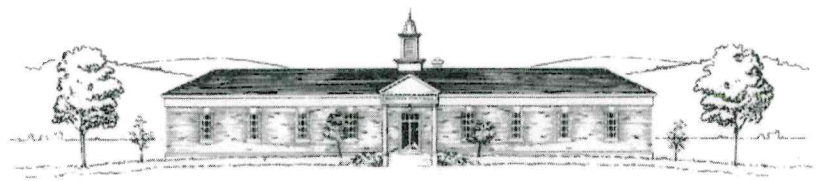


Town of Boston

Zoning Board of Appeals



Town Hall
Phone: (716) 941-6113

8500 Boston State Road
Boston, New York 14025

Zoning Board of Appeals AGENDA Thursday, July 6, 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, July 6, 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 #615 – Curt & Katherine Gracie of 7683 Back Creek Rd seeking **AREA** variance for addition to home, Town of Boston Code 123-28A.

PUBLIC NOTICE
TOWN OF BOSTON
ZONING BOARD OF APPEALS

The ZBA will meet at the Town of Boston Town Hall on **Thursday, July 6, 2023 at 7:00pm** for the Work Session in the Planning Board Room followed by the Public Hearing in the Court Room to hear the following petition:

Petition #615 – Curt & Katherine Gracie of 7683 Back Creek Rd, seeking **AREA** variance for addition to home, Town of Boston Code 123-28A.

Jennifer Cavarello, Clerk
Zoning Board of Appeals

Dated: June 17, 2023

Published:

An Equal Opportunity Provider & Employer

Petition #615

APPLICATION FOR PERMIT

OFFICE USE ONLY

Town of Boston; New York

Approved () Disapproved ()

Permit No. _____

Address _____

Date Issued _____

Permit Fee _____

Issued By _____

Single Family Dwellings, Farm Buildings,
Accessory Building, Additions

Owner Curt & Katherine Gracie
Address 7683 Back Creek Rd.

Contractor _____
Address _____

Day Phone _____

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 Building

Address of Premises for Which Application is Made: 7683 Back Creek Rd.
Section, Block, Lot 29 226.02-1-2 Current Zoning Residential
Tax I.D. Number _____

North South East West
Side of Back Creek Rd, Size of Lot 330', 355'/210', 1.68
Street Name Frontage Dept Acreage

Distance of Building from lot lines. Front 20.98', Rt. Side 19', Lt. Side _____, Rear _____
Size of completed Building, Addition, feet wide 35', feet long 30', feet high 20'
Sq. Ft. of: Basement N/A, First Floor _____, Second Floor 576, Garage 900, Other _____
The estimated value of Structure exclusive of land is \$ 100,000
Total Square Footage of Lot 87,406 Percentage of Lot Coverage (All Bldgs) 2.2 %
Deed Restrictions None
Type of Sewage Disposal Public
Type of Water Supply Public

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

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

C. Gracie
Applicant/Owner
5/8/23
Date

[Signature]
Applicant/Owner
5/8/23
Date

Approved Disapproved

Date JUNE 14, 2023

VIOLATES 123-28A. FRONT YARD IN AN 132
Reason DISTRICT SHALL EQUAL 50'. THIS
PROJECT RESULTS IN A

[Signature]
Building Inspector
Town of Boston

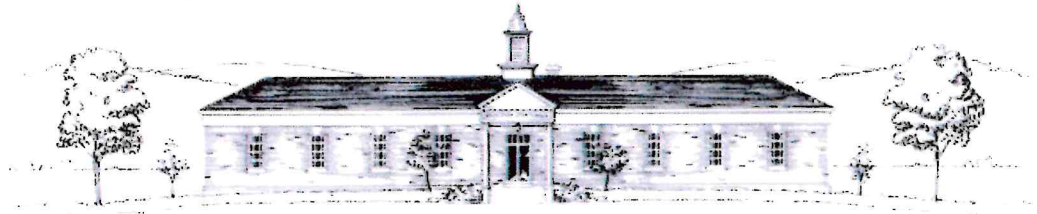
TO: ZBA Chairman and Board members
FROM: Sarah desJardins, Planning Consultant
RE: July 2023 ZBA petitions

Chairman and Board members:

Regarding Petition #615 Curt & Katherine Gracie, 7683 Back Creek Road, they are seeking a variance for an addition to the existing home that would infringe upon the required front yard.

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

Respectfully submitted,
Sarah desJardins, Planning Consultant



TOWN OF BOSTON

June 15, 2023

PETITION #615

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
KYLE CALABRESE
Town Justice

SEAN W. COSTELLO
Town Attorney

LAURIE BAKER
Prosecutor

SUE FITZNER
Assessor

THOMAS C. MURPHY
Code Enforcement Officer

Distinguished Chairman Rood,
Honorable Board Members,

Curt and Katherine Gracie of 7683 Back Creek Road would like to construct a 30'X 35' two-story addition attached to the front of their home (they cannot add to the rear of their home as the property runs down to the creek). The first floor would be a 2-car garage and the second floor would be a master bedroom/bathroom/suite.

This would infringe on the required front yard as stated in 123-28A. "The minimum depth of a front yard shall be 50 feet" for their R2 district.

It is of note that many other homes in the vicinity of theirs have less than the required front yard and the code allows for a 'front yard modification' when such situations exist, in code section 123-131. However, such modification is only allowed when said parcel is less than 100' in width. The Gracie's parcel is 330' in width. They seek an area variance for their R2 front yard.

Code: 50 feet
Actual: 16 feet
Variance: 34 feet

Respectfully,

Thomas C. Murphy
Town of Boston
Code Enforcement Department
Zoning Officer
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.htm, or at any USDA office, or call 1-866-632-9992 to request the form. You may also write a letter containing all 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 202-690-7412 or e-mail at program.intake@usda.gov.

Chapter 123. ZONING

Article VIII. R-2 Single-Family Residence District

§ 123-28. Required yards.

Unless otherwise provided, the minimum required yards and other open spaces in the R-2 District shall be as specified in this section.

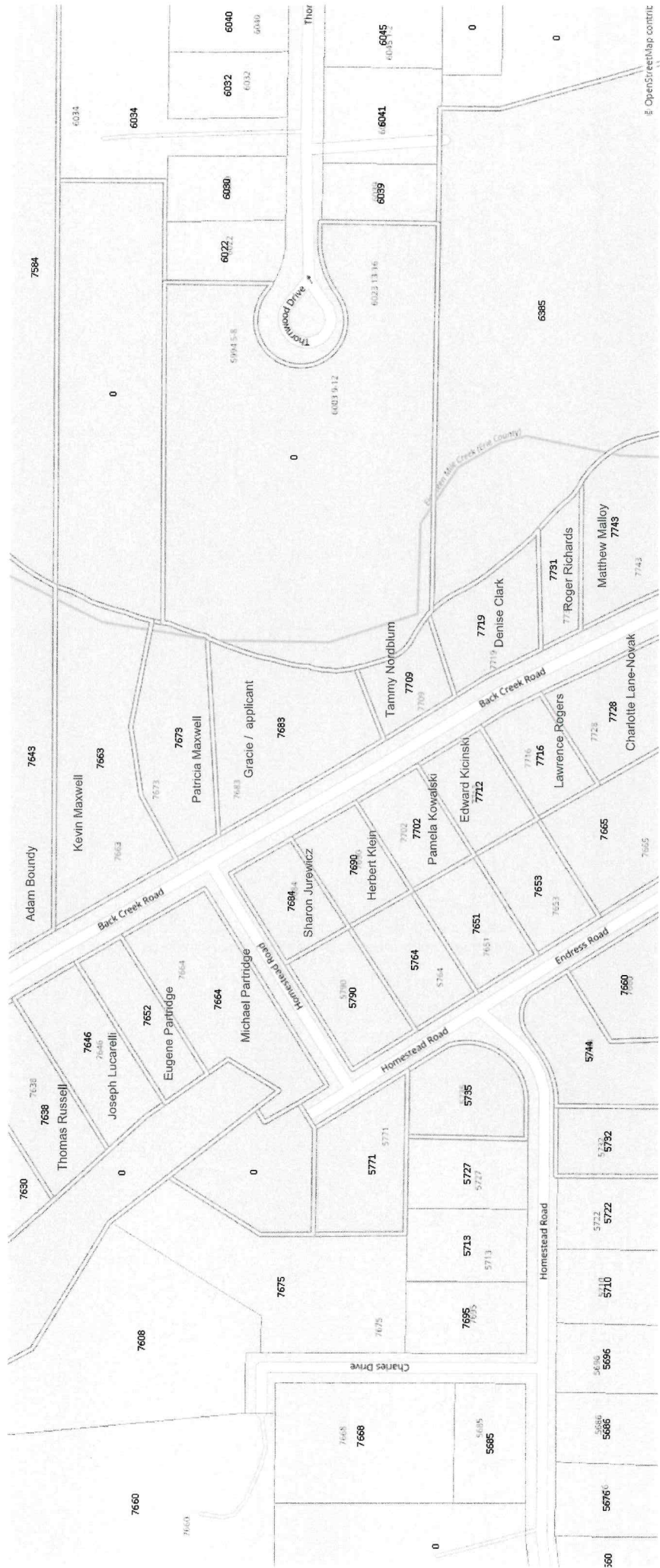
- A. Front yard: 50 feet.
- B. Side yards: two required.
 - (1) The minimum width of any side yard shall be 10 feet.
 - (2) Other principal buildings. Except as otherwise provided, each side yard shall equal 30 feet or a distance equal to the height of the principal building, whichever is greater; provided, however, that when a side yard adjoins a lot in any district other than an R District, such side yard shall equal 15 feet or a distance equal to 1/2 the height of the principal building, whichever is greater.
- C. Rear yard: no rear yard shall have a depth less than 30 feet or a distance equal to the height of the principal building, whichever is greater.
- D. Open space between principal buildings on a single lot. No vertical wall of a principal building shall be nearer to a vertical wall of any other principal building than a distance of 30 feet or a distance equal to the average height of such vertical wall measured from the adjoining finished grade, whichever is greater.
- E. Lot coverage: 15% maximum.

Chapter 123. ZONING

Article XXV. Supplemental Lot Size and Open Space Requirements

§ 123-131. Front yard modification.

- A. In all districts, except M Districts, where there are existing principal buildings on adjoining lots on each side of a parcel of land less than 100 feet in width, which buildings have a front yard setback or exterior side yard setback less than the required front yard depth of said parcel shall equal the average setback from the street line of such existing building on said adjoining lots. This modification shall not permit any front yard depth less than 15 feet.
- B. In M Districts where there are existing principal commercial or industrial buildings on adjoining lots on each side of a parcel of land less than 100 feet in width and these buildings have a front yard setback or exterior side yard setback less than the required front yard depth, the required front yard depth of said parcel shall equal the average setback from the street line of such existing buildings on such adjoining lots.



June 13, 2023

Dear Boston Town Board Members,

We are respectfully submitting our application for a variance to build an addition to our home located at 7683 Back Creek Rd.

The original home has 2 bedrooms upstairs with a small jack and jill bathroom. The first floor consists of an eat-in-kitchen and a living room of equal size (main home ~1200sq ft). The lot itself is private and slopes down off the back of the property offering elevated views of the creek but also limits options for adding on.

The original attached garage was converted to additional living space that is dysfunctional with 3 different floor levels in this one small space. Additionally, there are four entrances into this home that is quite confusing. There is a front and back door to the main house and a front and back door on the original attached garage. Unfortunately, none of these entrances offer the necessary mud room space for a home with WNY weather. When viewing the home last summer, we asked our realtor why this property sat on the market for 43 days when most homes in the area went into bidding wars, the feedback from potential buyers was the home wasn't functional for a family. Although we agreed it was an odd home, the location and lot itself was most important to us, and we felt we could update and modify this home into a fully functional family space.

Therefore, we respectfully ask for your approval for this variance.

The main advantages are:

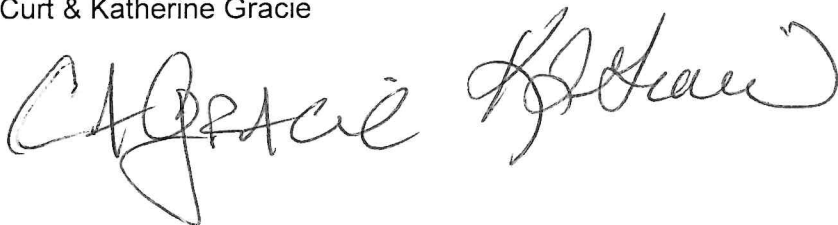
1. It will provide a clear main entrance to the home.
2. It will provide a much-needed mud room entrance space.
3. It will provide a small guest powder room on the first floor.
4. It will allow us to convert the original attached garage space into a first-floor primary bedroom (future project).
5. The space on the second floor of the new addition will offer much needed bonus/guest space.

In this submittal we've included a mock-up of the addition to help visualize what the new addition will look like. We feel this enhancement will not detract from the neighborhood as there are multiple houses within walking distance on Back Creek where the home or garage sits within 50 feet of the road. Our plan proposes the garage doors face SE onto the property eliminating the need to pull directly into the street or have any potential obstructions or issues with snow plowing or other road maintenance. The front view of our property won't change drastically as the addition will sit behind the existing hedgerow that lines the front of our property.

We are very excited about our plans and look forward to answering any questions you may have. We appreciate your time and consideration.

Sincerely,

Curt & Katherine Gracie

Handwritten signatures of Curt and Katherine Gracie in black ink. The signature on the left is 'Curt Gracie' and the signature on the right is 'Katherine Gracie'.

ERIE COUNTY CLERK'S OFFICE



County Clerk's Recording Page

Return to:
BOX 301

Party 1:
MAZUROWSKI DONNA L

Party 2:
GRACIE CURT A

Book Type: D Book: 11408 Page: 4193
Page Count: 3
Doc Type: DEED
Rec Date: 09/29/2022
Rec Time: 02:36:29 PM
Control #: 2022186301
UserID: Sharon
Trans #: 22151366
Document Sequence Number
TT2022004735

Recording Fees:

RECORDING	\$35.00
COE CO \$1 RET	\$1.00
COE STATE \$14.25 GEN	\$14.25
COE STATE \$4.75 RM	\$4.75
RP5217 CNTY \$9	\$9.00
RP5217 ST-RES \$116	\$116.00
TP584	\$10.00

Consideration Amount: 430000.00

BASIC MT	\$0.00
SONYMA MT	\$0.00
ADDL MT/NFTA	\$0.00
SP MT/M-RAIL	\$0.00
NY STATE TT	\$1,720.00
ROAD FUND TT	\$0.00

Total: \$1,910.00

STATE OF NEW YORK
ERIE COUNTY CLERK'S OFFICE

WARNING - THIS SHEET CONSTITUTES THE CLERK'S ENDORSEMENT REQUIRED BY SECTION 319&316-a (5) OF THE REAL PROPERTY LAW OF THE STATE OF NEW YORK. DO NOT DETACH. THIS IS NOT A BILL.

Michael P. Kearns
Erie County Clerk

WARRANTY DEED

THIS INDENTURE, made the 20th day of August, 2022, between Donna L. Mazurowski, individually and as surviving spouse of Alan J. Mazurowski, residing at 7683 Back Creek Road, Hamburg, New York 14075 party of the first part, and

A Curt Gracie and Katherine Gracie, husband and wife, residing at 4678 Highview Street, Richard, Washington, 99352, party of the second part,

WITNESSETH, that the party of the first part, in consideration of One or more dollars, lawful money of the United States, paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL THAT TRACT OR PARCEL OF LAND, See Attached Schedule A,

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof,

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the costs of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

AND the party of the first part covenants as follows:

FIRST. That said party of the first part is seized of the said premises in fee simple, and has good right to convey the same;

SECOND. That the party of the second part shall quietly enjoy the said premises;

THIRD. That the said premises are free from encumbrances, except as aforesaid;

FOURTH. That the party of the first part will execute or procure any further necessary assurance of the title to said premises;

FIFTH. That said party of the first part will forever warrant the title to said premises.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Donna L. Mazurowski
Donna L. Mazurowski

STATE OF NEW YORK)
COUNTY OF ERIE)::ss

On the 20th day of August in the year 2022, before me, the undersigned, personally appeared, Donna L. Mazurowski, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Wendy K. Francis
(signature and office of individual taking acknowledgment)

WENDY K. FRANCIS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN ERIE COUNTY
My Commission Expires Dec 22, 2024

196301
430,000
Deed-2

SCHEDULE A - DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND situate in the Town of Boston, County of Erie and State of New York, being part of Lot No. 29, Township 8, Range 7 of the Holland Land Company's Survey, bounded and described as follows:

BEGINNING at a point in the center line of the Back Creek Road (also known as North Boston Patchin Highway), 868 feet southeasterly of the intersection of the said center line of said Back Creek Road with the northerly line of the southerly half of said Lot No. 29; thence southeasterly along the center line of said Back Creek Road, a distance of 330 feet to a point; thence easterly along a line making an interior angle of $98^{\circ} 32'$ with the center line of Back Creek Road a distance of 222 feet more or less to the 18 Mile Creek; thence in a general northerly direction down and along said Creek to a point in a line running easterly from the point of beginning at an interior angle of $63^{\circ} 21'$ with said center line of said Back Creek Road; thence westerly along said line 355 feet more or less to the point of beginning.

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: Addition FRONT YARD 2 STORY			
Project Location (describe, and attach a location map): 7683 BACK CREEK Rd			
Brief Description of Proposed Action: FRONT YARD 2 BAY GARAGE w/ 2 STORY			
Name of Applicant or Sponsor: CURT A GRACIA		Telephone: 716 572-3973	
Address: 7683 BACK CREEK Rd		E-Mail: Curt.gracia@gmail.com	
City/PO: Hamburg		State: NY	Zip Code: 14075
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:		NO	YES
TOWN of BOSTON		<input type="checkbox"/>	<input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		.02 acres	
b. Total acreage to be physically disturbed?		.02 acres	
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.3 acres	
4. Check all land uses that occur on, are adjoining or near the proposed action:			
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)			
<input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):			
<input type="checkbox"/> Parkland			

5. Is the proposed action, a. A permitted use under the zoning regulations?	NO	YES	N/A
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. Consistent with the adopted comprehensive plan?	NO	YES	N/A
	<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?	NO	YES	
	<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? If Yes, identify: _____	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8. a. Will the proposed action result in a substantial increase in traffic above present levels? b. Are public transportation services available at or near the site of the proposed action? c. Are any pedestrian accommodations or bicycle routes available on or near the site of the proposed action?	NO	YES	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
9. Does the proposed action meet or exceed the state energy code requirements? If the proposed action will exceed requirements, describe design features and technologies: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10. Will the proposed action connect to an existing public/private water supply? If No, describe method for providing potable water: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11. Will the proposed action connect to existing wastewater utilities? If No, describe method for providing wastewater treatment: _____ _____	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
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?	NO	YES	
	<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?	NO	YES	
	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
b. Would the proposed action physically alter, or encroach into, any existing wetland or waterbody?	NO	YES	
	<input type="checkbox"/>	<input type="checkbox"/>	
If Yes, identify the wetland or waterbody and extent of alterations in square feet or acres: <u>FRANCIS CO GIS SHOW NO WETLANDS</u> <u>ON THIS PARCEL</u>			

14. Identify the typical habitat types that occur on, or are likely to be found on the project site. Check all that apply:		
<input type="checkbox"/> Shoreline <input type="checkbox"/> Forest <input type="checkbox"/> Agricultural/grasslands <input type="checkbox"/> Early mid-successional <input type="checkbox"/> Wetland <input type="checkbox"/> Urban <input type="checkbox"/> 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
	<input checked="" type="checkbox"/>	<input type="checkbox"/>
16. Is the project site located in the 100-year flood plan?	NO	YES
	<input type="checkbox"/>	<input checked="" type="checkbox"/>
17. Will the proposed action create storm water discharge, either from point or non-point sources?	NO	YES
If Yes,	<input type="checkbox"/>	<input checked="" type="checkbox"/>
a. Will storm water discharges flow to adjacent properties?	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> <i>NA</i>
b. Will storm water discharges be directed to established conveyance systems (runoff and storm drains)?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If Yes, briefly describe:		

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: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>

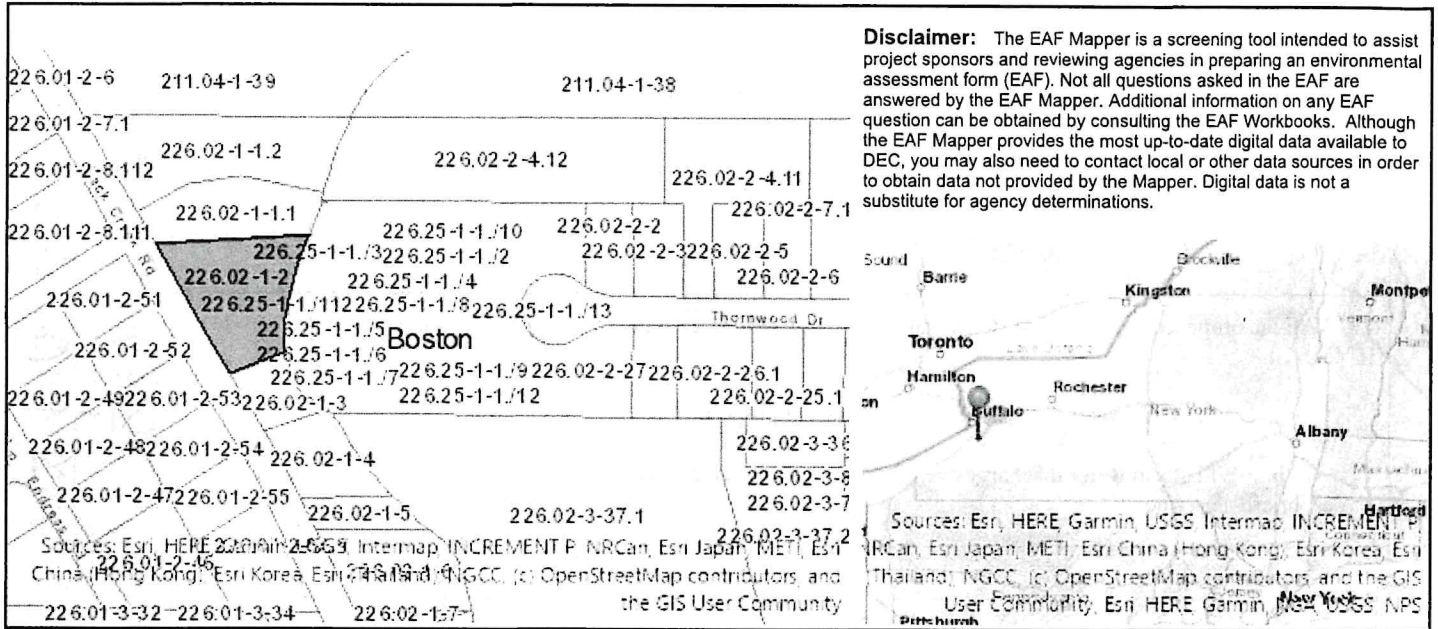
19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility?	NO	YES
If Yes, describe: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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: _____	<input checked="" type="checkbox"/>	<input type="checkbox"/>

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE		
Applicant/sponsor/name: <u>CA GRACIE</u>	Date: <u>6/14/23</u>	
Signature: <u>CAC GRACIE</u>	Title: <u>MR</u>	

EAF Mapper Summary Report

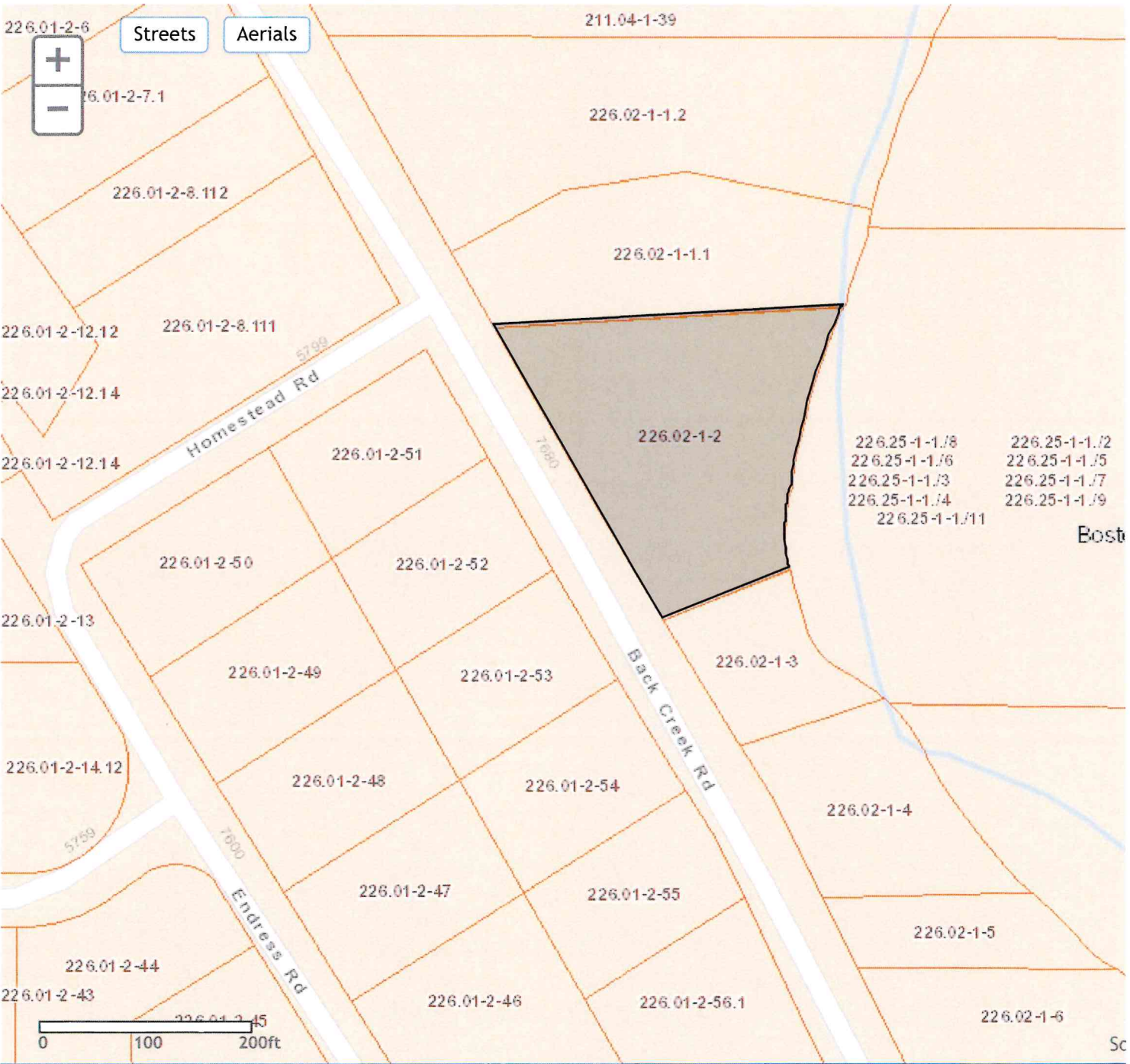
Wednesday, June 14, 2023 11:13 AM



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]	Yes
Part 1 / Question 20 [Remediation Site]	No



Streets Aerials



Initial Extent Zoom In Zoom Out Show Overview Map

FOUND
IRON
ON LINE
4.21'E

FENCE
6.0'N

SHED
1.64'S

BRICK DRIVE

PROPOSED
2 STORY
30'X30' GARAGE
W/ MASTER SUITE
ABOVE

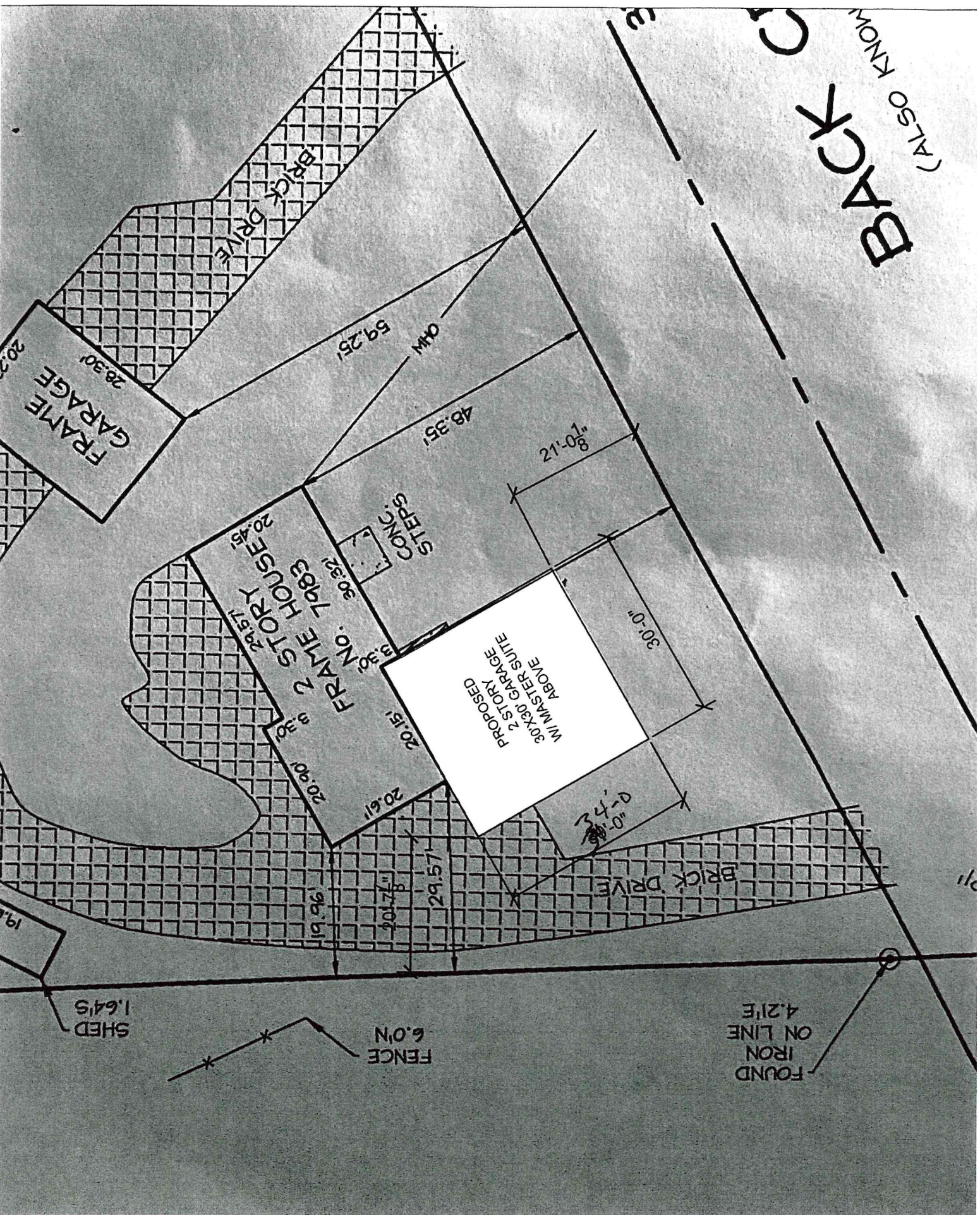
FRAME HOUSE
NO. 7983
2 STORY
45'
29.57'
30.32'
30.30'
30.30'

FRAME
GARAGE
28.30'

BRICK DRIVE

BACK

(ALSO KNOWN AS)





Zoning Board of Appeals
Meeting minutes – 05.04.2023_draft

Attendees: Lisa Rood, Dave May, Robert Ballard, Tony Rosati, COE/Tom Murphy, Attorney Laurie Baker

Absent: Kelly Martin/Town Liaison, Beth Pryor

1. Work Session – Planning Board Room

2. Call Meeting to Order – Town Court Room

Meeting called to order at 735pm by Ms. Rood

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

Mr. Rosati filling as full member due to Ms. Pryor not in attendance

3. Pledge of Allegiance

Lead by Mr. Flattery

4. ZBA Responsibility Reading

Read by Mr. Rosati

5. Minutes

Motion to approve the March 2023 minutes made by Mr. Flattery

2nd by Mr. Ballard

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

APPROVED

6. Public Hearing

Public hearing read by Ms. Rood

The ZBA will meet at the Town of Boston Town Hall on **Thursday, May 4, 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 #612 – The Genzel Land Co, LLC of 7033 Cole Rd, seeking **AREA** variance for a lot with reduced frontage of 30ft on Wildwood Drive. This does not meet Town of Boston Code 123-19C of 100ft frontage.

Petition #613 – Horseshoe Hill, LLC of 7588 Lower East Hill Rd, seeking **AREA** variance for large accessory structure, Town of Boston Code 123-136B(4) and **USE** variance for Commercial Horse Boarding, Town of Boston Code 123-25B(6).

Petition #614 – Tim Lynch of 7313 Heinrich Rd, seeking **AREA** variance for large accessory structure, Town of Boston Code 123-136B(4).

Ms. Rood asked for a motion to open the public hearing.
Motion to open public hearing for Petition #612 made by Mr. Flattery.
2nd by Mr. May

ROLL CALL

Mr. Flattery
Mr. May
Mr. Ballard
Mr. Rosati
Ms. Rood

Ms. Rood read the variance request letter for the minutes.

TO: ZBA Chairman and Board members
FROM: Sarah desJardins, Planning Consultant
RE: May 4, 2023 ZBA petitions

Chairman and Board members:

Regarding **Petition # 612**, the Genzel Land Co. is requesting an area variance for a new building lot that would have 30 feet of frontage along Wildwood Drive instead of the required 100 feet.

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

Regarding **Petition # 613**, Horseshoe Hill, LLC, 7588 Lower East Hill Rd, is requesting several area variances and a use variance in order to construct a 7,200 sq.ft. accessory structure for a commercial horse boarding operation. The square footage of the structure, combined with an existing accessory structure on the property, exceeds the total square footage allowed for accessory structures per Code. Additionally, the structure would be too close to both north and south property lines, requiring variances, and the same goes for the manure pile.

The requested area variances are classified as Type II Actions and therefore are not subject to review under SEQR

However, the use variance is required because commercial businesses are not allowed in that zoning district. A Special Use Permit can be requested for a private horse stable to be used by the property owner and occasional guest without compensation, but that is not what the applicant proposes to use the stable for.

The use variance **IS** subject to review under SEQR and if the Board decides to approve it, a Negative SEQR Declaration must be issued before the vote is held.

Regarding **Petition # 614**, the applicant is requesting an area variance to allow the construction of an accessory structure that is larger than what the Code allows at 7313 Heinrich Road.

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

Respectfully submitted,

Sarah desJardins, Planning Consultant

Petition #612

Request letter read by Ms. Rood. This statement was provided by the Code Enforcement Officer to the Board members.

Three emails received and read by Ms. Rood from residence on Wildwood Drive. Emails placed in the file folder for this petition.

PUBLIC HEARING

Applicant – Mr. Genzel spoke to the board.

Provided history with a map and aerial map as it exists and how it would look. Mr. Genzel also provided a history of this property, 5 separate lots, 5 separate tax bills since 1974. Original developer has left the 60ft lots since 1974.

As it sits, would not need approval if a road was put in, cost about \$100,000. Would need hammer head at the end of the road for turnaround for emergency equipment, etc. The town never approved the subdivision to the South. A new owner, to build a single family home and was not approved. Looked at cost of develop as they are platted, with no approval. Looked at different options. This is a request of 2/30ft lots with each having a 12 ft wide driveway. Less impactful to the neighborhood. However, there is a large need to clean up before they can build.

The hardship, not that impactful. The lots have been there since 1974. This request would be the most feasible. Keep with the character of the neighborhood. Very well-maintained neighborhood. Utilities are available, traffic would be most likely 2 young families to enjoy our community. Also, taxes, the impact would be beneficial to the Town.

Questions?

Ms. Rood – looked at the property and thought about the neighbors by this property. This was always the intent that there would be homes built. RESPONSE: Yes.

The houses are built close to the right away. This would be no different compared to the existing homes. Trees along the property line and could be trimmed back to be a natural buffer. The homes in the back would be facing each other.

Ms. Rood - Did you ever offer the property to the existing homeowners? RESPONSE: Yes, it would affect about 6 current homeowners. Nobody was interested in purchase.

Response from the Audience: This was not offered to the existing neighbors.

Mr. Genzel Responded – further discussion about this – this was the best way to develop logically.

Mr. Rosati question: Would you be taking advantage of the sewage or would each property have there own?

RESPONSE: Would put in 12ft driveways for each property with the 30ft frontage.

Mr. Rosati – You would run water, etc? RESPONSE: Yes. Sewer is already there.

Mr. Ballard: Was there a study to show this could accommodate the current lots? RESPONSE: It is well sized for 2 family homes. There are 3 or 4 homes that tie into it. Everyone else has septic.

Mr. Flattery: Entertain a shared driveway? RESPONSE: Could do a shared driveway. Thought one driveway would have to be larger, plowing, both homeowners would have to be in agreement. Would consider a single driveway to branch off. Would consider a single driveway.

AUDIENCE – comments – (not heard on mic)

Ms. Rood – any further questions? None.

OPEN to the PUBLIC

Jack Geinan, lives on Wildwood, spoke to the board. Most consideration should be given to the neighbors next to this property. Putting 2 driveways – max of 2 homes? RESPONSE: Yes. Against this project. If only going to be 2 homes built, ok, but still not in favor.

Joe Mango, neighbor right next to the access road. Strongly opposed. Just bought the home in December. Did not appreciate all the posted signs around his property. Concerns about the road. Homes are a concern – not pleasing. It should be handled better. Don't feel 2 homes behind my home is fare. More traffic.

Mr. Rosati confirmed it is to be a driveway, not a road.

RESPONSE from Mr. Mango: Yes, but he is making \$400k homes. Easy way to build the homes.

Ms. Rood: If the applicant wants to put in a road and 4 houses, he can. Just want to be clear. This applicant is cutting this in half. The way the property is now, a road can be put in without any variances and 4 homes instead of 2 homes.

Ms. Rood: Would you purchase the property? RESPONSE from Mr. Mango: no, not for \$100k for 3 acres. Ms. Rood brought up her property, as an example. Need to know what you are buying.

Russ Goldberg – nonresident on this street – lives on Hillcrest Ave. Talked about the road that is Chestnut Lane, built by Town of Boston. Further discussion about the development to the Board Members. (recording: 35:33) Why this is not involve environmental? RESPONSE: it has been on paper since 1974. Mr. Goldberg talked about how this is a flag lot. RESPONSE: Ms. Rood-Yes. Mr. Rosati – Mentioned how there is a posting on the Town Website that the comprehensive plan is to be updated. Looking for volunteers.

(recording: 40:34) Ms. Rood gave background of her history with Town of Boston.

Jack Geinan – Talked more about the property and the heavy equipment.

Gregory Lasker - neighbor – purchased his home last July from relatives. New the possibility of builds on the property. Feel comfortable with kids in yard, have respectful neighbors, younger families coming. Fear is the added traffic. During construction, are they going to consider the children in the area. Wife works from home and building being built can be very distracting when working from home. Main concern is for children. Wildwood is the quietest street. Very peaceful. Don't want to add more traffic.

Mr. Wetfield – been here for 10 years. Have a 15 yr old who is deaf, autistic and love living on dead end street. Any houses put up will ruin the area.

Mr. Genzel/applicant – spoke back to the board. Thanked the folks for coming and voicing opinions. Think it was known there were lots available to be build. If turned down, a road will be built and more homes. Want to be less impactful. In any neighborhood, you need to watch your kids. Number one is the safety of children but there is need to keep an eye on your kids. This is going to happen. People put up with development on Wildwood for years. Either way – there are going to be houses put up. Respected all the opinions.

Russell Goldberg – spoke again to the board (recording: 50:14)

Joe Mango – spoke again – If this is a difference of 2 or 4 homes, then does that mean if this is denied, will there be 4 homes? What is this for? RESPONSE: 30ft variance. If this is not passed, then there would be 4 homes. Rather have 2 homes than 4 homes, less than more, not winning or losing.

Gregory Lasker - spoke again – if you would be putting in 4 homes, why has it not been done yet? RESPONSE: property was just purchased in 2021. *Further response could not be heard on the recording.

Motion made to close the Public Hearing by Ms. Rood

2nd by: Mr. Rosati

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

Mr. Rosati spoke to the audience, further about the variance. (recording 55:34)

Approval with stipulations – combine the 2 back lots to be a single parcel. Total of 2 homes rather than 4 homes. RESPONSE: Yes. Would combine. Lots are 100x300 – much larger than other homes on Wildwood Dr. Natural buffers.

Motion made by Ms. Rood to approve variances for #612.

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 []

Stipulation: Pay attention to the trees. Keep mature trees. Talk to neighbors, if wanted to purchase property-just a suggestion. This will be made into 2-Lots.

2nd by Mr. May

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

*Relayed to Mr. Genzel that a building permit is needed in 6 months. Get with Building Inspector.

PUBLIC HEARING #613

Petition #613 – Horseshoe Hill, LLC of 7588 Lower East Hill Rd, seeking **AREA** variance for large accessory structure, Town of Boston Code 123-136B(4) and **USE** variance for Commercial Horse Boarding, Town of Boston Code 123-25B(6).

Ms. Rood read the applicants letter for the minutes and the letter from the Code Enforcement Officer.

Motion to open Public Hearing made by Ms. Rood

2nd by Mr. Flattery

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

SEQR letter read (info listed above for minutes)

Emails read into the minutes (placed in file) but rather than read emails, they are present.

Applicant's Attorney-Jay Pulman represented the applicant. Property on 7.5 acres. Home built over seven stables and area for wood crafting. Proposing to put in a 60x120 riding area/corral.

Ms. Rood – Responded: Riding Arena, not what ever it is to be.

Ms. Rood confirmed no stalls, riding arena only. RESPONSE: correct

Tough road due to the Town's codes. Thought it be best to come in front of the board. If restrictions, wish to be good neighbors. The current property is in a NY Ag District and granted more freedoms, including boarding horses. Home built in 2019 – had 7 horses. Would like to have a place to run the horses in the winter. It is equivalent to, what used to be, the cow barn to the north, Mr. Collin's property. Immediate neighbor – no objections. Letter provided for the file. Letter read by Ms. Rood for the minutes (recording: 1:09:22) – does not object.

Attorney Pulman spoke more about the project and would like to start this Fall. More manure, will be happy to move it.

Ms. Rood – First request – was a commercial horse boarding operation for compensation.

RESPONSE: Mother in Law pays to have her horses let out, taken care of. Referenced the sign on the property Horseshoe Hill, LLC. No change in the use. Looking for area to use in inclement weather.

Ms. Rood – Currently, how many horses? RESPONSE: Seven. Ms. Rood-that is basically the limit. RESPONSE: There is a stall for each horse. Ms. Rood relayed that seven horses is the limit based on the acreage of the property. Not bringing in more horses? RESPONSE: No.

Ms. Rood – no additional traffic. Understands what the applicant wants. Referred to own experience. (recording: 1:12:15)

Mr. Ballard – as for the use variance, are we withdrawing? RESPONSE: Says we can use as agricultural – a code referenced. (recording: 1:13:21). Not sure where they are going.

Ms. Rood talked about the letter from Mr. Fisher about the building and usage. (recording: 1:13:55), referenced the letter again from the Code Enforcement Officer.

Talked about the variances needed.

RESPONSE: If you would strike the words commercial and storage, would have a better idea of what is being asked.

Ms. Rood – agreed – Struck out those words – Commercial and Storage.

Ms. Rood talked about USE variance. No financials received with the application. RESPONSE: Understand that. Ms. Rood – this info should have been with the application.

Mr. Fisher – talked about the variance (recording: 1:15:14) Did not know this got tagged on. Special Use is different from Use variance. Does not need a Special Use permit since in RA District. We are building in RA District. R2 zoning was talked about. Allows for livestock. Looking for clarification.

Mr. Ballard – Once you start talking about boarding horses,

Mr. Rosati – What happens if mother-in-law sells horses? Open to 3rd party? Just open the business in February? RESPONSE: The horses are forever horses. Do not sell horses.

Not looking to board. Looking to have an area to exercise in the winter. This building is the last step to work the horses year-round.

Ms. Rood – looking at how many variances? Pulling the use variance?

Code enforcement Officer/Murphy – This is borderline but could narrow it down. For whose horses? RESPONSE: from Ms. Rood-family only. This can be a stipulation in the petition.

Mr. Ballard – Talked about the setbacks, piles, grazing – is that only for the R2? Is it not in the RA.? RESPONSE: COE/Murphy – That is incorrect (recording: 1:19:47- about codes).

COE talked about the code in more detail re R-district. RA and R2 are the same regarding feet from the property line.

Mr. Ballard – That's an issue then – property only 130 ft wide.

Mr. Rosati – Confusion between private boarding and collecting fees from family. Told there was no compensation.

Attorney Pulman: Both applicants are employed. Mother wants to pitch in for costs of boarding.

Mr. Rosati – code was written with the idea of a 50-acre plot, 500x500, no issues with setbacks.

Mr. Ballard – Seven acres – the sides are the issue.

Attorney Pulman – talked about the feet on the sides (bowling alley lot).

Mr. Rood – What do with hauling out the manure? RESPONSE – Occasionally haul it out. Plan to get a dump trailer to remove and not store on the property.

Mr. Rosati – No contract to remove the manure? RESPONSE: Yes, in the past, had paid for services. Right now, it is difficult. Long time plan, to move themselves.

Mr. Ballard – The normal drainage question? Ms. Rood commented that this was going to bring it up. RESPONSE: Attorney Pulman commented, if approved, would be conditions on submitting a satisfactory drainage plan to COE/Murphy.

COE/Murphy – Document provided to the Board – Letter from a neighbor. Read for the minutes (recording: 1:24:36)

RESPONSE from Mr. Fisher - Talked about the electric fence (electric fence talked about the letter from neighbor). Had asked the fence installer if a permit was needed and was told there was none needed. If the town had a problem, they can take it up with him. Following the advise of the construction person who put in the fence. Willing to address the issues with the fence but has been there for quite a few years.

Ms. Rood - Talked about the amount of rain – over 4,000 gallons of water towards the house. A four inch drain is not going handle this amount of rain. RESPONSE-talked about a swail. Plans to talk with the site person to address the drainage issue. Will look into that.

Attorney Pulman – if approved, will address the drainage and not have it go towards the road.
Ms. Rood – this needs to be addressed.

Open to the Public

Karen Kull – Has lived on the road for 22 years. Very frustrated. This family moved in 2019 and his full intention was to use the property as a horse arena. Why are we here? It is his responsibility to know the codes and ordinances. Ms. Kull bought home in 1999, called Town of Boston, when putting up detached building, went by code. Strongly oppose this project. A lot of people have wells. Concerned with quality of air and water. If the insured wanted to have a horse farm and arena, he should have done his research. Strongly Oppose.

Tom Woodrow - Adjacent to the applicant – southside. Wife Joy present. Have the fence. Been watching the property and haven't said anything and see what happens. Have not seen seven horses. The building/riding arena three times the size allowed for the Town of Boston. If built, it is going to get too close to the property line. 135ft wide, less/more. This can't happen. The building would ruin the quality of life in the neighborhood for this commercial building. It is too big. To talk about the variance regarding commercial horse boarding. They have horse and donkey boarded underneath the house, but shouldn't be done to begin with. Now, finding out about seven horses. They have seven acres, can have 8 horses. The manure – that amount will draw rats and then maybe coyotes. Now concerns with kids and pets in the neighborhood. The manure must be 100ft from the property line when they only have a total property width of 130ft. If allowed to commercialize, going to see more activity. They have three dogs on an upper deck as they begin to bark whenever a car comes and goes. Takes a while to calm down. Annoying. They have an open field. All the neighbors can hear the dogs. This can't happen. The structure is too big; ruin the way of life for the neighborhood. Supposed to be a country neighborhood.

Joanne Woodrow – concerned with the well. Concerned with the manure and with the manure being so close. What they say and what they do is different. The concrete pad has already been installed without permission. Ms. Rood asked, what concrete pad? There is no concrete. You don't put concrete in a riding arena. There is a foundation already put down. Ms. Rood confirmed it is dirt, not concrete. It has been excavated. Concerned with the smell and don't know where the other three horses have been. The pony is now gone, now there is a donkey. Four is plenty. Never seen seven horses since they have lived there. 2 female, 1 male, 1 donkey.

Mr. Rosati – Question: mentioned about the well. Any testing that there may be a problem?
RESPONSE: No - don't use for drink but to water plants and for outside purposes. Totally Opposed.

Ms. Rood – need to clarify – if not approved, the applicant can still have seven horses.

RESPONSE: Ms. Woodrow - understood. But what the applicant is saying, they have never been outside.

Ms. Rood – how many on the property? RESPONSE: (recording: 1:41:34-hard to hear).

Ms. Woodrow talked about how the donkey just came, replaced the pony, and reaches onto their property for grass. Mr. Fisher responded (unable to hear).

Rick Dominski, and Elaine – just moved in, retired. Talked about what it took to build a home. Laws are made to help everyone. Now, a riding arena being put up, with the intent to train people from the outside. Was told the owner's girlfriend's father (Scott) that the dream is to build a very large arena to train people in the wintertime. Home is 800 ft back from the applicant. Horses, goats, dogs. Need to think about it and plan and do it right. Was told the applicant's original

structure is illegal. You can't have a residence above a stable. Not sure how they did it. Now why the home has been deeded into the kid's name. Mother/Father own the property, letting the kids live there, and his dream is to teach in a riding arena. On Facebook, a comment was asked: When are they putting up horse farm and a riding arena and we are looking for a place to go to in the winter. Don't know, now hearing. Seeing all the construction equipment is on the property without any permits, from the understanding. Been going on since last year. The trusses are there already. Once it is up, are they going to take it down? No. The other thing, was told, need to do a foil, that this applicant tried to do this in Orchard Park and was denied. Now they are trying to do it here in Boston. Don't want this. Talked more about the animals on the property.

Ms. Rood – What breed of dogs? RESPONSE: Mr. Fisher commented: Jack Russell (did not say if that is all three). Had talked to Jeff and girlfriend regarding the dogs. They are constant barking. Do it right, don't sneak it in, too big. The father said, the dream is to put the riding arena in the back so can people how to ride horses. Oppose.

Mr. Rosati – This is the house closest to where the arena will be built? RESPONSE: Yes
Sharon Kanuth – oldest property owner – 50 years. Didn't even know this structure was going up across the street. Sounds like it will be huge. Currently downwind for all the dirt and manure. Concern – the odor/smell - if going to have more animals. If more traffic, then must deal with more dust. Ms. Rood – it was told that this is not going to be commercial. No further talk about this. Ms. Kanuth talked about the concern with the water. It would have been a considerate to ask the neighbors. Sounds bigger than what can fit. RESPONSE: Ms. Rood – This is where you come when something is not to code, to get a variance. Ms. Kanuth – Objection, too large of a structure and the odor, since downwind. RESPONSE: Ms. Rood – right to farm community.

Attorney Ed Murphy - Had some experience in both ZBA and Planning. The use variance is off the table, however – Ms. Rood asked how connected. RESPONSE: Attorney and lives in the village of Hamburg – retained by the neighbors. (recording: 1:59:45) talked about the risk-permits, etc. Hearing the animals are under the house, RA or R2 – a special permit is required. Suggest to the board that a special permit is required. Suggest to have conditions regarding the animals. The square footage is significantly high – three times – this is substantial. In terms of the setbacks, they would have it only a 3rd of what's required – either would be a base to deny the request.

Karen Kulop – question to Mr. Fisher – If the intension was to erect a horse arena, when purchasing the property, why not propose to the town before. RESPONSE from Attorney Pulman: Did not have too since being in an agricultural district. Mr. Fisher bought from Mr. Genzel. No Orchard Park prior application for the same thing, turned down. Willing to answer questions. Don't like disparaging. Did not need to be here. Ms. Kulop-Then why are we here? Feel this applicant is intelligent person and knew what was needed. If you own a business, the first thing done is to check for what permits are needed. Strongly oppose.

COE/Murphy – Official limit on this parcel is 8, per code.

Attorney Pulman commented: Don't think this is going behind close doors. Went to the town for a building permit. Did not need to come to the meeting tonight but did due to mis-information.

Rick Dominski - All the building equipment there last year, was there a permit? RESPONSE: the prior permits were for the house. Why are the trusses back there? RESPONSE: They are going to build it.

Deborah Moran - Has lived there 45 years – as land is getting more expensive, people are buying smaller plots of land, but the problem is that when the codes are established, they are there to protect the neighborhood. If you want to build a structure larger than what is allowed, then you need to have a large piece of property. Not fare to the other neighbors. If the variance can be done

for this property, what is to stop someone else to do the same thing. Don't want these huge buildings and causing a disruption in the neighborhood. Opposed.

Mr. Rosati – Non-horse person - Part of our criteria to minimize the variance, but the building would be too small to use as an arena. So, the diagram – is it reasonable to make 60x120.

Reasonable to be 60x60?

RESPONSE: (recording: 2:08:50-Mr. Fisher did not speak in the mic)

Ms. Rood - Asked about the height, told 18ft. Now being told there is jumping involved.

RESPONSE: 22ft to 24ft height. Ms. Rood-Which is it? (recording: 2:09:41)

Mr. Rosati – The project title: Jennifer Benning? RESPONSE/Mr. Fisher: Yes. Mother-in-Law. Owns the house and property, is owned by them and the in-laws, have a stake.

Joanne Woodrow – Concern is that don't want her property value to be affected. The building is way too large. Concerned. Property is going to depreciate. It is not fair.

Rick Dominski - Now hearing today, 18ft, but now it is 24ft. Now what happens.

RESPONSE: Ms. Rood relayed that we have a new building inspector. Do it the right way.

Karen Kuhls – Curious, if mother in law are invested, why not build on their property?

RESPONSE/Attorney Pulman: This is where Ag district is.

Ms. Kuhls-Why was this not done in 2019. Frustrating.

Ms. Rood – turned to Attorney Laurie Baker and COE/Murphy

Attorney Baker – This property is in 2 districts? Ms. Rood: it is RA-code, but Ag District is above zoning. Attorney Baker, the entire parcel is agricultural? RESPONSE: No, from Ms. Rood.

Designated as an Agricultural District, different from Zoning.

Mr. Flattery – He can build this building? RESPONSE: Attorney Baker–would have to look at the law and get back to the Board. Do they need to come to the ZBA for the building? That is the question. Ms. Rood - correct

COE/Murphy – gave code to Attorney Baker – must exhaust all local avenues in pursuit of project. If they don't like the answers, can go to the state – 2 year waiting period. If not approved, they would have to go to the state.

Mr. Rosati – Do we need the same variance for the setbacks for the side yards and not a commercial building in RA? MURPHY – this would have to be

Mr. Ballard – Corral shall not be less than 50ft from any property line in RA? RESPONSE:

COE/Murphy-Any RA. Must be 50ft from property building? YES. 135ft to start, only a 35ft bldg.

COE/Murphy- further discussion between Corral/outdoor and Arena/indoor.

MURPHY – Grazing – if only being let out to eat, can be 15ft.

Motion made to close the public hearing by Ms. Rood

2nd by Mr. Flattery

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

Ms. Rood talked more about her experience with the audience and applicant. (recording: 2:19:16)

Motion to DENY all variances with putting up the structure made by Ms. Rood

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

- (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 []

2nd by Mr. Flattery

Question – Mr. Rosati – Talked about the SEQR and special permit – if vote against, do they still need to address the special use permit? RESPONSE: Ms. Rood – This would go to Town Board.

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

PETITION DENIED

Petition #614

Petition #614 – Tim Lynch of 7313 Heinrich Rd, seeking **AREA** variance for large accessory structure, Town of Boston Code 123-136B(4).

Motion to open the public hearing made by Ms. Rood

2nd by Mr. Ballard

Tim Lynch spoke to the board. Want to build a 38x40 garage. Ms. Rood-going to do it?

RESPONSE: YES

Mr. Flattery – Cold storage? RESPONSE: Yes. Received form with 4 neighbors signing off on the project. Provided for the file. Letter read for minutes by Ms. Rood.

SEQR read (info listed above)

Mr. Flattery – Dirt floor. RESPONSE: Stone.

Mr. May – Utilities? RESPONSE- No

Mr. Ballard - Haul in fill? RESPONSE: Yes, should not be much. Cost should be \$16,500 rather than \$30,000.

Mr. Rosati – Talked about spacing on the property, still to extend driveway? RESPONSE: yes

Ms. Rood – Any drainage? RESPONSE: Probably drain tile from the gutter.

Motion made to close Public Hearing by Ms. Rood

2nd by Mr. May

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

Motion made to approve the building by Mr. Flattery

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

- (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 []

2nd by Mr. Ballard

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood

*relayed that the building permit must be required within 6 months.

7. New Business

Moving forward with Comprehensive update – looking for a board member.

Mr. Rosati agreed to serve on the board.

Motion to appoint by Ms. Rood.

Mr. Rosati asked about the type of variances being received. Discussion about the variances for large structures among the Board Members.

8. Old Business – none

9. Motion to adjourn

Motion made to adjourn meeting at 10:12pm by Ms. Rood
2nd by Mr. Flattery

ROLL CALL

Mr. Flattery

Mr. May

Mr. Ballard

Mr. Rosati

Ms. Rood