft Area Variance per Town of Boston Code Section 123-19C for lot width at the front line.

Petition #603 – Betty Kaiser, 6003 Thornwood Dr #11, requests a 2 ft Area Variance per Town of Boston Code Section 123-135B(1) to erect a 8ft fence.

Petition #604 – Chester D Wojcik, 7677 Lower East Hill Road, requests a 7 ft Area Variance per Town of Boston Code Section 123-136B(2) for an 18x28ft Pole Barn.

Petition #605 – Nancy T Connor, 7493 Crestwood Circle, requests a 15 ft Area Variance per Town of Boston Code Section 123-51B(2) for a new 21x24 detached garage.

Petition #602 – Brett Borowiec, 5932 Old Orchard Dr, requests 30 ft Area Variance per Town of Boston Code Section 123-19C for lot width at the front line.

Mr. Boroweic – Mr. Frank Lazareth present for the applicant
Re-opened public hearing from the July meeting with changes.

ROLL CALL

Ms. Pryor

Mr. Flattery

Mr. May

Mr. Ballard

Ms. Rood

Ms. Pryor to chair this petition since Ms. Rood abstained. Ms. Pryor mentioned how the property was supposed to 50.39ft to 30ft. RESPONSE: Mr. Lazareth spoke about the proposed location.

Talked about a photo provided by the applicant regarding the frontage. The bank must approve the parceling of the property. They did not want the driveway on the adjourned property. This would now give 75ft of frontage. Ms. Pryor commented on how the bank is driving it from 100ft.

RESPONSE: Yes, the bank played a part in the decision. Ms. Pryor talked about the neighbor with the driveway. Ms. Pryor mentioned a list of neighbors but the parent, Stephen, was not listed.

RESPONSE: the applicant owns the property to the parent's property. Mr. Flattery asked if the parent was ok with this idea. RESPONSE: Yes.

Mr. Flattery discussed about the property and why is a variance needed. RESPONSE from Mr. Lazareth and how the applicant wants to have the option to sell the property in the future. Ms. Pryor asked if the applicant could sell the property and Ms. Rood commented and Mr. Lazareth commented about the property.

Ms. Pryor asked if anyone was residing in the one home. RESPONSE: No.

Discussion between Ms. Rood, Mr. Flattery and Ms. Pryor. Is the applicant looking to sell soon?

RESPONSE: No.

Mr. Lazareth can provide further on the survey for the board members.

Code Enforcement Officer Murphy spoke to the board about the type of variances. It is easier for this applicant to get an area variance rather than a use variance.

Mr. Lazareth talked about the 100ft and the bank. The applicant would then need an easement.

The biggest issue is that the bank needs to approve the parcel. Further discussion about surveying the property. Any type of easement would then need to be approved by the bank.

Ms. Pryor asked if an easement was an option with the bank? RESPONSE: No.

Ms. Rood asked questions about the property. RESPONSE: Trying to parcel the property to become a residence.

Any other questions? Mr. Ballard asked about the other properties in the area. Code Enforcement Officer Murphy could get some info. There are several that don't have 100ft frontage. Mr. Flattery suggested to table this so could hear from the immediate property owner, parent of the applicant, Stephen Boroweic. Mr. Lazareth asked if this could be tabled until the end of the meeting to allow time to contact Mr. Stephen Boroweic and have him come to the meeting.

Motion to table until the end of the meeting.

1st by Mr. Flattery

2nd by Ms. Pryor

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood - abstained

Petition #603 – Betty Kaiser, 6003 Thornwood Dr #11, requests a 2 ft Area Variance per Town of Boston Code Section 123-135B(1) to erect a 8ft fence.
SEQR letter read by Ms. Rood.

Open public hearing

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood

Ms. Kaiser/applicant spoke to the board. Project is to erect a fence that is a foot 8ft tall and the 2nd section would drop down for aesthetics. Neighbor built a patio without permission from the association. When the applicant is on their own patio, it is not pleasant.

Ms. Pryor confirmed that 8ft fence is being asked. Applicant provided photo to the board members from her phone. (photo not provided for the file). Ms. Kaiser talked about the neighbor and her property. Ms. Pryor asked what the association is doing again. RESPONSE: They are paying for half the cost of the fence. Ms. Rood asked if the association could have the neighbor take the patio down. RESPONSE: Anything done to the property owned, must go through the association but there are no consequences. Mr. Ballard commented on how the association has already given approval. Mr. Flattery advised that this fence can get approved. Ms. Rood suggested to table this petition to allow the applicant to talk to the association first to avoid paying for a fence. Then put an official complaint with the Code Enforcement Officer. Mr. Ballard asked if a vote would still be made? Ms. Rood commented that this can be tabled.

Motion to table this petition so applicant can do more research and do a second tact.

1st by Ms. Rood
2nd by Mr. Ballard
ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood

Motion made by Ms. Rood to re-open Petition #602-Borowiec
2nd by Ms. Pryor

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood

Mr. Steve Borowiec spoke to the board – parent of the applicant/Brett Borowiec.
Mr. Flattery asked if it was ok for his son to parcel off the land? RESPONSE: Yes. Pretty sure can come to an agreement for anything in the future. There is not enough frontage and needed the variance to get shorter frontage. Mr. Flattery showed Mr. Steve Borowiec the photo provided. Mr. Flattery has told Brett Borowiec and Frank Lazareth about making the property 100ft and how he could have an issue down the road. Mr. Flattery talks about easements and right of away. Ms. Pryor brought up how the bank will not allow an easement. Further discussion from Mr. Steve Borowiec about possibilities in the future.
Any other questions? None

Motion made to close this petition by Ms. Rood

ROLL CALL
Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood

Motion made by Ms. Pryor to approve variance for petition #602
2nd Mr. May

Approve x Deny _____ Reserve Decision _____
Table _____ Time Frame _____

Conditions to approval:

- (1) Does it create an **undesirable change to the character of the neighborhood?**
Yes [] No [x]
- (2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted?**
Yes [] No [x]
- (3) Is the requested variance **substantial?** Yes [x] No []
- (4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood?** Yes [] No [x]
- (5) Is the alleged difficulty **self-created?** Yes [x] No []

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood - abstained

APPROVED

Petition #604 – Chester D Wojcik, 7677 Lower East Hill Road, requests a 7 ft Area Variance per Town of Boston Code Section 123-136B(2) for an 18x28ft Pole Barn.

SEQR letter read by Ms. Rood.

Motion to open public hearing made by Ms. Rood

2nd by Ms. Pryor

ROLL CALL

- Ms. Pryor
- Mr. Flattery
- Mr. May
- Mr. Ballard
- Ms. Rood

Applicant/Mr. Wojcik spoke to the board. Barn that is there now will be torn down and then will put up a pole barn. Current building is 3ft from property line now. Will move it back to the required 10ft amount and put a pole barn up, basically the same size as what is there now. Can't move due to the septic system. Ms. Rood read a letter from the applicant for the minutes.

Ms. Pryor asked if he spoke with any neighbors. RESPONSE: The neighbor sent an email – Jerry Neidermeyer. Nothing found at the time of the meeting. Neighbor to help tear down the old building/barn.

Mr. Rosati confirmed no issues with the neighbor. RESPONSE: correct

Motion to close public hearing made by Ms. Rood

2nd by Mr. Flattery

ROLL CALL

- Ms. Pryor
- Mr. Flattery
- Mr. May
- Mr. Ballard
- Ms. Rood

Motion MADE to approve made by Ms. Rood

2nd Mr. Flattery

Approve x Deny _____ Reserve Decision _____

Table _____ Time Frame _____

Conditions to approval:

- (1) Does it create an **undesirable change to the character of the neighborhood**?
Yes [] No [x]
- (2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted**?
Yes [] No [x]
- (3) Is the requested variance **substantial**? Yes [] No [x]
- (4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood**? Yes [] No [x]
- (5) Is the alleged difficulty **self-created**? Yes [x] No []

ROLL CALL

- Ms. Pryor
- Mr. Flattery
- Mr. May
- Mr. Ballard
- Ms. Rood

APPROVED

Petition #605 – Nancy T Connor, 7493 Crestwood Circle, requests a 15 ft Area Variance per Town of Boston Code Section 123-51B(2) for a new 21x24 detached garage.

- SEQR letter read by Ms. Rood
- MOTION to open public hearing made by Ms. Rood
- 2nd by Mr. May
- ROLL CALL

- Ms. Pryor
- Mr. Flattery
- Mr. May
- Mr. Ballard
- Ms. Rood

Ms. Rood read letters from neighbors for the meeting with no problems with this request. Ms. Rood commented that this was discussed during the Work Session. The lot is the only one that is R-A. Suggestion to ask for a re-zoning. Code Enforcement Officer Murphy said it would take several months to get approved. Ms. Connor talked about how the current garage is dangerous and falling down. Contract is anxious to get this torn down and start building. Mr. Flattery asked who the contractor was. RESPONSE: ACM from Derby/Irving. Ms. Rood read applicant letter for the minutes. Ms. Pryor asked why to she wants to move it over. REPOSENSE: Ms. Connor talked about the reason why regarding the parking of vehicles. Can't utilize the door to the current garage. If shifted, can utilize it better. Ms. Rood asked about the neighbor next door and if was ok with this request. RESPONSE: the neighbor would not have an issue. Mr. Ballard asked if there is still access on the other side of the building. RESPONSE: Yes, there is plenty of room.

- Motion to close the public hearing made by Ms. Rood
- 2nd by Flattery
- ROLL CALL

- Ms. Pryor
- Mr. Flattery
- Mr. May
- Mr. Ballard
- Ms. Rood

- Motion to approve made by Ms. Pryor
- 2nd by Mr. Flattery
- Approve** x **Deny** **Reserve Decision**
- Table** **Time Frame**

Conditions to approval:

- (1) Does it create an **undesirable change to the character of the neighborhood?**
Yes [] No [x]

- (2) **Can the benefit** sought by the applicant **be achieved if the variance is not granted?**
Yes [] No [x]
- (3) Is the requested variance **substantial?** Yes [] No [x]
- (4) Will the variance have an **adverse effect on the physical impact or environmental conditions of the neighborhood?** Yes [] No [x]
- (5) Is the alleged difficulty **self-created?** Yes [] No [X]

ROLL CALL

Ms. Pryor
Mr. Flattery
Mr. May
Mr. Ballard
Ms. Rood

APPROVED

Motion to close the public hearing made by Ms. Pryor

7. New Business
None

8. Old Business
None

9. Motion to adjourn.
Motion made to adjourn the meeting by Ms. Rood
2nd by Ms. Pryor

TO: ZBA Chairman and Board members

FROM: Sarah desJardins, Planning Consultant

RE: October 6, 2022 ZBA petitions

Chairman and Board members:

Regarding **Petition #602**, Brett Borowiec, the applicant is requesting an area variance to allow a new lot to be created that has 30 less feet of width at the front line that what is required.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Regarding **Petition #603** Betty Kaiser, the applicant is requesting an area variance to allow the construction of a fence that would be two (2) feet higher than what is allowed.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Regarding **Petition #604** Chester D Wojcik, the applicant proposes to construct a pole barn that would be seven (7) feet closer to a side yard than what is required.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Regarding **Petition #605**, Nancy Conner, the applicant is requesting an area variance to allow the construct of a new detached garage that would be 15 feet too close to a side property line that what is required.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Respectfully submitted, Sarah desJardins, Planning Consultant

Zoning Board of Appeals
Meeting minutes – 08.04.2022 – draft

Attendees: Beth Pryor, Dave May, Robert Ballard, Mike Flattery, Tony Rosati, Attorney Kyle Calabrese,
Tom Murphy/Code Enforcement Officer

Absent: Kelly Martin/Liaison and Lisa Rood

1. Work Session – Planning Board – 7pm

2. Call Meeting to Order

Meeting called to order by Ms. Pryor at 7:28pm

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

ALL PRESENT

3. Pledge of Allegiance – Lead by Mr. Flattery

4. ZBA Responsibility Reading – Read by Ms. Pryor

5. Minutes

Ms. Pryor advised a correction needed for the July minutes. Corrections needed regarding Use variance for petition #598 /Po-Chedley

Motion to accept by Mr. Flattery

2nd by Mr. Ballard

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

APPROVED

6. Public hearings

Public Notice Read by Ms. Pryor.

PUBLIC NOTICE TOWN OF BOSTON ZONING BOARD OF APPEALS

The ZBA will meet at the Town of Boston Town Hall on Thursday, August 4, 2022 at 7:00 PM for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions: Tabled Petition #598 – Evan & Jessie Po-Chedley, 6304 Patchin Rd, requests a Use Variance for an accessory apartment to an existing detached building. Petition #601 – Joseph A Cocina Jr, 9924 Boston State Rd, requests Use Variance per Town of Boston Code Section 123-48 and 123-25, to convert a farm building to an accessory building for an automotive repair shop. Petition #602 – Brett Borowiec, 5932 Old Orchard Dr, requests 50.39 ft Area Variance per Town of Boston Code Section 123-19C for lot width at the front line.

SEQR letter read by Ms. Pryor:

TO: ZBA Chairman and Board members

FROM: Sarah desJardins, Planning Consultant

RE: August 4, 2022 ZBA petitions

Chairman and Board members:

Regarding Petition # 598 Evan & Jessie Po-Chedley, the applicants are requesting a Use Variance to allow an accessory apartment and a principal dwelling to be located on the same parcel.

In order to satisfy the first use variance criterion, the applicants must prove with competent financial evidence that they cannot realize a reasonable rate of return on the parcel on which they want to have the accessory apartment without the granting of the use variance. If the Board feels the use variance should be granted, a Negative Declaration must be issued before the use variance is approved (it is classified as an Unlisted Action under SEQR).

Regarding Petition # 601 Joseph A Cocina Jr., the applicant is requesting a Use Variance to allow an automotive repair shop in the R-A district, which is not a permitted use and why a use variance is required. In order to satisfy the first use variance criterion, the applicant must prove with competent financial evidence that he cannot realize a reasonable rate of return on the parcel on which he wants to operate the automotive repair business without the granting of the use variance. If the Board feels the use variance should be granted, a Negative Declaration must be issued before the use variance is approved (it is classified as an Unlisted Action under SEQR).

Regarding Petition #602 Brett Borowiec, the applicant is requesting an area variance to allow a building lot to have less width at the front line than what is required. If this area variance is approved, the two-lot subdivision will have to be approved by the Planning Board.

The proposed Action under SEQR is classified as a Type II Action and therefore is not subject to review under SEQR.

Respectfully submitted, Sarah desJardins, Planning Consultant

Ms. Pryor re-opened petition #598 – Po Chedley

Tabled Petition #598 – Evan & Jessie Po-Chedley, 6304 Patchin Rd, requests a Use Variance for an accessory apartment to an existing detached building.

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

Mr. Evan Po Chedly spoke to the board. Explained: It is his burden and will not substantially impact the zone ordinance. Reasonable return – purchased the property about 4 years ago and should have an annually return of 10.6%. Vest over \$160k and will not be able to get \$706k.

Unique hardship – 404 ft long driveway – believes is a R2 zone in the front – Single family residence. Would allow cluster housing. The use variance is about 10ft from the line. 10 acres of land and most is Agricultural - RA agriculture district. Most is part of that zone. Has not been used for this. There is a pond in the middle of the farmers field. The maintenance bill of land and large footprint – substantial portion of the neighborhood. All creates a unique hardship. Character of the neighborhood. The use will not...of the neighborhood. Talked about hardship – shape or ... it is not . (additional info avail on recording). Not looking to make more money on the property but for their son who is disabled and will need a place to stay. Some uses have been beneficial.

The granting of the variance would....

Pros variance will not
Will not substantially increase hazards
Will not demish the neighborhood
Beneficial – would be the opposite.

Mr. Flattery asked if their son is young. REPONSE: Yes. Mr. Flattery asked: Are you trying to rent out first and then when son comes of age, will have son live in the apartment? RESPONSE: Was not the original intent. Mr Rosati talked about Use variance. Per NYS, all 4 criteria must be met. Mentioned that part of the property is R2 and to that extent, may petition to the Town Board about rezoning. Mr. Po Chedley said he was told that it would be much bigger to go into rezoning. Mr. Flattery asked who told him that? RESPONSE: neighbor who is a land use attorney.

Ms. Pryor says this is not enough to meet the 4 standards for the Use variance. Recommendation: to consult an attorney. RESPONSE: Rezone? Yes.

Anything else? RESPONSE – it would be beneficial for the town and myself, not sure what is missing, did not get through everything (from attorney).

Ms. Pryor asked where is it being read? RESPONSE from a law office. Ms. Pryor mentioned that the Board has the 4 areas of criteria that needs to be met. Zillow is not an acceptable form of assessment. It was asked if this will be on the agenda again next month? Ms. Pryor mentioned that it can be.

Mr. Rosati talked about the average type of return and evaluating the property. Mr. Flattery commented: We cannot say yes with what they have in front of them. Mr. Rosati commented that it is not going to impact neighborhood. Mr. Flattery: not changing neighborhood – not self-created

Ms. Pryor: competent of evidence, application with info from a banker. Mr. Flattery: need an assessed value of home, better than Zillow. Mr. Ballard talked about payment for the property and what it is worth now – substantially more. Mr. Flattery and Mr. Ballard mentioned: supposed to be negative
Ms. Pryor suggested: have it appraised, not based on what was put in. From the attorney: evidence that needs to be presented, like pictures. Mr. Rosati gave a suggestion on how to see how property is valued. This would help build the case. More objective 3rd party.

Any other questions?

Ms. Pryor made a motion to close public hearing

2nd by Mr. Flattery

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

Motion made to table by Mr. Flattery

2ND by Ms. Pryor

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

Approved

Petition #601 – Joseph A Cocina Jr, 9924 Boston State Rd, requests Use Variance per Town of Boston Code Section 123-48 and 123-25, to convert a farm building to an accessory building for an automotive repair shop.

Motion to open petition #601 made by Ms. Pryor

Applicant/Mr. Joe Cocina spoke to the board. Son, Chris also present. Property was purchased in 1993. Working dairy farm. Use for concrete business. With listening to the criteria, now does not feel a Use variance fits. It does not create any hardship. It is already written in the Trust for the son.

Requesting a variance to become a registered repair shop. The hardship, it is his(son's) income for the rest of his life. No physical change. Nothing changed in the last 28 years. Has signed signatures for approval. Taking a section of the shop and creating a work area. Would always remain small. Not becoming a problem to the neighbors. Don't care to change zoning. Seems request more fits as an area variance. Has 33 acres. In the Trust, it will remain as farm land. Mr. Richard Pullman looked at the property; is unique. On boarder of Boston and Concord. Will not have an impact on traffic. Would be by appointment only. The community needs this. An asset to the community. The neighbors are in favor with this. This would be a benefit. The use would benefit the applicant and community.

Any questions from the board?

Applicant commented: Self-created, Yes and not self-created since lost job. It would be impossible to find a facility to do what they need. Mr. Ballard: talked about zoning. It was just brought to the Board's attention that it is prohibited to have a mixed used property: Part is housing. It would need to be separate from the housing then that portion would have to be commercial.

Ms. Pryor discussed two things in violation – article 23. Mr. Ballard: This was brought to the Board's attention today. Been that way for years but it is in writing that you cannot have the mixed use on the same property. Mr. Flattery commented about the Commercial and would be C2.

Code Enforcement Officer Murphy talked about first: zone district for mechanics is C2. Ms. Pryor: read several letters from neighbors (for the minutes). Mr. Rosati talked about the commercial zoning; no accessory apartments will be permitted. RESPONSE: need surveyed off the property? Mr. Rosati commented: needs to be split. RESPONSE: Could not apply on just one building. Ms. Pryor commented: goes with all the property? RESPONSE: If they go the route of re-deeding, using common driveways, how is it viewed? Mr. Rosati gave a response. Have some capability to have easy access to the road. RESPONSE: Can visualize that. This was a working dairy farm and there is no way to separate the one building. Mr. Ballard advised: Need the living quarters off the property. RESPONSE: Everyone is going to use the commercial driveway. Way to approach? Mr. Flattery suggested: remove tenants.

Code Enforcement Officer Murphy commented: He would need to go thru the Planning Board. Will need to contact Ms. DeJardins/Planning Board Consultant. RESPONSE: Ok to contact Ms. DeJardins?

RESPONSE: yes. Mr. Ballard commented: What the Board has in front of them is not acceptable.

Ms. Pryor advised that this should take a month or so. Mr. Ballard asked if this should be tabled.

Code Enforcement Officer Murphy will collect info to give direction to the applicant.

Ms. Pryor wants to table.

Motion to made to close public hearing by Ms. Pryor

2nd by Mr. Flattery

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

Motion to table petition #601 made by Mr. May

2nd by Ms. Pryor

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

APPROVED

Petition #602 – Brett Borowiec, 5932 Old Orchard Dr, requests 50.39 ft Area Variance per Town of Boston Code Section 123-19C for lot width at the front line.

Ms. Pryor opened the public hearing

Ms. Pryor made a note about a letter from bank. (Read for minutes).

Ms. Pryor read letter with several signatures from neighbors (read for minutes)

Applicant/Brett Borowiec requesting a variance. When property was purchased, had to pull permits for the purchase at an address. Had spoken with the previous COE/Bill Ferguson. Family member was residing at property. Hardship: was supposed to be its own entity. Trying alleviate an issue. Shares a driveway. There is no more traffic – someone was already living there. Mr. Rosati: One of the items, with looking at the diagrams, the 49.61 frontage could be expanded a little more. If the line was moved over, could change from 50ft variance to 25 or possibly to zero. Mr. Flattery advised to move the line to the driveway. RESPONSE: Contractor present, Mr. Frank Lazarus. Talked about how the drainage ditch is the issue. Mr. Flattery: Why must move anything other than moving the line on paper.

RESPONSE: Didn't know if this would be an issue with the bank. Changing the frontage, this may cause a problem. Mr. Flattery: Won't need their permission if you don't need a variance. Mr. Rosati: Need to talk to someone about the side; may need to do a jog rather than a rectangle. Mr. Ballard: Only comes to be an issue if the property is sold. Would need to approve a sub-division of the property.

Mr. Borowiec: Would this cause an issue? RESPONSE from Mr. Flattery: No. Mr. Rosati: This is already being done. Mr. Ballard: or put in a driveway. Applicant – make it a turn around. Mr. Flattery: Mike – he didn't sign – applicant – didn't bother Dad to sign

Mr. Baker approached the bench to review the plans with the board – Mr. Flattery spoke with Mr. Baker. Applicant, speaking with COE/Murphy. Ms. Pryor asked: what is the minimum that can be worked with? Mr. Rosati suggested: carve off 30 ft from the variance. Ms. Pryor: Need exact survey COE/Murphy commented: when survey is submitted, then can make a comment. Mr. Flattery suggested: get it as close to 100ft then they don't need a variance. Contractor/Lazareth talks about if sold. Then approached the Board to discuss the plans.

Ms. Pryor made motion to close public hearing

Mr. Ballard made motion to table

2nd by Ms. Pryor

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Pryor

APPROVED

7. New business

None

8. Old business

none

9. Motion to Adjourn

Motion to adjourn made by Ms. Pryor at 837pm

2nd by Mr. Ballard

PUBLIC NOTICE
TOWN OF BOSTON
ZONING BOARD OF APPEALS

The ZBA will meet at the Town of Boston Town Hall on **Thursday, January 5, 2023 at 7:00 PM** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petitions:

Petition #607 – Michael Monin of 6440 Hillcroft Drive, Boston, seeking a 596 sqft Area variance for a gazebo and cabana. Exceeds limits on obstructions in required open space. Violates Town Code 123-136b(4).

Jennifer Cavarello, Clerk
Zoning Board of Appeals

Dated: December 19, 2022

Published:

An Equal Opportunity Provider & Employer

APPLICATION FOR PERMIT

Town of Boston; New York

OFFICE USE ONLY

Approved () Disapproved ()

Permit No. _____

Address 6440 HILLCROFT DR

Date Issued _____

Permit Fee _____

Issued By _____

Single Family Dwellings, Farm Buildings,
Accessory Building, Additions

Owner MICHAEL P. MENEN

Address 6440 HILLCROFT DR
BOSTON, NY 14025

Day Phone _____

Eve. _____

Contractor RECHARA R. KNOX, LLC.

Address 241 CANADA ST
HILLCROFT, NY 14080

Day Phone _____

Eve. _____

CONSTRUCTED WITH:

Application is hereby made for permission to: Erect Alter Repair Addition Move

Frame Brick Brick Veneer Tile Stone

Concrete Block Concrete Reinforced Steel Other

To be used as: Single Dwelling Farm Building Barn Solid-Fuel Burning Private Garage Swimming Pool Accessory Buildings (2)

POOL CASANA/WASHROOM

Address of Premises for Which Application is Made:

Section, Block, Lot 241.00-3-39.12 Current Zoning RA

Tax I.D. Number _____

North

South

East

West

Side of HILLCROFT DRIVE, Size of Lot 75', IRREGULAR, 8.43

Street Name Frontage Dept Acreage

Distance of Building from lot lines. Front 625, Rt. Side 60, Lt. Side 262.5, Rear 225

Size of completed (2) Buildings () Addition, feet wide 26/8, feet long 26/10, feet high 15

Sq. Ft. of: Basement _____, First Floor _____, Second Floor _____, Garage _____, Other 756

The estimated value of Structure exclusive of land is \$ _____

Total Square Footage of Lot 367,211 Percentage of Lot Coverage (All Bldgs) 1.5 %

Deed Restrictions NONE

Type of Sewage Disposal SEPTIC (EXISTING)

Type of Water Supply ECWA

NOTE: Approval of proposed system by County Health Dept. must be presented with application.

NOTE: Permit for Driveway Culvert must be presented with this application before Driveway Culvert is installed. Permit must be obtained from the Highway Department having jurisdiction (Town)(County)(State)

Attach Survey bearing the stamp of a licensed survey or engineer showing the location of all buildings with references to said lot including both existing structures and proposed structures, giving dimensions in feet.

PLANS FOR THE BUILDING INSPECTOR MUST BE SUBMITTED WITH THIS APPLICATION. THEY MUST COMPLY WITH STATE UNIFORM BUILDING CONSTRUCTION CODE AND THE STATE ENERGY CONSERVATION CODE.

No person shall make any change in plans herewith submitted for specifications herein contained, or in the structural part of the building without written consent of the Building Inspector.

Sketch on reverse side of this application must be completed $\frac{2300 \text{ (House)}}{3096 \text{ (DETACHED Acc)}} = \frac{5396}{367,211 \times 100}$

The undersigned applicants do hereby affirm that the information herein supplied is true and correct.

Applicant/Owner M.P.M.

Applicant/Owner _____

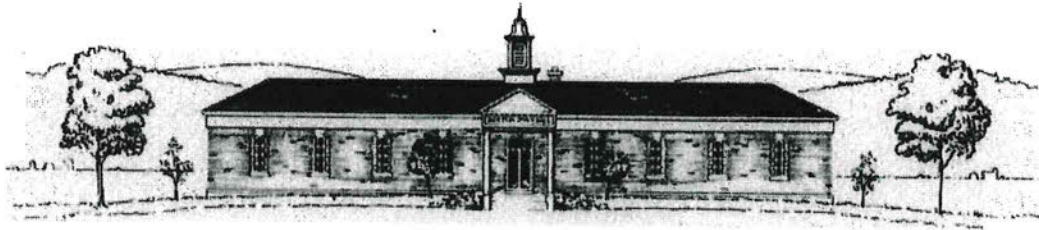
Date 11/10/2022

Date 11-10-22

Approved Disapproved

Building Inspector Thomas C. [Signature]
Town of Boston

EXCEEDS AGGREGATE SQUARE FOOTAGE AS
Reason
OUTLINED BY §123-136 OF THE CODES
OF THE TOWN OF BOSTON



TOWN OF BOSTON

JASON A. KEDING
Supervisor

MICHAEL A. CARTECHINE
JENNIFER L. LUCACHIK
KELLY L. MARTIN
KATHLEEN SELBY
Town Board

SANDRA L. QUINLAN
Town Clerk - Tax Collector

ROBERT J. TELAAK
Highway Supt.

DEBRA K. BENDER
KELLY A. VACCO
Town Justice

SEAN W. COSTELLO
Town Attorney

KYLE W. CALABRESE
Prosecutor

SUE FITZNER
Assessor

THOMAS C. MURPHY
Code Enforcement Officer

December 14, 2022

ZBA Chairwoman Rood and Esteemed Board Members,

Petition #607, Michael Monin of 6440 Hillcroft Drive would like to erect a new detached accessory (gazebo) of 676 square feet, accompanied by an 80 square foot cabana. This violates town code 123-136B.(4) for his 8.43 acre lot when his first detached accessory, a 2340 square foot pole barn is included in the aggregate sum. He requires a 596 square foot area variance in order to accomplish this project.

Code: 2500 square feet
Actual: 3096 square feet
Variance: 596 square feet

Respectfully,

Thomas C. Murphy
Town of Boston
Code Enforcement
NYS0360547

TOWN HALL
(716) 941-6113
Fax (716) 941-6116

TOWN SUPERVISOR
(716) 941-6518
Fax (716) 941-9264

TOWN COURT
(716) 941-6115
Fax (716) 941-5169

HIGHWAY GARAGE
(716) 941-5869
Fax (716) 941-3677

NUTRITION PROGRAM
(716) 941-5773

8500 Boston State Road Boston, New York 14025-9848

The Town of Boston is an equal opportunity provider and employer.

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at http://www.ascr.usda.gov/complaint_filing_cust.html, or at any USDA office, or call 1-866-632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or fax 202-690-7442 or e-mail at program.intake@usda.gov.

NOVEMBER 15, 2022

To whom it may concern;

I am requesting a variance to be able to build a cabana & washroom next to my pool. Thomas Murphy has asked me to request the variance so that I will be in compliance with the Boston Town Code.

Thank you,

Michael P. Morin NICOLE M. MORIN
6440 Hillcroft Dr.
Boston, New York 14025

| | | |
|---|------------------|------------|
| X | Michael P. Morin | 11/15/2022 |
| X | Nicole M. Morin | 11/28/2022 |

Short Environmental Assessment Form Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| Part 1 - Project and Sponsor Information | | | |
|--|---------------------------|-----------------------------|-----|
| Name of Action or Project: POOL CABANA & WASHROOM ADJACENT TO INGROUND POOL | | | |
| Project Location (describe, and attach a location map): 6440 HILLCROFT DRIVE BOSTON NEW YORK | | | |
| Brief Description of Proposed Action: ERECT A 26'x26' COVERED PATIO TO ACT AS A CABANA PLACE AN 8'x10 SLAB ON GRADE WASHROOM ADJACENT FOR THE CONVENIENCE OF MY FAMILY & GUESTS | | | |
| Name of Applicant or Sponsor: MICHAEL P. MONIN | | Telephone: E-Mail: | |
| Address: 6440 HILLCROFT DRIVE | | | |
| City/PO: BOSTON | State: NEW YORK | Zip Code: 14205 | |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | NO | YES |
| 2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: TOWN OF BOSTON CODE ENFORCEMENT DEPARTMENT | | NO | YES |
| 3. a. Total acreage of the site of the proposed action? .02 acres | | | |
| b. Total acreage to be physically disturbed? .018 acres | | | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? 8.43 acres | | | |
| 4. Check all land uses that occur on, are adjoining or near the proposed action: | | | |
| 5. <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban) | | | |
| <input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify): | | | |
| <input type="checkbox"/> Parkland | | | |

| | NO | YES | N/A |
|--|-------------------------------------|-------------------------------------|--------------------------|
| 5. Is the proposed action, | | | |
| a. A permitted use under the zoning regulations? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| b. Consistent with the adopted comprehensive plan? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 6. Is the proposed action consistent with the predominant character of the existing built or natural landscape? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 7. Is the site of the proposed action located in, or does it adjoin, a state listed Critical Environmental Area? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| If Yes, identify: _____ | | | |
| 8. a. Will the proposed action result in a substantial increase in traffic above present levels? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| b. Are public transportation services available at or near the site of the proposed action? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| 9. Does the proposed action meet or exceed the state energy code requirements? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| If the proposed action will exceed requirements, describe design features and technologies: _____ _____ | | | |
| 10. Will the proposed action connect to an existing public/private water supply? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| If No, describe method for providing potable water: _____ | | | |
| 11. Will the proposed action connect to existing wastewater utilities? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| If No, describe method for providing wastewater treatment: _____ | | | |
| 12. a. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on the National or State Register of Historic Places, or that has been determined by the Commissioner of the NYS Office of Parks, Recreation and Historic Preservation to be eligible for listing on the State Register of Historic Places? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| b. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| 13. a. Does any portion of the site of the proposed action, or lands adjoining the proposed action, contain wetlands or other waterbodies regulated by a federal, state or local agency? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | |
| b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody? | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: <i>ALTHOUGH THE EAF REPORT GENERATEL SYSTEM REPORTS WETLANDS, THEY DO NOT APPEAR ON THE ERIE COUNTY INTERACTIVE MAPPING VIEWER (MAP IS INCLUDED IN PETITION PACKET)</i> | | | |

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:
 Shoreline Forest Agricultural/grasslands Early mid-successional
 Wetland Urban Suburban

15. Does the site of the proposed action contain any species of animal, or associated habitats, listed by the State or Federal government as threatened or endangered? NO YES

16. Is the project site located in the 100-year flood plan? NO YES

17. Will the proposed action create storm water discharge, either from point or non-point sources?
 If Yes,
 a. Will storm water discharges flow to adjacent properties? NO YES

 b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)? NO YES

 If Yes, briefly describe:
DISCHARGE WILL BE MINIMAL. ONE ROOF IS 676 sq. ft while the
OTHER IS 80 sq. ft.

18. Does the proposed action include construction or other activities that would result in the impoundment of water or other liquids (e.g., retention pond, waste lagoon, dam)? NO YES
 If Yes, explain the purpose and size of the impoundment:

19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? NO YES
 If Yes, describe:

20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? NO YES
 If Yes, describe:

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor/name: MICHAEL P. MONIN Date: 11/15/2022
 Signature: [Signature] Title: OWNER

PRINT FORM

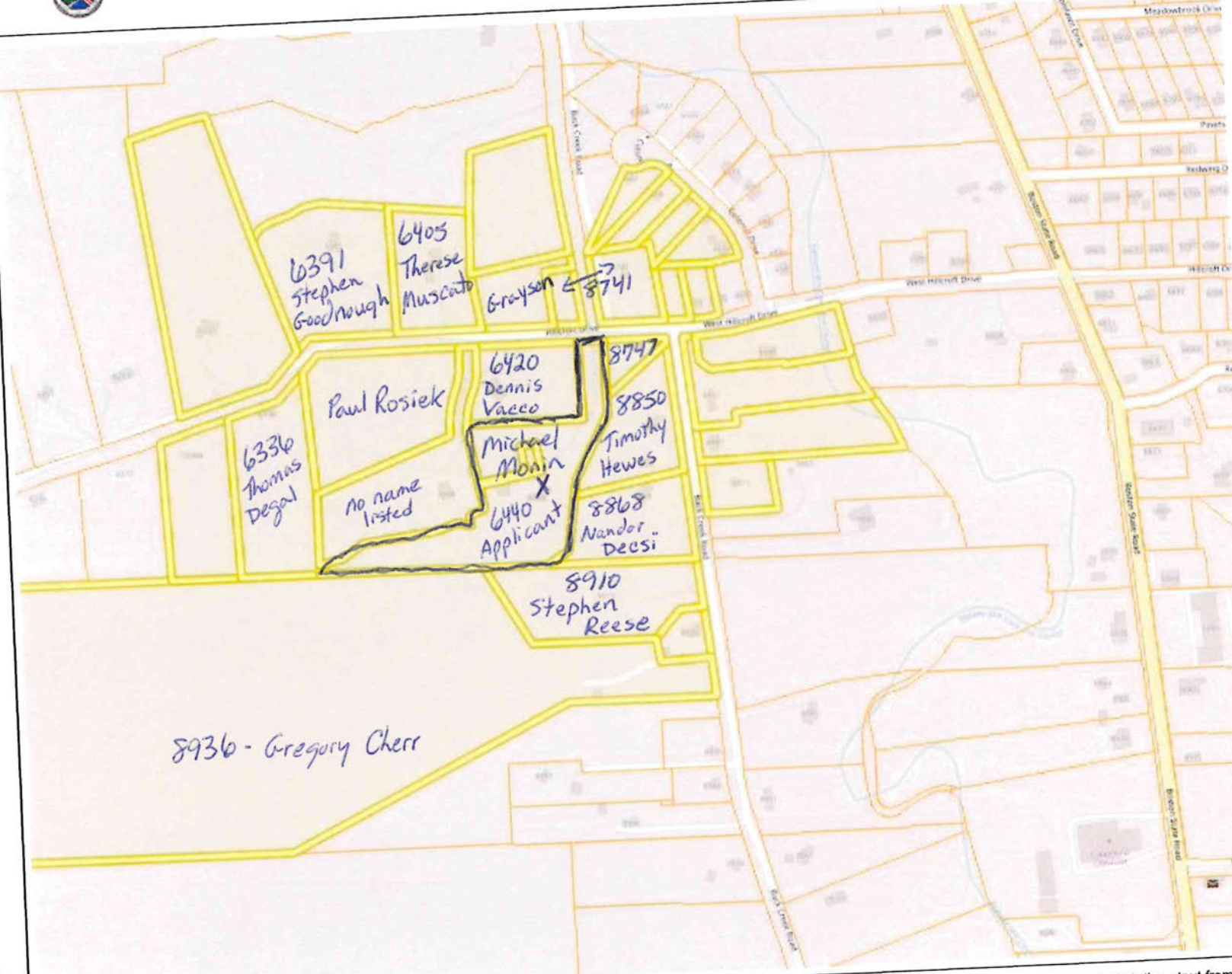
Disclaimer: The EAF Mapper is a screening tool intended to assist project sponsors and reviewing agencies in preparing an environmental assessment form (EAF). Not all questions asked in the EAF are answered by the EAF Mapper. Additional information on any EAF question can be obtained by consulting the EAF Workbooks. Although the EAF Mapper provides the most up-to-date digital data available to DEC, you may also need to contact local or other data sources in order to obtain data not provided by the Mapper. Digital data is not a substitute for agency determinations.

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- Part 1 / Question 7 [Critical Environmental Area] No
- Part 1 / Question 12a [National or State Register of Historic Places or State Eligible Sites] No
- Part 1 / Question 12b [Archeological Sites] Yes
- Part 1 / Question 13a [Wetlands or Other Regulated Waterbodies] Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
- Part 1 / Question 15 [Threatened or Endangered Animal] No
- Part 1 / Question 16 [100 Year Flood Plain] No
- Part 1 / Question 20 [Remediation Site] No



Erie County On-Line Mapping Application



Legend

- Parcels

8747 - Dolores Warner
8741 - Samuel Grayson

0 0.14 0.3 Miles

WGS_1984_Web_Mercator_Auxiliary_Sphere
THIS MAP IS NOT TO BE USED FOR NAVIGATION

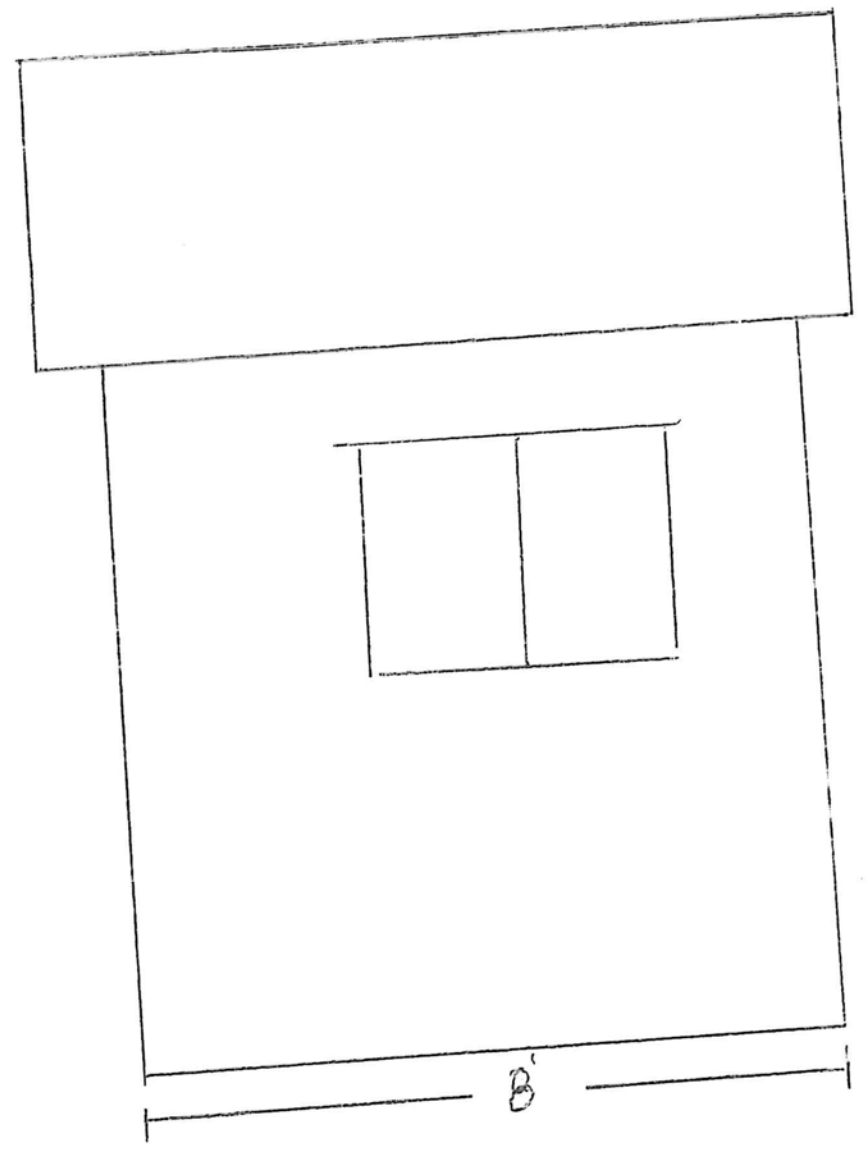
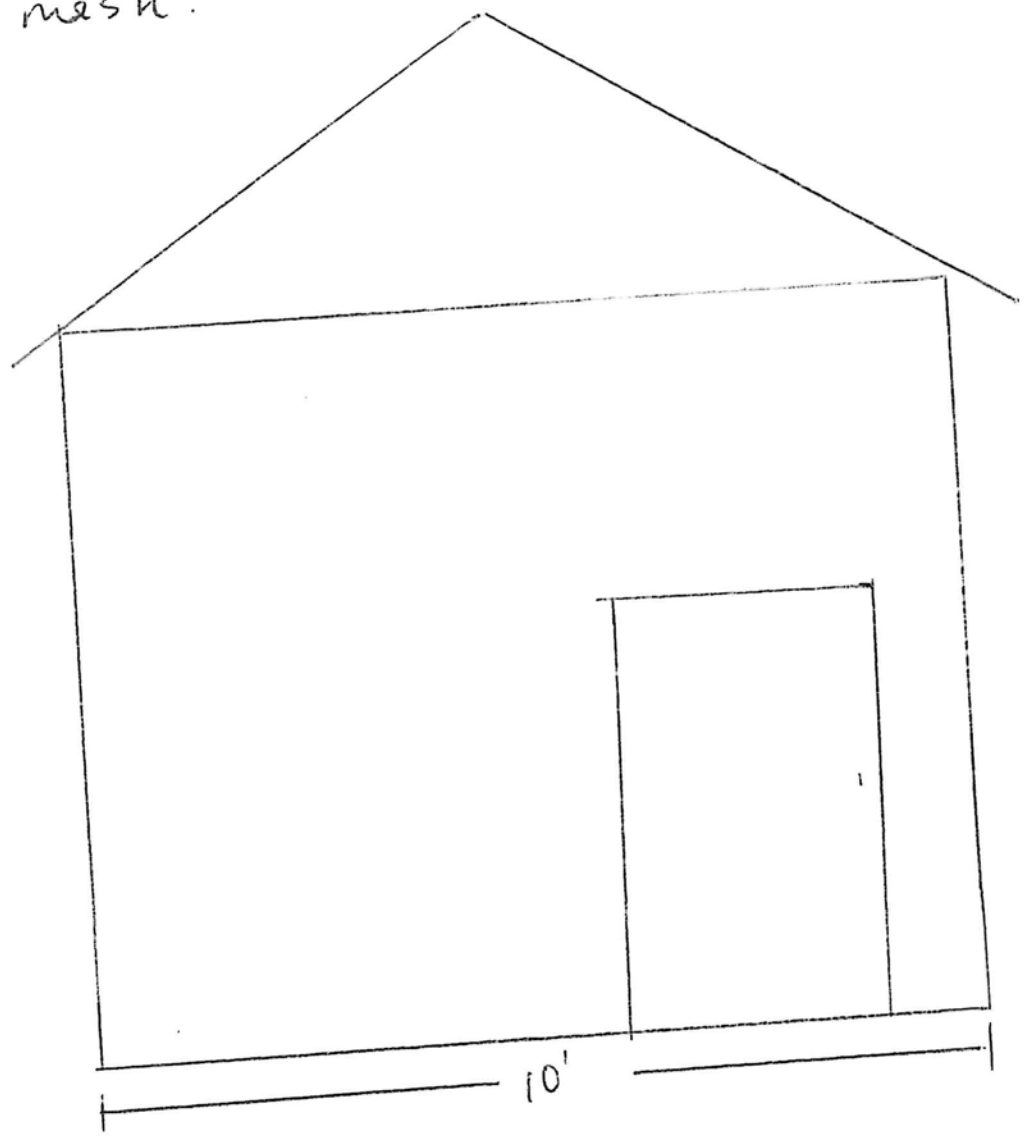
ERIE COUNTY
DEPARTMENT OF ENVIRONMENT & PLANNING
OFFICE OF GIS

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

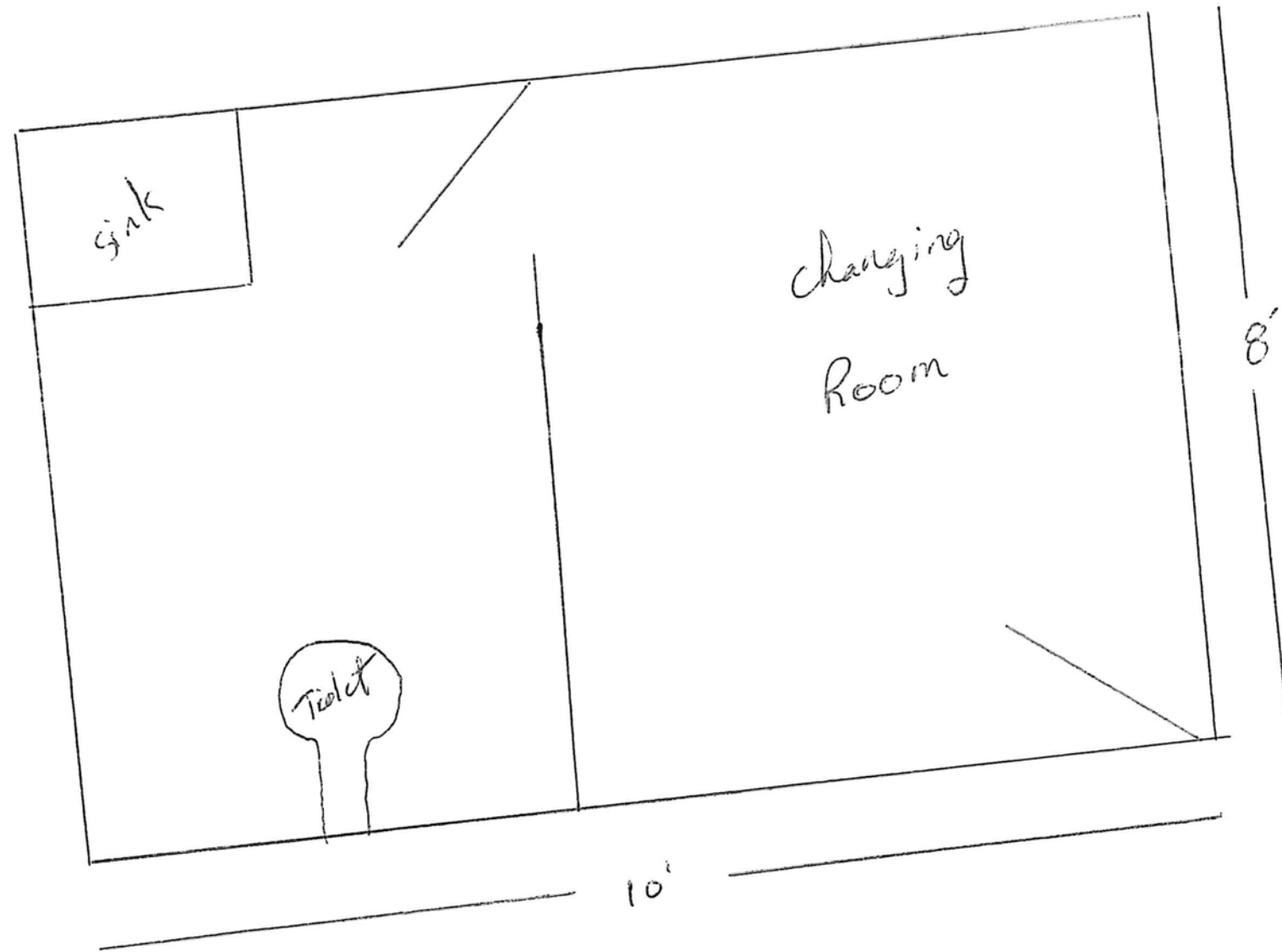
1: 9,028

CABANA

Doug Fir Rafters 2x8's
4x4 poles
4" concrete slab
with mesh.



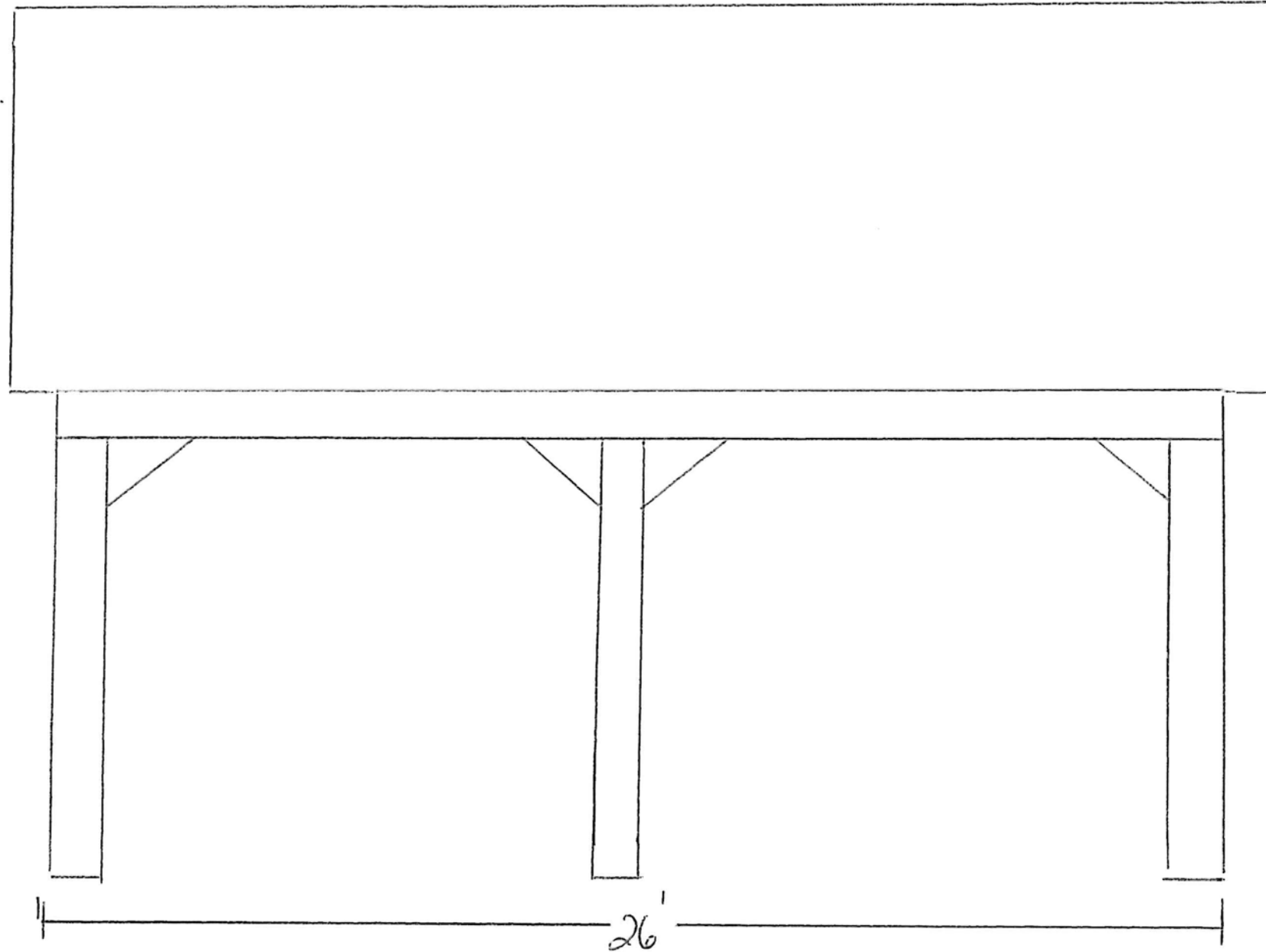
CABANA



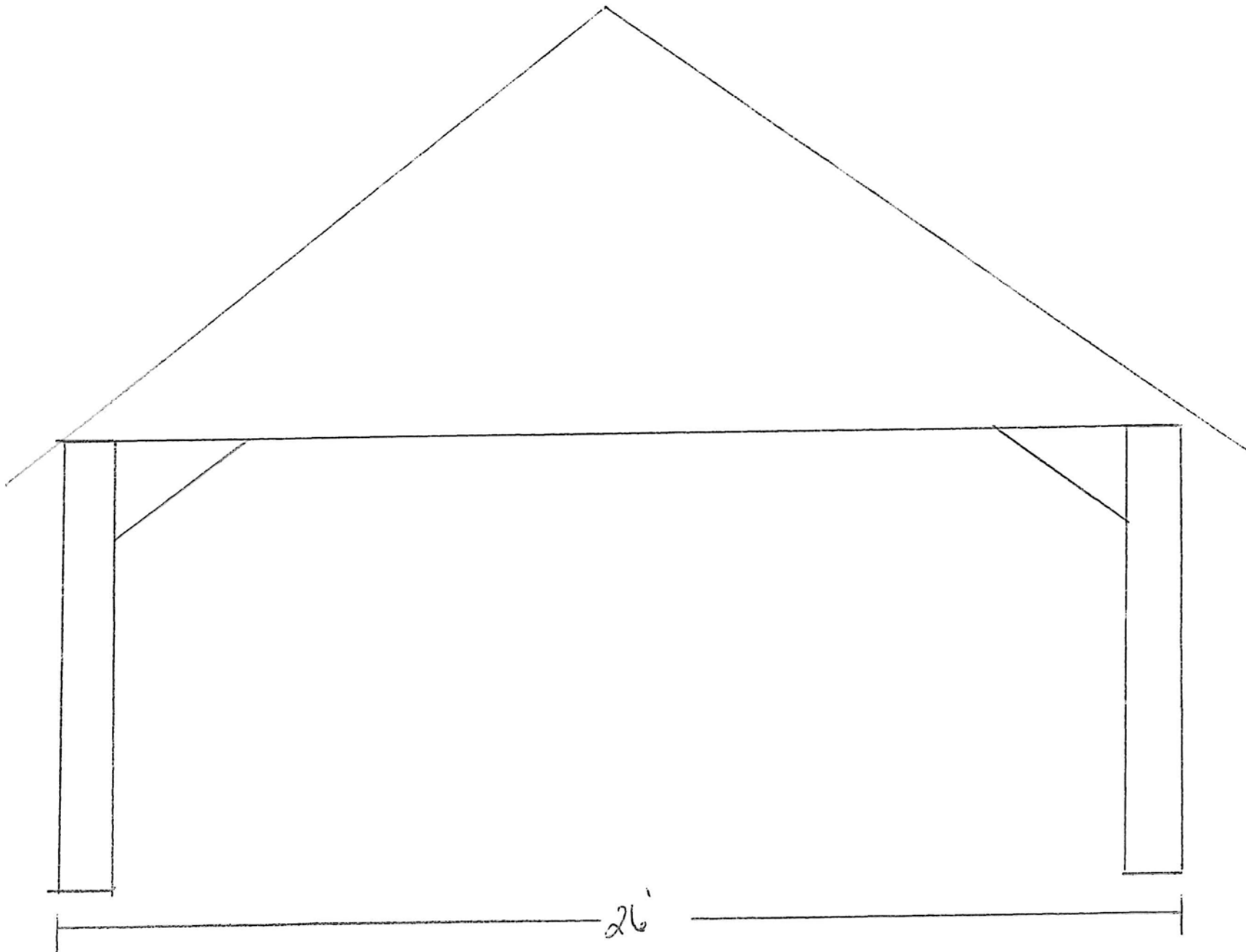
4/12 Truss 2' oc
Double 2x12 Header (Doug Fir)
6x6 Poles

4" Thick
concrete pad.
with mesh

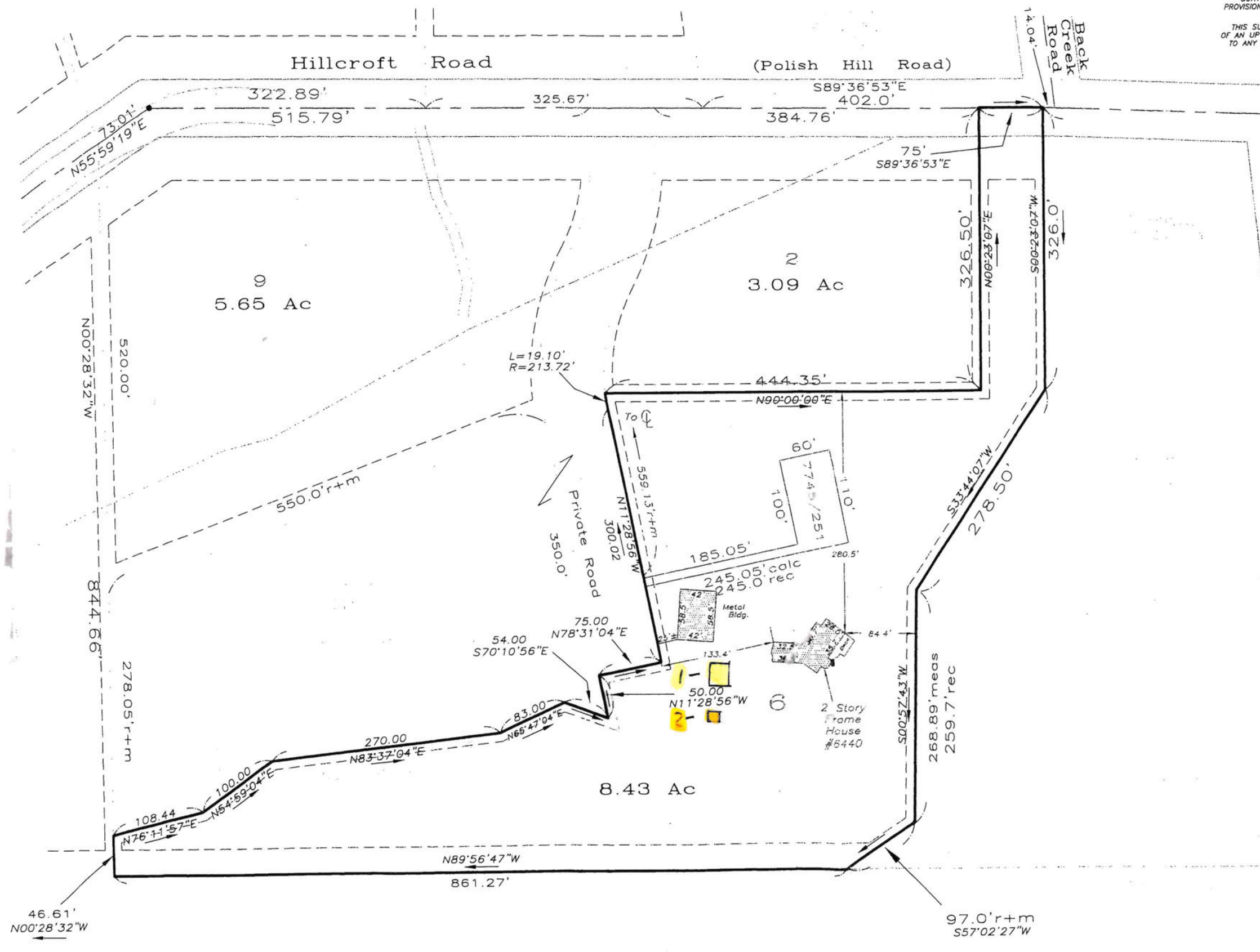
GAZEBO



GAZEBO



~ NOTES ~
 UNAUTHORIZED ALTERATION OR ADDITION TO THIS SURVEY MAP IS A VIOLATION OF SECTION 7209 PROVISION 2 OF THE NEW YORK STATE EDUCATION LAW.
 THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF AN UP TO DATE ABSTRACT OF TITLE AND IS SUBJECT TO ANY STATE OF FACTS THAT MAY BE REVEALED BY AN EXAMINATION OF SUCH



**Freeman and Freeman
 Land Surveyors**
 10432 Trump Road
 Glenwood, N.Y. 14069
 Tel: 716-592-7740
 Fax: 716-592-4007
 Email: jfreeman@freemanlandsurveyors.com

Established 1925
 Land Surveying
 GIS Specialists
 Land Planning
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 Computer Mapping
 H.L.C.

Resurveying the Holland Land Company for the 21st Century

~ LEGEND ~

- IRON ROD/PIPE
- WOOD STAKE
- PROPERTY LINE
- H.L.C.O. LOT LINE
- LINE OF RECORD
- ROAD CENTERLINE
- ROAD RIGHT-OF-WAY
- TREELINE
- UTILITY POLE

BOSTON HILL SUBDIVISION
 HILLCROFT ROAD, BOSTON NEW YORK
 BEING PART OF LOTS 11, 12 & 18 T8 R7
 HOLLAND LAND COMPANY SURVEY
 TOWN OF BOSTON
 ERIE COUNTY, NEW YORK
 SCALE: 1"=150'
 MAY 11, 1999
 Building Located: May 1, 2002
 Building Updated: January 23, 2003

Redated - April 12, 2011

[Handwritten Signature]

1-26 X 26 COVERED PATIO (GAREBO...)
 2-8 X 10 WASHROOM (CABANA)