CAPE COD
COMMISSION

Development of Regional Impact (DRI)
Referral Form

This form is to be completed by the referring municipal agency's authorized representative. Please attach a copy of the municipal development permit application pending before the municipal agency, showing the date on which it was received. Application materials should be transmitted to the Commission sufficient to describe the project and support the referral. Receipt of this information via the U.S. Mail or delivered in person to the Cape Cod Commission constitutes a referral for purposes of the Cape Cod Commission Act and Regulations. Form continues on the back.

Referred by (Municipal Agency): Town of Falmouth

(●) Mandatory Referral ( ) Full Discretionary Referral ( ) Limited Discretionary Referral

Project Name: 0 and 160 Thomas B. Landers Road

Project Location: 0 and 160 Thomas B. Landers Road, East Falmouth, MA

Applicant Name: Lawrence Lynch Realty Corp.

Contact Address: 396 Gifford Street, Falmouth, MA 02540

Email: ed.kirk@verizon.net Telephone: 508-428-4800

Brief description of the project including, where applicable, gross floor area, lots, units, acres and uses (please use additional sheets as necessary): Seeking a permit for excavation/earth removal, processing and storage of material, with restoration, of 36+acre parcel of recorded land, and 3+acres of registered land
Prior Special Permit issued by Town in 1990 for a three-year period, with Conditions; was not complied with.
Applicant has requested an extension for the 1990 permit.
Building Commissioner has identified the 1990 permit as null and void

List municipal agency(ies) before which a municipal development permit is pending or required for the project: (please use additional sheets as necessary): Requires a Special Permit from ZBA
Requires a stormwater permit from Engineering for disturbance over an acre

Noreen H. Stockman, Zoning Administrator		2-24-2025
Print Name of Authorized Referring Representative/Title	Signature	Date

Mail or Deliver to:
Cape Cod Commission Attention: Commission Clerk
3225 Main Street, PO Box 226
Barnstable, MA 02630

» CONTINUED ON REVERSE »

CAPE COD
COMMISSION

Development of Regional Impact (DRI)
Referral Form Continued

Prior to making any referral, the Commission recommends that the municipal agency contact Commission staff to confirm process and discuss other relevant issues under the Commission's regulations; and specific to limited discretionary referrals, this discussion might eliminate the potential for misunderstanding about the scope of Commission review under the particular Cape Cod Regional Policy Plan (RPP) issue areas requested.

For Mandatory Referrals: Please indicate the review threshold(s) the project meets/exceeds from Sections 2 and 3 of the Commission's Chapter A: Enabling Regulations Governing Review of Developments of Regional Impact. Chapter A is Section 3(c)(iii), definition of Outdoor Use under Chapter A, Section 1(c), and Chapter A, Section 5(c) transitional exemption.

NATURAL SYSTEMS

_____ Water Resources
_____ Ocean Resources
_____ Wetlands
_____ Wildlife & Plant Habitat
___x__ Open Space

COMMUNITY SYSTEMS

_____ Cultural Heritage
_____ Economy
_____ Housing

Effect

160 Thomas B. Landers Road

- The last Special Permit was issued in **1990.**
- That permit was set to expire in 1993; there has been no action related to this permit in over 31 years
    - At the time of the 1990 permit, there were identified "problems" at the site, and a concern expressed at the hearing about bringing the property into compliance: an abutter was represented by counsel regarding a property encroachment
        - **We have no record provided about compliance, including whether required reclaimation took place, in a checkerboard pattern**
        - The work was to be phased in 60,000 square foot sections **(no record)**
        - ?status surety bond $12-25K (1988-increased to $25K in 1990) *inquiry has been made to Town's Collector: no record of bond(s)*
        - Rectify noncompliance?
        - Conditions out of compliance:
            - #2: submit a site plan annually to ZBA and BC **(not done)**: *"If the plan is not submitted as per the conditions it would render this Special Permit null and void and the parcel would have to be reclaimed in full within 60 days from the time that the building commissioner so notified the property owner".*
            - #5: vegetation and soil suitable shall be stockpiled for reclaimation **(unknown)**
            - #6 Border with natural vegetation undisturbed 100' from TB Landers Road + 50' buffer from abutting properties **(unknown)**
            - #7: slope of banks **(unknown)**
            - #8: excavation from water table **(unknown)**
            - #9: access road details **(unknown), also #10, 11, 12, 13, 14, 15, 16**
            - #17: "At the completion of each separate parcel (60,000 sf), the petitioner shall notify the Building Commissioner and the Board of Appeals in writing that the parcel is complete....If this section has not been completed in accordance with the permit and zoning by-laws in effect at this time, a hearing will be required with the Board of Appeals. **This special permit is in effect for a period of not longer than three years from the date of this decision....** This permit may be renewed for additional periods in the same manner."
    - The **Building Commissioner has declared the permit null and void: Condition #2 of Special Permit 20-90: required plans were not issued to the Building Commissioner annually**
- Suggest: timely filing with CCC
    - Expired permits should not be "renewed"
- Mr. Kirk's letter of 10-28-24, paragraph 2, line 3 on: "business activities which have been carried on at the two combined parcels for more than 60 years will continue to be allowed under Lynch's ownership, *and the proposed use and condition of the property will be deemed to be in compliance with the terms of the previously issued permits."*

- Seeks "renewal" of Permit #20-90, "confirmation of continued lawful ____ (?presuming "use")

The application before the ZBA proposes "incoming materials" of "typical quantities". We have no specifications what that material may be, and limitations/management (See Sheet 1 of 8; 10-16-24 plan).

It appears that the westerly access driveway encroaches into the nondisturb area, and is being removed. It appears that two other areas of encroachment are proposed to be corrected. (Areas of noncompliance with the issued Permit.) *If there is a requirement to be setback 100' from Thomas B. Landers Road, it appears to not be met at the northeast section by the road; just the southeast.

The Zoning Board of Appeals has included a copy of its prior permits, including

- #1882 (1965)
- #2175 (1968)
- #128-88 (1988)
- #20-90 (1990)

TOWN OF FALMOUTH

Building Commissioner's Office

PETITION FOR VARIANCE UNDER THE ZONING BY-LAW

To the Board of Appeals,
Falmouth, Mass:

Date April 8, 1965

The undersigned petitions the Board of Appeals to vary, in the manner and for the reasons hereinafter set forth, the application of the provisions of the zoning by-law to the following described premises:

Applicant: Gile Moniz and Adlein Moniz, (Full Name) Falmouth, Mass. (Winter Address)

Owner: Gile Moniz and Adlein Moniz, (Full Name) Falmouth, Mass. (Winter Address)

Tenant (if any): NONE (Full Name) (Mill Rd.) (Winter Address)

1. Location of Premises: Thomas B. Landers Road (Name of Street), Hatchville (What section of Town)

2. Dimensions of lot: 850 L.F. ± (Frontage) X 2200 L.F. ± (Depth) Area 1,613,898 (Square Feet)

3. Zoning district in which premises are located: Agricultural (AG)

4. How long have you owned above premises? 3yrs. 10 mos. Previously Owned by Falmouth Cement Works, Inc.

5. How many buildings are now on the lot? NONE

6. Give size of existing buildings NONE

Proposed buildings Office Building 20' X 20'

7. State present use of premises Sand and Gravel Pit

8. State proposed use of premises To errect a Screening, Mixing, Crushing and Batching Plant

9. Give extent of proposed alterations To errect a Plant behind a Seventy five foot (75') Buffer zone of trees.

10. Number of families for which building is to be arranged NONE

11. Have you submitted plans for above to the Building Inspector? Yes

12. Has he refused a permit? No Yes (A.C.)

13. What section of zoning by-law do you ask to be varied? 27-H

14. State reasons for variance To errect a Screening, Mixing, Crushing and Batching Plant so we can prepare sand & Gravel from our Property on Thomas B. Landers Road (Mill Rd) in order to eliminate hauling unsuitable material to our plant in Teaticket. This will eliminate approximately two-thirds of our trucking over the town roads.

COMMONWEALTH OF MASSACHUSETTS

45

TOWN OF FALMOUTH

BOARD OF APPEALS

13 MAY, 1965

Decision of the Board of Appeals on the appeal and petition of

GILE and ADLEIN MONIZ of Falmouth, Mass.

DECISION ATTACHED HERETO;

TOWN CLERK'S OFFICE
Falmouth, Mass. May 14 1965
Received for record at 2:30 o'clock PM
and recorded in Vol. 3 on page 1.
Town Clerk

#1882

Thomas B. Landers Road Hatchville, Mass.

DECISION OF THE BOARD OF APPEALS

WHEREAS, Under a date of 8 April, 1965, Gile & Adlein Moniz of Falmo filed a petition with the Board of Appeals requesting an exception of Section 27(h), of the Zoning By-Laws, of the Zoning By-Laws, for permission to erect a Screening, Mixin Crushing, and Batching Plant on their property located on Thomas B. Landers Road, Hatchville, and

WHEREAS, A proper plot plan was duly filed with the application indicating in blue the exact location of the abovementione purpose, and

WHEREAS, A public hearing, of which notice was duly given as requir by law, as well as notices sent to all persons deemed interested by the Board of Appeals in addition to publicat in the newspaper, was held, and at which hearing all parties desiring to be heard were heard, on May 6, 1965, and

WHEREAS, It is the opinion of the Board of Appeals that the use applied for if subject to certain restrictions or requirements should be granted as an exception and it is also the opinion of the Board that the proposed use will not be harmful to the adjacent property and will not alter or impair the character of the neighborhood.

NOW THEREFORE

BE IT RESOLVED that the Board of Appeals being of the opinion as aforesaid and after weighing carefully all pertinent information and evidence submitted at the hearing, hereby grants an exception and authorizes a permit to be issued to the petitioner for the Screening, Mixing, Crushing and Batching Plant, subject to the following restrictions and/or requirements:

1. The buffer zone as presented to the Board by the plan of John Doyle of May, 1965, should be increased from 75' to 100' and that the shaded area in blue or purple be extended in the rear by 25'. The buffer zone will be of a screening nature which will be of trees or attractive shrubs and will be groomed periodically.
2. Abutting sidelines will be protected and no activity of any type shall be conducted within 50' of such sidelines with a 5 to 1 slope when this area is approached.
3. When area which has been used and has no further use and has been abandoned the property should be put into a smooth graded area or condition.
4. Proper clearing entrances and exits will be maintained for safety purposes with proper signs and maintained at all times.
5. Any buildings should be adequately setback from all property lines as set forth in Item #2.
6. Hours of operation should be daylight only or not to exceed 5 A.M. to 8 P.M..

ACTION: The Board of Appeals consisting of John R. Augusta, Harvey G. Clauson, and John R. Peterson, being all present and voting as follows:

VOTE TO GRANT:

AUGUSTA: Yes John R Augusta

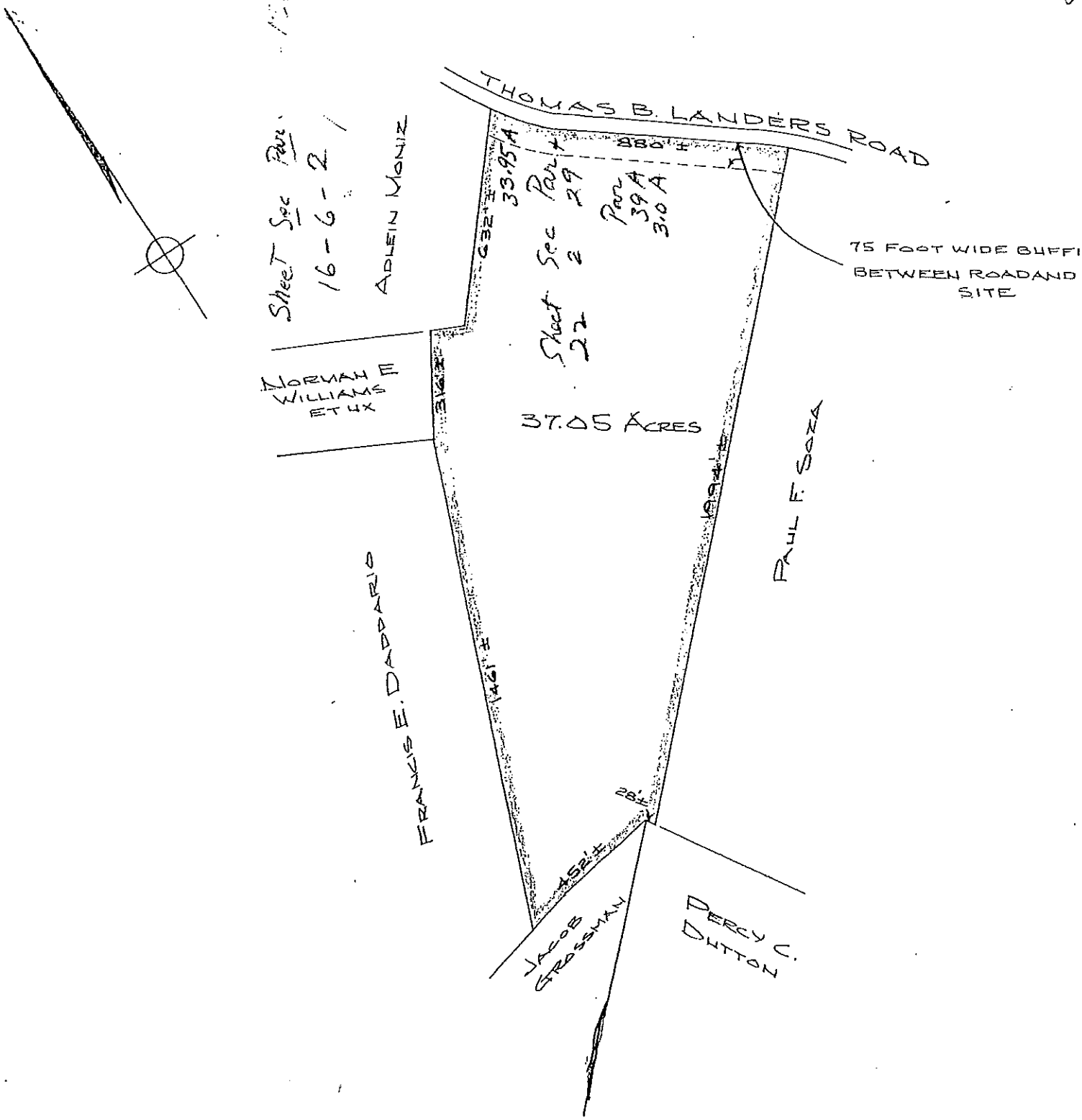
CLAUSON: Yes H G Clauson

PETERSON: Yes John R Peterson

John R Augusta

JOHN R. AUGUSTA, Clerk
Board of Appeals

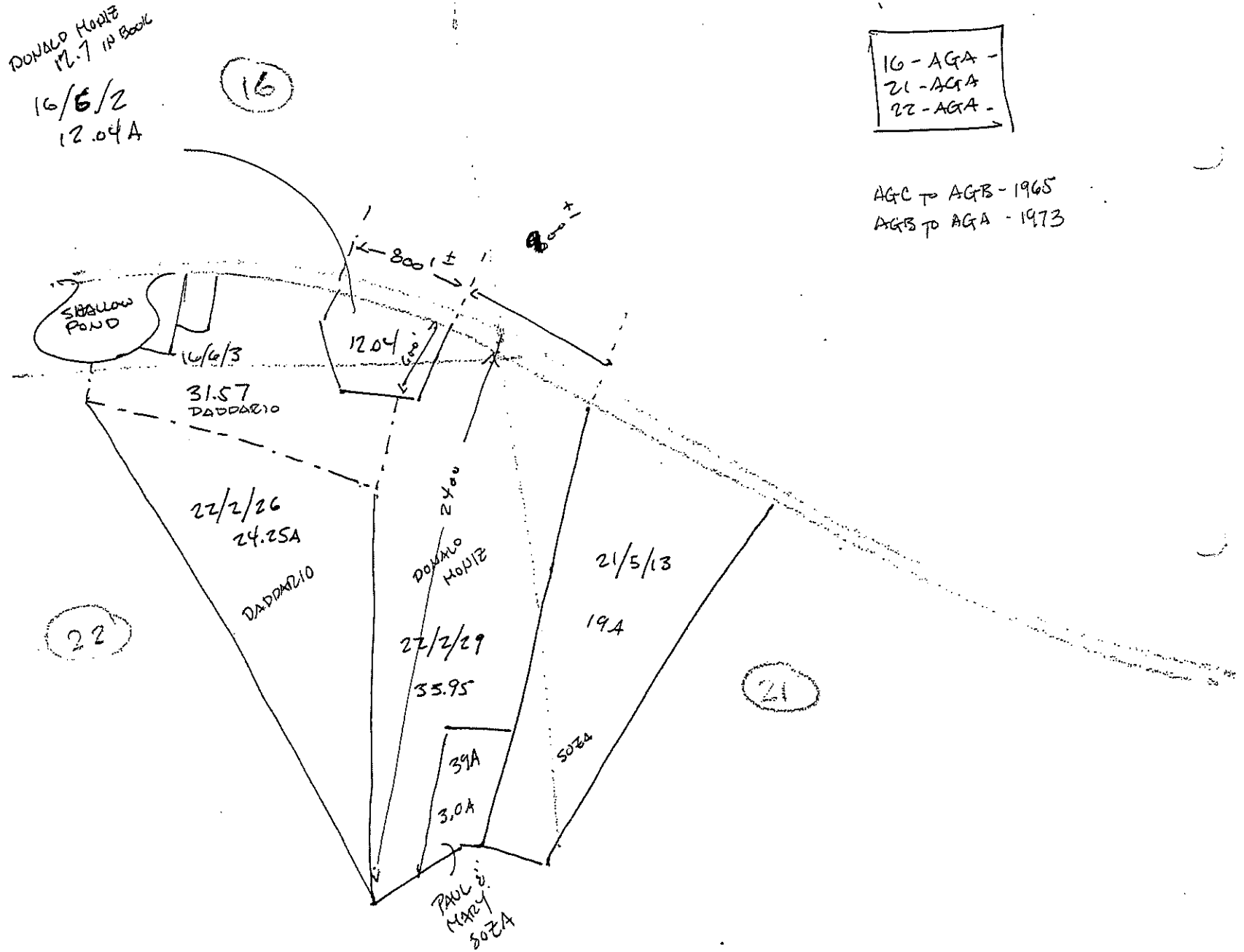
DATED: May 13/65



VARIENCE PLAN OF LAND
IN FALMOUTH MASSACHUSETTS
FOR
ADLEIN MONIZ AND GILE MONIZ

SCALE: 1 INCH = 400 FEET APRIL 8, 1965

COMMONWEALTH OF MASSACHUSETTS
JOHN PATRICK DOYLE
9876
REGISTERED LAND SURVEYOR


DONALD MONTE
M.7 IN BOOK
16/6/2
12.04A
16
16 - AGA -
21 - AGA
22 - AGA -
AGC TO AGB - 1965
AGB TO AGA - 1973
800' ±
900' ±
SHALLOW POND
16/6/3
12.04
31.57
DADDARIO
22/2/26
24.25A
DADDARIO
2400'
DONALD MONTE
27/2/29
35.95
22
21/5/13
19.4
21
39A
3.0A
50ZA
PAUL & MARY
80ZA

#2175

TOWN OF FALMOUTH
BOARD OF APPEALS

Application for a Special Permit

(Under pertinent sections of the ZONING BY-LAW and authorized by Section 21 A, B, & C)

Date Sept. 18 19 68

To the Board of Appeals
Falmouth, Mass.

The undersigned, hereby applies for a Special Permit from the BOARD OF APPEALS; as required by provisions of the Zoning By-law and authorized under Section 21 paragraphs A, B & C, added by the Annual Town Meeting on March 7, 1966, approved by the Attorney General, with reference to the use of the following described premises:

Applicant Otis and Gile Monis, P.O. Box 12, Teaticket, Mass. 02536
(print name) (complete address including zip code)

Owner Otis and Gile Monis
(if other than owner)

Location of Property Thomas B. Landers Road, Hatchville, Mass.

Area of lot 3.27 acres
(Frontage) (Depth) (No. of Square feet)

Zoning District in which property is located Agricultural

How long have you owned this property? 20 Years

What section or sections of the Zoning By-law requires the permit you seek? Section 21+35

Specific use of premises Batching & Screening & Processing Sand and Gravel

Other proposed use of premises Remove sand & gravel

Any further remarks in explanation of this application

Witness signed by S. Welch

Hearing date set for Oct. 1968

Otis Monis
Signature of applicant

#2175

TOWN OF FALMOUTH
BOARD OF APPEALS

Application for a Special Permit

(Under pertinent sections of the ZONING BY-LAW and authorized by Section 21 A, B, & C)

Date Sept. 18 1968

To the Board of Appeals,
Falmouth, Mass.

The undersigned, hereby applies for a Special Permit from the BOARD OF APPEALS; as required by pertinent provisions of the Zoning By-law and authorized under Section 21 paragraphs A, B & C (Voted August 1st Annual Town Meeting on March 7, 1966, approved by the Attorney General on April 4) and with reference to the use of the following described premises:

Applicant Orlo Scott and Gile Monis, P.O. Box 12, Teaticket, Mass. 02536
(print name) (complete address including zip code)

Owner (if other than applicant) Orlo Scott and Gile Monis

Location of Property Thomas B. Landers Road, Hatchville, Mass.

Area of lot 20.27 acres
(Frontage) (Depth) (No. of Square feet)

Zoning District in which property is located Agricultural

How long have you owned this property? 20 Years

What section or sections of the Zoning By-law requires the permit you seek? Section 21+35

Present use of premises Batching & Screening & Processing Sand and Gravel

Proposed use of premises Remove sand & gravel

Any further remarks in explanation of this application

Application received by S. Welch

Hearing date set for 24 Oct. 1968

Orlo Scott Monis
Signature of applicant

Appeal No. #21

In the Matter of the Application of Adlein & Gile Moniz of Teaticket

LOCATION: Thomas B. Landers Road, Hatchville, Massachusetts

DECISION OF THE BOARD OF APPEALS

WHEREAS, Under a date of 18 September, 1968, Adlein & Gile Moniz of Teaticket, Mass., filed an Appeal for a permit under Section 21, of the Zoning By-Laws, of the Town of Falmouth, for the purpose of obtaining a permit to remove material from their property located on Thomas B. Landers Road, Hatchville, and

WHEREAS, A public hearing, (Notices were sent to all persons deemed interested by the Board of Appeals and in addition there were publications in the local newspaper), was held, at which hearing all parties desiring to be heard, were heard, (hearing was held October 10, 1968,) and

WHEREAS, The granting of said permit will, in the judgment of the Board of Appeals, be in harmony with Sections 35 and 21, of the Zoning By-Laws if properly restricted under said Sections 35 and 21, and would not result in substantial injury to the public good.

NOW THEREFORE BE IT RESOLVED

The Board of Appeals, being of the opinion as aforesaid, and after having weighed carefully all pertinent information and evidence submitted at the hearing and from their view of the site and neighborhood, hereby grants a Special Permit for removal of material for processing sand and gravel but subject to the following restrictions, conditions, and/or requirements:

1. That this permit shall cover the entire area of the property presently owned by the Applicants on Thomas B. Landers Road, being approximately 51 acres, but subject to the restriction and condition that the land shall be worked in parcels of not over 10 acres on a plot plan which shall be submitted to the Board of Appeals for approval.

2. This Permit shall be in force for TWENTY (20) years.

3. When the area in an approved plot plan above designated is exhausted, the Applicants may request an extension of the area to be excavated, and further extensions of area of 10 acres or less may be applied for from time to time subject to other provisions of this decision.

4. Upon receipt of a request for extension of area to be worked, the Board of Appeals shall determine whether or not specific restrictions, conditions, and/or requirements contained in this decision have been complied with by the Applicants. If the Board shall so find, it shall authorize removal of material in an additional specific area of not more than 10 acres. In the event that no request for extension of area is made within four (4) years from the date of issuance of this permit, this permit shall expire. If there is an extension of area in which excavation is permitted, this last provision shall apply thereto so that this permit shall expire four (4) years from the issuance of the permit, or four (4) years from the issue of any extension.

TOWN CLERK'S OFFICE
Falmouth, Mass. Dec 3, 1968
Received for record at 8:56 o'clock AM
and recorded in Vol. 4 page 116.
Town Clerk

5. To insure compliance with the specific restrictions heretofore mentioned and following, particularly those pertaining to restoration, the Applicants shall post a bond with the Town Treasurer, satisfactory in form to said Town Treasurer, said bond to be cash or a Surety Company bond, and further, said bond shall be in the amount of $5,000.00 for each 10 acre parcel on which removal operations are permitted. If in the opinion of the Board of Appeals their restrictions and conditions have not been satisfactorilly complied with at the end of four (4) years following the date of the issuance of this permit, or if it is the opinion of the Board of Appeals, that these restrictions have not been complied with satisfactorilly, at the end of any subsequent extensions, the bond shall be forfeited and the permit issued hereunder shall become void.

6. This permit is issued subject to the condition that a border in which the natural vegetation and soil are undisturbed shall be left for a width of at least 100 feet from Thomas B. Landers Road, and also a border of at least 20 feet, also undisturbed from all of the property lines.

7. This permit is further issued with the condition that the slope of the banks of an excavation shall not exceed one (1) foot in depth for everty three (3) feet in horizontal distance from the limit of the undisturbed border. (This shall be the only limit as to depth).

8. The access road shall not exceed 20 feet in width and shall conform approximately to the natural level of the land, to a point at least 100 feet from Thomas B. Landers Road.

9. All trees, brush, organic matter, surface soil and hardening shall be left in piles for future use in reclamation of the excavated area. Neither trees nor other organic matter shall be burned.

10. This permit is issued subject to the condition that at the completion of excavation the surface of the pit shall be reduced to gentle, natural contours within six (6) months of termination of removal operations. Surface soil and hardening as well as other organic matter remaining in the abovementioned piles shall be distributed over the entire excavated area, including the side slopes, and shall be planted, Pines shall be planted on the side slopes, one to each 64 square feet, separated by a distance of not more than eight (8) feet.

11. It shall further be a condition of this permit that the hours of operation shall be limited and restricted to 8 AM to 4:30 PM, Mondays through Friday, and 8 AM to 12 Noon on Saturdays, except that during the months of July and August, Saturday work shall be prohibited.

12. Failure to comply with the above restrictions, conditions, and/or requirements or anyone of them will constitute sufficient reason for the revocation of this permit.

ACTION: The Board of Appeals, consisting of Ray D. Wells, Charles L. Bardelis, and Manuel J. Aruda, being all present and voting as follows:

VOTE TO GRANT WITH RESTRICTIONS AS ABOVE:

WELLS: Ray D. Wells

BARDELIS: yes - Charles L. Bardelis

ARUDA: yes Manuel J. Aruda

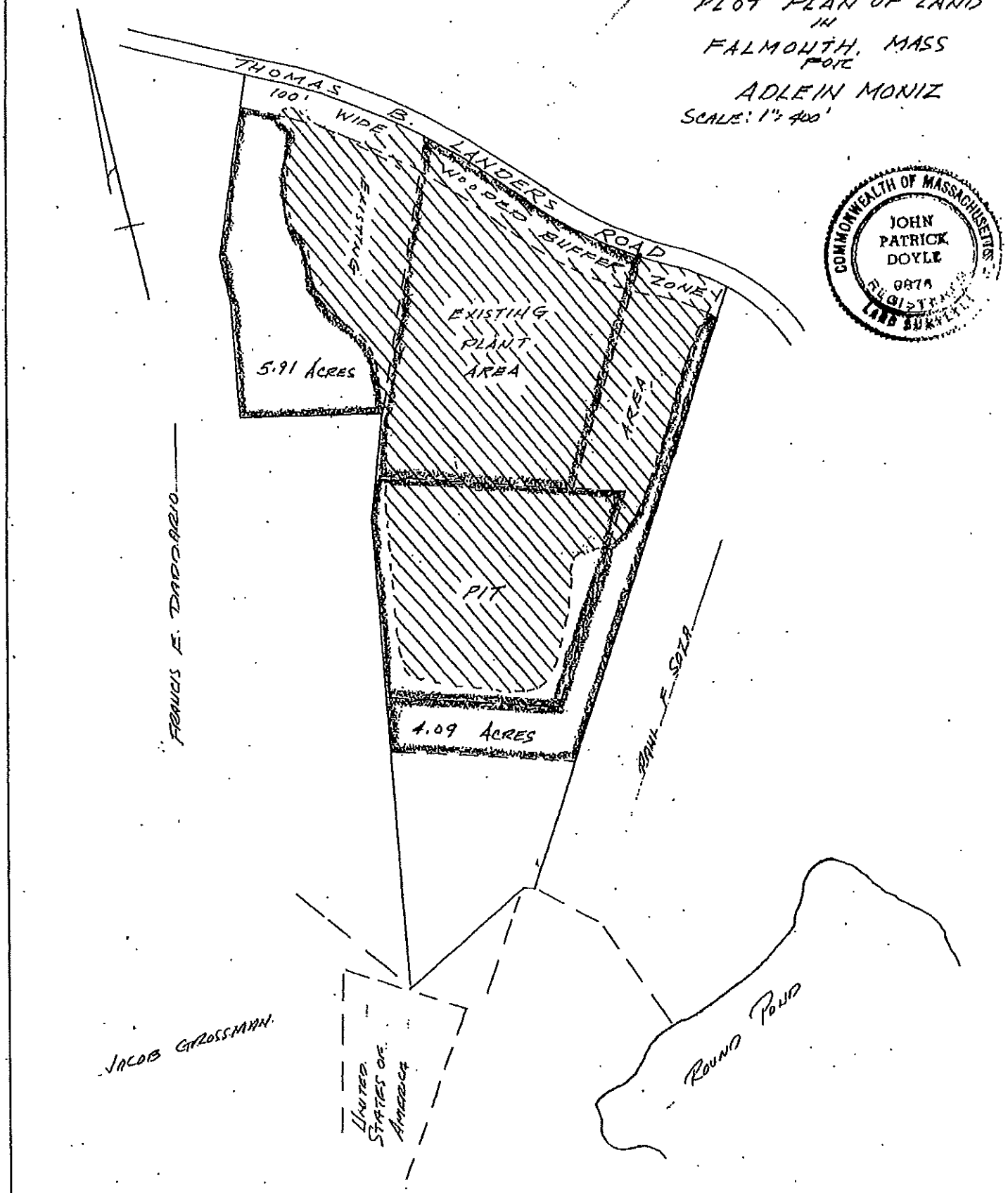
Manuel J. Aruda

MANUEL J. ARUDA, Clerk
Board of Appeals

DATED: Dec. 2 1968

PLOT PLAN OF LAND IN FALMOUTH, MASS FOR ADLEIN MONIZ

SCALE: 1" = 400'



COMMONWEALTH OF MASSACHUSETTS
JOHN PATRICK DOYLE
9878
REGISTERED LAND SURVEYOR

This plan was filed on 7/14/69 and it has been approved by the Chairman of t
Board of Appe

TOWN OF FALMOUTH

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

UNDER ZONING BY-LAWS

Appeal No. 128-88

November 28, 19 88

A list of abutters is on file in the Board of Appeals Office, Town Hall, Falmouth, Ma.

Being all persons deemed affected by the Board of Appeals under Sec. 11 of Chap. 40A of the General Laws you are hereby notified that WILLIAM BONITO of Falmouth, Ma.

has appealed to the Board of Appeals. for a SPECIAL PERMIT under SECTION 7300 and SECTIONS 1222, 6400, and 7380, of the Zoning By-law to extend or modify an existing special permit to operate a sand and gravel operation on property located on Thomas B. Landers Road, Hatchville, Ma. on approximately forty acres.

Map 22, Section 2, Parcel 29
Map 16, Section 6, Parcel 2

PUBLICATION DATES:
November 30 and December 7, 1988

A public hearing will be given on this petition, in the Board of Appeals Hearing Room, Town Hall, on WEDNESDAY, DECEMBER 14, 1988 at 7:30 p.m.

You are invited to be present.

By order of the Board of Appeals,

John P. Taylor, Clerk

DECISION OF FALMOUTH ZONING BOARD OF APPEALS

APPLICANT: WILLIAM BONITO

APPEAL NO: 128-88

LOCATION OF PROPERTY: THOMAS B. LANDERS ROAD, HATCHVILLE
MAP 22,SECTION 2,PARCEL 29
MAP 16,SECTION 6,PARCEL 2

Under a date of November 23, 1988, William Bonito of Falmouth, Ma., applied to the Board of Appeals for a SPECIAL PERMIT under SECTION 7300 and SECTIONS 1222, 6400, AND 7380, of the Zoning By-laws, for permission to extend or modify an existing special permit to operate a sand and gravel operation on property located on Thomas B.Landers Road, Hatchville, Ma. on approximately forty acres.

A public hearing was held on December 14, 1988, of which notice was duly given as required by Section 11, Chapter 40A, M.G.L., as well as notices sent by mail to all persons deemed to be affected thereby as they appear on the tax list, and at which hearing all parties desiring to be heard were heard.

E. Winn Davis, attorney representing William Bonito explained to the Board that the main purpose for this request was the fact that the existing special permit had a condition stating that the permit was only in force for twenty (20) years with another condition that in the event that no request for extension of area is made within four years from the date of issuance of this permit, the permit would expire. The original special permit was recorded in the Town Clerk's office on December 3, 1968. The applicant, Mr. Bonito, was not aware at the time he purchased the property of the time limit on the permit. Mr. Bonito testified that they are still working the original ten acre parcel and that to the best of his knowledge their has been no abandonment of the use for a period of two years. The site plan submitted along with the original special permit was dated January 10, 1985.
Attorney Davis explained that the application under Section 1222 was due to the fact that in his opinion the by-law is unclear as to whether earthmoving is allowed in any district. If it is not allowed, the sand and gravel operation would be a pre-existing nonconforming use.
William Richardson of the Department of Natural Resources testified that subject property is just outside the deer corridor. He has worked with applicants of recent earthmoving operations and feels uncomfortable with this project with the present information submitted. Abutters voiced concerns regarding the reclamation of the property and any effect on the groundwater.

B 2175 1968 1 yr

RECEIVED
DEC 21 1988
1:28

The Board of Appeals, after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:
The site is a sand and gravel operation which has been in existence for many years. The present owner employs approximately 10 employees. The Board, town officials, abutters, and others present at the public hearing expressed concern over not the current 10 acres but any increase in area being worked without complying with the current requirements. The original permit did have conditions to protect the abutters and the town. The applicant's desire is to be allowed an extention of the original special permit to continue working the ten acre parcel. The applicant then intends to apply to the Board of Appeals under the new requirements for any expansion of the operation.
The site is both adequate and suitable for the continuation of the project as the site has been used for this purpose for many years. There will not be an adverse effect on the neighborhood's visual character, including views and vistas, as the property will be improved by the completion of the project. There will not be an adverse effect on traffic flow and safety. The Board finds that the adverse effects of allowing an extension of the special permit will not overbalance the beneficial effects. The granting of this special permit is in harmony with the general purpose and intent of the zoning by-law. The Board further found that the extension of the special permit is not substantially more detrimental than the existing use to the neighborhood.

For the foregoing reasons the Board of Appeals votes to GRANT a Special Permit under Section 7300 and Sections 1222,6400, and 7380 to allow the extension in time of the sand and gravel operation on property located on Thomas B. Landers Road, Hatchville, Ma. limited to the ten acres that is in progress and subject to the following conditions:

1. This special permit shall expire on December 7, 1989 and may not be extended.
2. Applicant shall submit to the Board of Appeals an "as is" plan of the project on or before April 1, 1989.
3. To ensure compliance with the conditions of the special permit, the applicant is required to post $12,000 in a cash deposit or surety bond, in form acceptable to the Town Treasurer. The deposit shall not be released until the Board of Appeals is satisfied that all conditions of this special permit have been complied with.
4. All trees, brush, organic matter, surface soil and hardening shall be left in piles for future use in reclamation of the excavated area. Neither trees nor other organic matter shall be burned.
5. It shall be a condition of this permit that the hours of operation shall be limited and restricted to 8 am to 4:30 pm, Mondays through Friday, and 8am to 12 noon on Saturdays, except that during the months of July and August, Saturday work shall be prohibited.

6. This permit is subject to the condition that a border in which the natural vegetation and soil are undisturbed shall be left for a width of at least 100 feet from Thomas B. Landers Road, and also a border of at least 50 feet, also undisturbed from all of the property lines.
7. The slope of the banks of an excavation shall not exceed one (1) foot in depth for every three (3) feet in horizontal distance from the limit of the undisturbed border.
8. Excavation shall be no closer to the water table than 10 feet.
9. The access road shall not exceed 20 feet in width and shall conform approximately to the natural level of the land, to a point at least 100 feet from Thomas B. Landers Road.
10. This permit is issued subject to the condition that at the completion of excavation the surface of the pit shall be reduced to gentle, natural contours within six (6) months of termination of removal operations. Surface soil and hardening as well as other organic matter remaining in the above-mentioned piles shall be distributed over the entire excavated area, including the side slopes, and shall be planted. Pines shall be planted on the side slopes, one to each 64 square feet, separated by a distance of not more than eight (8) feet.
11. Failure to comply with the above restrictions, conditions, and/or requirements or anyone of them will constitute sufficient reason for the revocation of this permit.

ACTION: The Board of Appeals, consisting of Joseph J. Costa, Jr., Robert A. Sayers, and Victoria H. Lowell, being all present and voting as follows:

VOTE TO: GRANT

SAYERS
COSTA
LOWELL

Victria H. Lowell, Clerk
Victoria H. Lowell, Acting Clerk

Notice is hereby given that any appeal from this decision shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty (20) days after the date of filing of this decision in the office of the Town Clerk.

TOWN OF FALMOUTH

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

UNDER ZONING BY-LAWS

Appeal No. 20-90 March 5, 19 90

A list of abutters is on file in the office of the Board of Appeals, Town Hall, Falmouth, Ma.

Being all persons deemed affected by the Board of Appeals under Sec. 11 of Chap. 40A of the General Laws you are hereby notified that WILLIAM BONITO of Falmouth, Ma.

has appealed to the Board of Appeals. for a SPECIAL PERMIT under SECTION 7300 and SECTIONS 6400, 1222, and 7350 of the Zoning By-law for permission to conduct earth removal, crushing, batching and processing at property located on Thomas B. Landers Road, Hatchville, Ma. shown on Assessors Map 22, Section 2, Parcel 29. The locus is 36.4 acres of Agricultural Zoned land.

PUBLICATION DATES:
March 7 and 14, 1990

A public hearing will be given on this petition, in the Board of Appeals Hearing Room, Town Hall, on MARCH 21, 1990 at 7:30 p.m.

You are invited to be present.

By order of the Board of Appeals,

Robert A. Sayers, Clerk

DECISION OF FALMOUTH ZONING BOARD OF APPEALS

APPLICANT: WILLIAM BONITO

APPEAL NO: 20-90

LOCATION OF PROPERTY: THOMAS B. LANDERS ROAD, HATCHVILLE,MA.
ASSESSOR'S MAP 22, SECTION 2,PARCEL 29
36.4 ACRE PARCEL

Under a date of February 9, 1990, William Bonito of Falmouth, Ma., applied to the Board of Appeals for a Special Permit under Section 7300 and Sections 6400, 1222, and 7350 of the Zoning By-law for permission to conduct earth removal, crushing, batching and processing at property located on Thomas B. Landers Road, Hatchville, Ma. as shown on Assessor's Map 22, Section 2, Parcel 29. The locus is 36.4 acres of Agricultural Zoned Land.

Appropriate papers and plans were submitted as required by the Board of Appeals Rules and Regulations.

A public hearing was held on March 21, 1990, of which notice was duly given as required by Section 11, Chapter 40A, M.G.L., as well as notices sent by mail to all persons deemed to be affected thereby as they appear on the tax list, and at which hearing all parties desiring to be heard were heard.

E. Winn Davis, Attorney, representing Mr. Bonito explained the history of the land. He explained that there is a pre-existing nonconforming use as the activity was allowed under Section 27(h) but does not conform to the current Section 6400. Section 6400 requires that the earth removing be done in 60,000 square foot sections. In 1965 an exception was issued which indicated permission to have a screening, mixing, batching, and processing plant on the site. In 1968 a permit was issued for earth removal. Evidence was presented by K.V.Associates establishing the depth of the groundwater and that it will stay 10 feet above groundwater during each phase.
Mr. Davis explained that in Appeal No:128-88, the Board of Appeals granted an extension in time for the sand and gravel operation limited to a ten acre portion that was in progress and subject to certain conditions.

David Sanicki, of Cape & Islands Surveying, explained the plans to the Board showing the existing and proposed conditions, topos, and buffer zone.

Mr. Daddario, an abutter was represented at the public hearing with concern particularly regarding existing encroachment onto his property. His attorney was allowed to submit additional comments to the Board within a two week period which the Board did admit and review before making their decision.

The Board of Appeals, after carefully considering all of the facts and evidence submitted at the hearing, makes the following findings:
The site has been a gravel pit for many years and the present applicant has inherited some problems that need to be addressed. The Board finds that the proposal is not substantially more detrimental than the existing use to the neighborhood and the Town as the applicant intends to comply with the requirements of Section 6400 which will accomplish earth removal operation, crushing, batching and processing in an improved manner versus being done without guidelines and restrictions. This site is a 36.4 acre parcel which is agriculturally zoned and has been identified by the U.S. Geological Service as having glacial deposits. Our by-law allows earth removal by special permit from the Board of Appeals, the Board therefore finds the site to be both adequate and suitable for the proposed use. There was concern expressed at the public hearing that the applicant be required to bring the property into compliance. Mr. Daddario, an abutter was represented by counsel at the public hearing with concern particularly regarding existing encroachment onto his property. By making a condition of the Special Permit that the applicant must restore the intrusion to the Daddario property before commencing any work, Mr. Daddario hopefully will be satisfied. There will not be an adverse effect on the neighborhood's visual character, including views and vistas, as the property will be improved by the completion of the project. The Board is requiring the applicant reclaim from the front of Thomas Landers Road back with the exception of the 25 foot haul road so the property will improve visually for neighbors and people driving past. The applicant is also being required to phase his work in sixty thousand square foot sections, reclaiming each completed section as well as an additional sixty thousand square foot section where there has already been work done, therefore reclaiming in a checkerboard fashion. The applicant has already posted a surety bond in the amount of $12,000 under permit no:128-88, the Board is requiring the applicant post an additional surety bond or cash deposit bringing the total bond up to $25,000. The deposit shall not be released until the conditions of this special permit have been complied with. There will not be an adverse effect on traffic flow and safety as the project will be ongoing under present day requirements. The Board finds that the granting of the special permit will be in harmony with the general purpose and intent of the zoning by-law. By granting this special permit and having applicant comply with current requirements of Section 6400, any areas that may not be in compliance with the Zoning By-law should be rectified.

For the foregoing reasons the Board of Appeals votes to GRANT a Special Permit under Section 7300 and Sections 1222, 6400, and 7350 to allow the applicant to conduct earth removal, crushing, batching and processing at property located on Thomas B. Landers Road, Hatchville, Ma. shown on Assessor's Map 22, Section 2, Parcel 29. This Special Permit shall be subject to the following conditions:

1. The parcel shall be subdivided into 60,000 square foot sections to be worked.

2. The applicant shall submit a site plan, annually, within 30 days of the anniversary of the issuance of the Special Permit, to the Zoning Board of Appeals and the Building Commissioner, showing the site "as is" with all calculations on the plan as to the amount of fill removed within the last year and the total to date and the total amount of fill to be removed in the future. The plan should be signed by a Ma. Land Surveyor and should address the conditions of the Special Permit and note whether there is compliance and how it has been achieved or what has been done in violation of the conditions. If the plan is not submitted as per the conditions it would render this Special Permit null and void and the parcel would have to be reclaimed in full within 60 days from the time that the building commissioner so notified the property owner.

3. To ensure compliance with the conditions of the special permit, the applicant is required to post $13,000 in a cash deposit or surety bond, in form acceptable to the Town Treasurer as well as maintain the bond previously posted in the amount of $12,000 for Appeal No: 128-88. The total bonding for the project shall be $25,000, said deposit shall not be released until all conditions of this special permit have been complied with.

4. It shall be a condition of this permit that the hours of operation shall be limited and restricted to 8:00 a.m. to 4:30 p.m., Monday through Friday, and 8:00 a.m. to 12 noon on Saturday.

5. All vegetation and soil suitable for cover material shall be stockpiled or windrowed and retained for future use in the reclamation of the filled or excavated area.

6. A border in which the natural vegetation and soil are undisturbed shall be left for a width of at least 100 feet from Thomas B. Landers Road, and also a buffer also undisturbed for a width of at least 50 feet from all abutting property lines.

7. The slope of the banks of an excavation shall not exceed one(1) foot in depth for every three(3) feet in horizontal distance from the limit of the undisturbed border.

8. Excavation shall be no closer to the water table than 10 feet.

9. The access road shall not exceed 20 feet in width and shall conform approximately to the natural level of the land, to a point at least 100 feet from Thomas B. Landers Road.

10. Upon completion of excavation the surface of the pit shall be reduced to gentle, natural contours within six(6) months of termination of removal operations. Surface soil and hardening as well as other organic matter remaining in the above mentioned piles shall be distributed over the entire excavated area, including the side slopes, and shall be planted. Pines shall be planted on the side sopes, one to each 64 square feet, separated by a distance of not more than eight (8) feet.

11. Before any work takes place, the applicant must restore whatever encroachment onto the Daddario property exists. Applicant shall submit evidence of such restoration to the Board of Appeals and the Building Commissioner.

12. The area shall be worked in 60,000 square foot sections, each section to be reclaimed upon completion. After completing each section, an addition 60,000 square foot section shall be reclaimed in a checkerboard fashion. The reclaiming shall be done working from Thomas Landers Road toward the rear with the exception of the 20 foot haul road.

13. In the case of stripping loam or the removal of stone, the reclamation of the altered land shall be performed in the following manner:

a. At least two inches of loam shall be placed over the subsoil; and

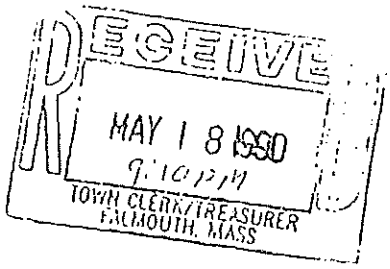
b. The area graded and seeded or planted to prevent erosion and to conceal the scars of stone removal.

14. Provisions shall be maintained during operations for the control of noise, wind, dust and water erosion which would affect the adjacent properties and traffic along a roadway.

15. Within six months of the completion of the operation or following the expiration or withdrawal of a permit, the land and slopes shall be graded and contoured to provide natural surface drainage and to fit compatibly with the existing contours of the surrounding land; the stored cover material distributed over the entire area to its original depth or to at least twelve inches in depth and replanted with approved cover vegetation, including shrubs, pines or other suitable plant material.

16. Whereas the area to be mined is a total of 36.4 acres to be done in separate parcels (not to exceed 60,000 square feet per parcel), the Board of Appeals has agreed to allow the petitioner to reclame the outside walls of the section being mined and allows the petitioner to not reclame the inside walls at that time if the next section to be mined would require its destruction.

17. At the completion of each separate parcel, the petitioner shall notify the Building Commissioner and the Board of Appeals in writing that the parcel is completed. The Building Commissioner shall determine whether or not the petitioner has adhered to all the requirements of this permit and the zoning by-law. If the section has not been completed in accordance with the permit and the zoning by-laws in effect at this time, a hearing will be required with the Board of Appeals. This special permit is in effect for a period of not longer than three years from the date this decision is filed with the Town Clerk, although this permit may be renewed for additional periods in the same manner.



ACTION: The Board of Appeals, consisting of John P. Taylor, Robert A. Sayers, and Herbert F. Tokla, being all present and voting as follows:

VOTE TO: GRANT

TAYLOR:

SAYERS:

TOKLA:

Robert A. Sayers, Clerk
ZONING BOARD OF APPEALS

DATE: MAY 18, 1990

Notice is hereby given that any appeal from this decision shall be made pursuant to Section 17 of Massachusetts General Laws, Chapter 40A, and shall be filed within twenty(20) days after the date of filing of this decision in the office of the Town Clerk.