TOWN OF FALMOUTH
ZONING BOARD OF APPEALS

59 TOWN HALL SQUARE, FALMOUTH, MA 02540
508-495-7460 – FAX 508-495-7463

BOARD OF APPEALS
NOTICE OF PUBLIC HEARING

Being all persons deemed affected by the Board of Appeals under Section 11 of Chapter 40A of the Massachusetts General Laws you are hereby notified that:

Application # 106-24 Lawrence Lynch Realty Corp., 396 Gifford Street, Falmouth, Ma.: Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-12.1 of the Code of Falmouth to renew existing special permit #20-90 for excavation and restoration and to allow the continued use of processing and storage of material. **The subject property is "0" and 160 Thomas B. Landers Road,** Hatchville, Ma.

Map 16 Section 06 Parcel 002 Lot 003 ("0")
Map 22 Section 02 Parcel 029 Lot 000 (#160)

A public hearing will be given on this application, in the Select Board's Meeting Room, Town Hall, on **Thursday, December 12, 2024 at 6:00PM**
You are invited to be present.

By Order of the Board of Appeals,
Chairman, Susanne Murphy

Plans are available for review prior to the hearing at the Board of Appeals office, Town Hall during the hours of 8:00 AM to 4:00 PM.*Plans are available to review at https://www.falmouthma.gov/1113/Applications-under-review-by-the-ZBA

THE COMMONWEALTH OF MASSACHUSETTS
TOWN OF FALMOUTH

Received
OCT 28 2024
Falmouth Zoning Board of Appeals

#10624
Hearing: 12/12/24
PAVH1048

TO THE BOARD OF APPEALS:

DATE: OCTOBER 28, 2024

The undersigned hereby petitions the Board of Appeals to vary the terms of the Zoning Bylaws of the **Town of Falmouth** / Acts of Zoning at premises:

Deed/Certificate#: ~~Cert. 23479~~ ~~BK 34449 page 54~~ 34749 (#0) Deed Bk. 36149 P.54 Parcel ID: 16 06 002 003 (#0) 22 02 029 000

Address: 0 and 160 Thomas B. Landers Road, East Falmouth ma 02536

Owner Name: SHARON M. LOSORDO Ph#:

Owner's Mailing Address: ~~57 Bonito Ave.~~ P.O. Box 741 East Falmouth ma 02536

Applicant's Name: LAWRENCE LYNCH REALTY CORP. Ph#: 548- 1800

Applicant's Mailing Address: 396 GIFFORD STREET, FALMOUTH, MASS.

Zoning District(s): AGA Property Use: EXCAVATION, MINING, PROCESSING

Zoning Bylaw Code(s) applying under: 240 - 12.1 EXISTING PERMIT 20 90

Size of Existing Structures: 80 x 25

Size of Proposed Structures: NO CHANGE

Applying for (circle only one): Special Permit **OR** Variance **OR** Administrative Approval

Describe **BRIEFLY** the proposed project: ~~APPLICANT SEEKS TO RENEW PERMIT 20- 90~~ FOR EXCAVATION AND RESTORATION, AND CONTINUE USE FOR PROCESSING AND STORAGE OF MATERIAL

***Property Sewered: Yes No If on sewer - Projected Wastewater Flow:

NOTE: IF POSSIBLE, SEND PDF OF ALL PLANS PROPOSED TO EALZBA@FALMOUTHMA.GOV

Owner: SHARON M. LOSORDO

Agent: EDWARD W. KIRK

Address: 901 MAIN STREET OSTERVILLE, MASS

Phone : 508 - 428 -4800

Email: ed.kirk@verizon.net

Town Clerk:

RECEIVED
OCT 28 2024 PM 1:36
TOWN CLERK

NOTE: By filing this application you hereby grant access to the subject property by the Board Members and staff of the Appeals Board. This application and attached requirements must be complete before filing with the Board of Appeals. (REV: April 2018)

EDWARD W. KIRK
ATTORNEY AT LAW
WIANNO PLACE
901 MAIN STREET
OSTERVILLE, MASSACHUSETTS 02655-0393

P. O. BOX 393
(508) 428-4800

FACSIMILE
(508) 428-4111

Falmouth Zoning Board of Appeals
Falmouth Town Hall
Town Hall square
Falmouth, MA 02540

October 28, 2024

Received
OCT 28 2024
Falmouth Zoning
Board of Appeals

Re: **160 Thomas B Landers Road - Parcel ID No. 22 – 2 – 29**
0 Thomas B. Landers Road - Parcel ID No. 16 - 06 - 02- 03
Petition to Renew Excavation and Restoration Permit Issued in Decision No. 20-90 and to Confirm Permitted Use of Both Parcels For Machine Processing of Material

Dear Members of the Board:

This office represents Lawrence - Lynch Realty Corp. ("Lynch") which has entered into a Purchase and Sale agreement [1] for the purchase of the two above-referenced parcels of contiguous land from Sharon M. Losordo. 160 Thomas B. Landers Road is a 36 + acre parcel of recorded land and 0 Thomas B. Landers is a 3+ acre of registered land which immediately abuts the larger parcel. Over a period of more than sixty (60) years, each parcel has received a series of permits authorizing the parcels to be used for the excavation, mining, machine processing and storage of material.

The agreement between Lynch and Losordo contains certain contingencies which must be satisfied in order for the transaction to be completed. Among those contingencies are the requirement that the business activities which have been carried on at the two combined parcels for more than sixty (60) years will continue to be allowed under Lynch's ownership, and that the proposed use and condition of the property will be deemed to be in compliance with the terms of previously issued permits.

The essence of the relief being requested is two- fold:

1. A renewal of Permit 20 - 90 which authorized, subject to certain conditions, excavation, earthmoving, restoration and reclamation of 36 acre parcel.

2. Confirmation of the continued lawful of both parcels as of the site for the "processing" of materials; i.e. receiving, crushing, screening, batching and storage of materials.

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[1] A copy of the first and last page of the agreement is Exhibit 1 on the List of Exhibits submitted in support of the petitions.

The Subject Properties At Thomas B. Landers Road Have Been The Site For Crushing, Batching, Screening and Processing Since 1965 When A Permit Authorizing Such Use Was Issued

In a decision [2] dated May 13, 1965 the Falmouth Zoning Board of Appeals ("the board) in case number 1882 approved the application of Gile and Adlein Moniz to use "their property located on Thomas B. Landers Road" as the site [3] of a screening, mixing, crushing, and batching plant. The application described the current use of the premises as a "sand and gravel pit". There were no time - related restrictions or conditions contained in the approval other than the hours of operation; i.e. 5 A.M. - 8 P.M.

The Subject Properties At Thomas B. Landers Road Have Been The Site For Excavation and Mining Of Material Since 1968 When A Permit Authorizing Such Use Was Issued.

On September 18, 1968 Adlein and Gile Moniz submitted an application to the board for permission to remove sand and gravel from their property on Thomas B. Landers Road. The application stated that the present use of the property was "batching and screening and processing sand and gravel". In a decision (appeal No. 2175) dated December 2, 1968 the board approved the application and issued a permit. [4] The permit stated 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 not over 10 acres on a plot plan which shall be submitted to the Board of Appeals for approval." The plan which was submitted and approved included both of the parcels which fronted on Thomas B. Landers Road. The decision in Appeal No. 2175, contained certain restrictions with respect to the manner of operation and removal, and also contained conditions with respect to time.

As a result of the issuance of permit number 2175, there were now two (2)separate but combined and interrelated uses specifically authorized on each/ both parcels fronting on Thomas B. Landers Road.

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[2] A copy of the decision in case 1882 is Exhibit 2.

[3] The plan which accompanied the petition showed both Parcel 22 - 2- 29 and Parcel 16 - 6- 2.

[4] Copies of the application and permit in case number 2175 are Exhibit 4.

One permit (Appeal 1882) was for the crushing, batching, screening and processing of material. The other permit (Appeal No. 2175) authorized the removal or mining and excavation of material.

The decision of December 3, 1968 (Appeal No. 2175) with respect to the excavation and earthmoving included the following language: "This permit shall be in force for TWENTY (20) years." The decision also contained conditions and restrictions which limited the area which could be excavated to (10 acres) at any one period of time, and requiring the owner to request an extension within four (4) years if the owner wanted to extend the area beyond the ten (10) acre limit.

Permit number 1882, which authorized crushing, screening, mixing, batching and processing contained no similar conditions or restrictions regarding the extent and location of the use, or any limitations on the time of such activities.

William Bonito Purchased The 36 Acre Parcel at 160 Thomas B. Landers Road, and Leased The 3 Acre Parcel at 0 Thomas B. Landers Road From Moniz in 1985

William Bonito purchased the 36 acre parcel on January 14, 1985 [5].The abutting 12 acre parcel [6] was in the process of being registered through the Land Court process and being subdivided into three lots. William Bonito also took possession of a 3 acre portion of the abutting 12 acre parcel pursuant to a lease - purchase agreement with Moniz whereby the purchase price would be paid in the form of monthly rent and when all payments were made, Moniz would convey title to Bonito. Bonito continued to use both parcels in connection with his business.[7]

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[5] A copy of the deed to Bonito is Exhibit 4.

[6] See Exhibits 5-6.

[7] See Exhibit 13 - Affidavit of Sharon Losordo

The Building Commissioner Formally Confirmed The Lawfulness of The Uses At The Three Acre Site On May, 3, 1988.

On May 3, 1988, acting in response to an enforcement request from an abutter who alleged that there were zoning violations occurring at the site, the Building Commissioner issued a formal decision in which he itemized the various permits which had been issued for activities at the site and concluded that there were no zoning violations on the three acre site.[8]

The Board Extended The Time Within Which The First Ten Acres On The 36 Acre Parcel Could Be Excavated

O November 23, 1988, Bonito filed an application (Appeal No. 128-88) to the board for an extension of time within which to complete the excavation and mining of the original ten (10) acre portion of the site in accordance with the conditions of permit number 2175. In a decision filed with the Town Clerk on December 21, 1988, the board granted the request for additional time within which to excavate the original ten (10) acre portion of the site. The permit contemplated that the applicant would apply for a new permit under which to continue to mine and excavate the remainder of the twenty six (26) acres in accordance with the requirements of the (then) current bylaw.[9]

In March 1990 Moniz Conveyed The Three (3) Acre Parcel to Processed Stone, Inc. A Company Created By Bonito

In March of 1990, pursuant to the lease - purchase agreement between William Bonito and Moniz, the three acre (now registered) parcel was conveyed by Moniz to Processed Stone Inc., a company created by William Bonito. In 1995, Processed Stone conveyed the 3 acre parcel to William Bonito in 1995. [10]

In 1990, The Board Approved The Continued Use of the 36 Acre Site For Additional Excavation and Earthmoving (Subject to Certain Conditions)

On or about February 9, 1990, William Bonito applied (Appeal No. 20-90) to the board for a special permit with respect to a continuation of the excavation, mining and earthmoving on the remainder of the 36.4 acres.

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[8] See Exhibit 7.

[9] A copy of the board's decision in Appeal No. 128 -88 is Exhibit 8.

[10] See Exhibit 9.

The application was accompanied by a Hydrogeologic Study prepared by Kerfoot & Associates. [11] The board granted the requested relief in a decision dated May 18, 1990. [12] The decision dealt extensively and almost exclusively with the earth moving, excavation and reclamation activity on the site and imposed a number of conditions which reflected the provisions of Section 6400 of the bylaw which governs that activity. Although no new approval or permission from the board was needed or requested for crushing, screening, batching and processing, the board took note of the fact that those activities had been authorized in 1965 (in permit number 1882) and acknowledged that those uses could continue. Permit 20-90 was issued on May 18, 1990 and established a detailed program and schedule of excavation, reclamation and notice to the town following excavation of each 60,000 s.f. section shown on a plan referenced in the decision. The recited conditions relate to excavation and earthmoving, but not to crushing, batching, processing and screening.[13]

The Conditions Attached To The 1990 Permit With Respect To Excavation and Earthmoving At The Site Have Not Been Complied With

The plans submitted by Lynch to the board in support of this current application establish that the area which has been excavated over the past 34 years has not been reclaimed in accordance with the terms and provisions of the decision in Appeal No. 20-90. This was not an intentional disregard of the conditions contained in the permit, but simply a circumstance where the owners were focusing on the day to day operations of the business and the permit itself and the conditions of the permit were not foremost in the minds of the owners.[14]

Despite the owners' oversight in failing to submit information to the town as per the schedule of conditions, it also appears that the town did not seek to interfere or object to the continued use of the site for the purposes permitted. The plans also establish that approximately five (5) acres of the 36 acre site remain eligible or available for excavation and mining.

Lynch, as the prospective new owner is prepared to undertake the obligations set forth in Permit 20 – 90 with respect to the reclamation of all land previously excavated and not reclaimed in accordance with that permit.

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[11] See Exhibit 10.

[12] A copy of the board's decision is Appeal No. 20- 90 is Exhibit 12.

[13] The plan also shows the abutting 3 acre parcel with processing equipment extending across the property line.

[14] See Exhibit 13 affidavit of Sharon Losordo

At the same time, Lynch is seeking the approval of the board to mine and excavate the remaining acreage which has not yet been excavated as authorized by Permit 20 – 90, subject to the conditions of that permit which require reclamation of that area when excavation is complete.

Pursuant to The Language In Decision - Appeal No. 20 - 90 The Board Is Specifically Authorized To Renew That Permit To Allow The Restoration and Reclamation of the Large Areas Already Excavated and to Allow Further Excavation In Accordance With The Terms and Conditions of the Decision.

The final paragraph of the decision contains the following language:

"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 bylaw. If the section has not been completed in accordance with the permit and the zoning bylaw in effect at this time, a hearing will be required to 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*". (Italics supplied)

The decision clearly contemplates that even though the permit is "in effect" for a period of not longer than 3 years from the date of filing with the Town Clerk, it goes on to say that it may be *renewed* subsequent to that three-year period, in the same manner. (i.e. by the Board of Appeals after hearing) The petitioner submits that Paragraph 17 of Permit 20 - 90 authorizes the board to continue to allow these activities by a *renewal* of that permit, and does not require the submission of a new application for a new permit. Whereas the decision in 128-88 specifically states that: "This special permit shall expire on December 7, 1989 and may not be extended", the decision in Appeal No. 20-90 contains no such language.[15]

[15] It would have been simple for the board to say that "this permit may only be extended if a request for such extension is filed before the expiration of three (3) years" But perhaps being aware of the fact that the owner could easily fail to closely monitor the deadlines contained in the permit, the board chose not to do so, and instead inserted the more expansive language which gave it the authority to "renew" after a hearing.

The decision contains no specific requirement that any renewal, or any application for renewal must take place before the expiration of three years from the date of the filing of the original decision with the town clerk. The decision contains no statement that in the absence of filing for renewal within 3 years from the date of the filing with the Town Clerk , the rights to renewal under the permit are lost, or that the permit in its entirety has expired, requiring that a new application for a new and different permit must be submitted. Paragraph 17 contains no specific restriction or condition whereby the rights to renew would be lost.

By granting a renewal of the permit, the board would not be allowing Lynch to do anything more than Bonito was allowed to do in Appeal No. 20- 90. It would also be requiring Lynch to take the same steps which the prior owner was obliged to take, and to bring the site into compliance with the conditions contained in the decision in Appeal No. 20-90.

Lynch Requests That The Board's Decision Acknowledge and Affirm That The Use of the Entire Site For Purposes of Crushing, Screening, Batching, Processing, Storing and Sale of Material Remains A Lawful Use

The Building Commissioner's decision of May 1988, confirmed that the use of the 3 acre parcel was lawful. In its special permit decision in May of 1990 (Appeal 20 - 90) authorizing Bonito to continue to mine and excavate material on the 36 acre site, the board also took note of, and reconfirmed that the ongoing use of the 36 acre parcel for crushing, screening, batching, processing pursuant to a permit issued in 1965 was lawful. While the board attached specific time limitations with respect to the excavation, earth moving and reclamation, it did not impose any time limitations with respect to those uses previously authorized by the 1965 decision. The decision (Appeal 20-90) of May 1990 was simply recognizing and confirming that the crushing, screening, processing and storing of material was lawful.

Conclusion

Lynch respectfully requests that the board:

1. Renew Permit 20- 90 whereby Lynch would be allowed to further excavate the remaining land in accordance with the terms of that permit, and that Lynch be authorized to undertake the work necessary to reclaim the previously excavated area in accordance with the terms of Permit 20 - 90, or such other additional terms and condition which the board deems appropriate.

2. Recognize and confirm that the use of both the 3 acre parcel and the 36 acre parcel for purposes of "processing" material; i.e. crushing, screening, batching, storage and sale of processed material may continue as a lawful use.

Respectfully submitted on behalf of
Lawrence- Lynch Realty Corp:

Edward W. Kirk

ew/se
w/encl.

INDEX OF EXHIBITS

1. Purchase Agreement
2. Permit No. 1882 (1965)
3. Permit 2175 (1968)
4. Deed of 36 acres to William Bonito (1985)
5. Plan of 12 acre parcel prior to subdivision (1978) showing equipment straddling Property line of 36 acre parcel.
6. Approved subdivision showing Lot 3 (3 acres) (1987)
7. Building Commissioner's determination of lawful uses. (May 1988)
8. Permit 128 - 88 (1988)
9. Deeds of 3 acre parcel to Processed Stone (1990) and William Bonito (1995)
10. Kerfoot Hydrogeologic Study (1989)
11. Excerpt of Reclamation plan showing 3 acre parcel with equipment in 1990
12. Permit 20 - 90 (1990)
13. Affidavit of Sharon Losordo with attached (4) exhibits

EXHIBIT

1

Purchase and Sale Agreement
Property: 0 & 160 Thomas B. Landers Road, E. Falmouth, Mass.
Seller: Sharon M. Losordo, as Trustee of the William P. Bonito 2014 Trust, Individually and In all Other Capacities
Buyer: Lawrence Lynch Realty Corp.

1.**PARTIES:** This 22nd day of March, 2024, Sharon M. Losordo, as Trustee of the William P. Bonito 2014 Trust, Individually, and in all other capacities, hereinafter referred to as the Seller, agrees to sell, and Lawrence Lynch Realty Corp. of 396 Gifford Street, Falmouth, Mass. , hereinafter referred to as Buyer, agrees to buy upon the terms hereinafter set forth, the following described premises:

2.**PREMISES:** Two (2) certain contiguous parcels of land, together with the buildings thereon, located at 0 Thomas B. Landers Road and 160 Thomas B. Landers Road, East Falmouth, Massachusetts, containing a total of 39.42 acres, and more particularly described as follows:

Parcel One

A certain parcel of recorded land described in a deed from Donald G. Moniz and Richard Moniz to William P. Bonito, which deed is recorded at Barnstable Registry of Deeds at Book 4384 Page 264, with reference to a plan recorded at Barnstable Registry of Deeds at Plan Book 392 Page 66, which plan shows the premises to contain 36.43 acres. See also Town of Falmouth Parcel ID 22 02 029 00.

Parcel Two

A certain parcel of registered land described in a deed dated March 2, 1990 from Donald G. Moniz and Richard Moniz to Processed Stone, Inc. being shown as **Lot 3** on Land Court plan 40176B said deed being Land Court document number 502023. See also Town of Falmouth Parcel ID 16 06 002 003.

3. **IMPROVEMENTS, FIXTURES:** Included in the sale as part of the said premises are all buildings, structures, and improvements now located thereon, and, unless specifically excepted from the sale by the terms of this agreement, all of the fixtures used in connection with the premises including, (if any) all wall to wall carpeting, drapery rods, automatic garage door openers, window treatments, venetian blinds, window shades, screens, screen doors, storm windows and doors, awnings, shutters, furnaces, heaters, heating equipment, stoves, ranges, oil and gas burners and fixtures appurtenant thereto, hot water heaters, plumbing and bathroom fixtures, garbage disposers, electric and other lighting fixtures, mantels, electronics, outside television antennae, fences, gates, trees, shrubs, plants, refrigerators, air conditioning equipment, ventilators; and all window treatment, appliances, washers, dryers and electronics.
N.A. The land being conveyed is essentially vacant non - residential land.

Executed as a sealed instrument on the date(s) indicated below.

BUYER:
Lawrence Lynch Realty Corp.
By its President

Christopher M. Lynch, Pres.
Lawrence Lynch Realty Corp.
Date

SELLER
Sharon M. Losordo, Trustee,
William P. Bonito 2014 Trust
and Individually:

Sharon M. Losordo
Date:

BROKER
Hartel Realty
230 Jones Road
Unit 6
Falmouth, Mass. 02540

by:

Greg Hartel
Date:

EXHIBIT

2

THE 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

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, Hatchville (Name of Street) (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 erect a Screening, Mixing, Crushing and Batching Plant
9. Give extent of proposed alterations To erect 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 (ACT)
13. What section of zoning by-law do you ask to be varied? 27-H
14. State reasons for variance To erect 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.

#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, Mixing 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:

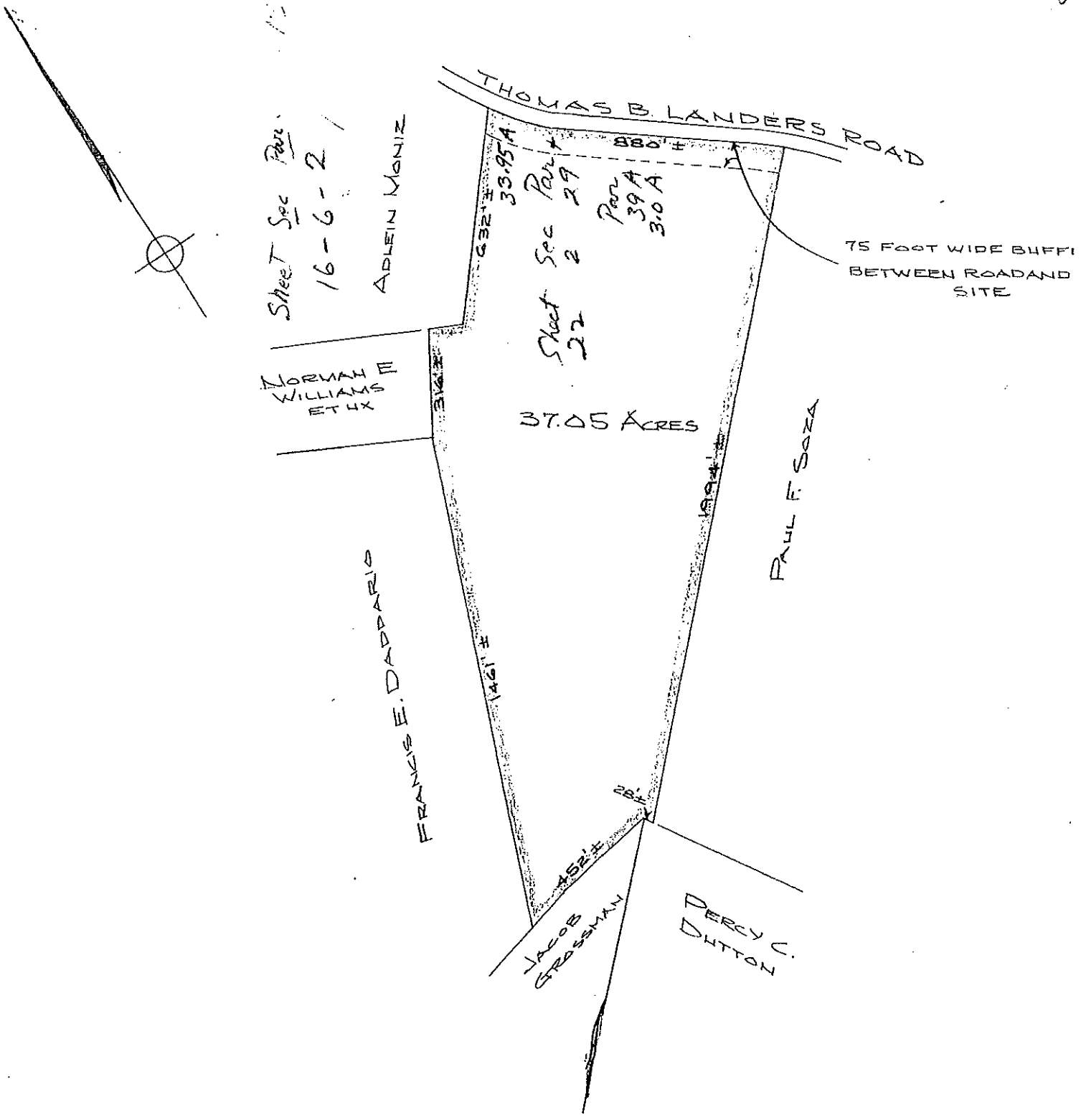
AUGUSTA: Yes John R Augusta

CLAUSON: Yes H G Clauson

PETERSON: Yes John R Peterson

John R. Augusta
JOHN R. AUGUSTA, Clerk
Board of Appeals

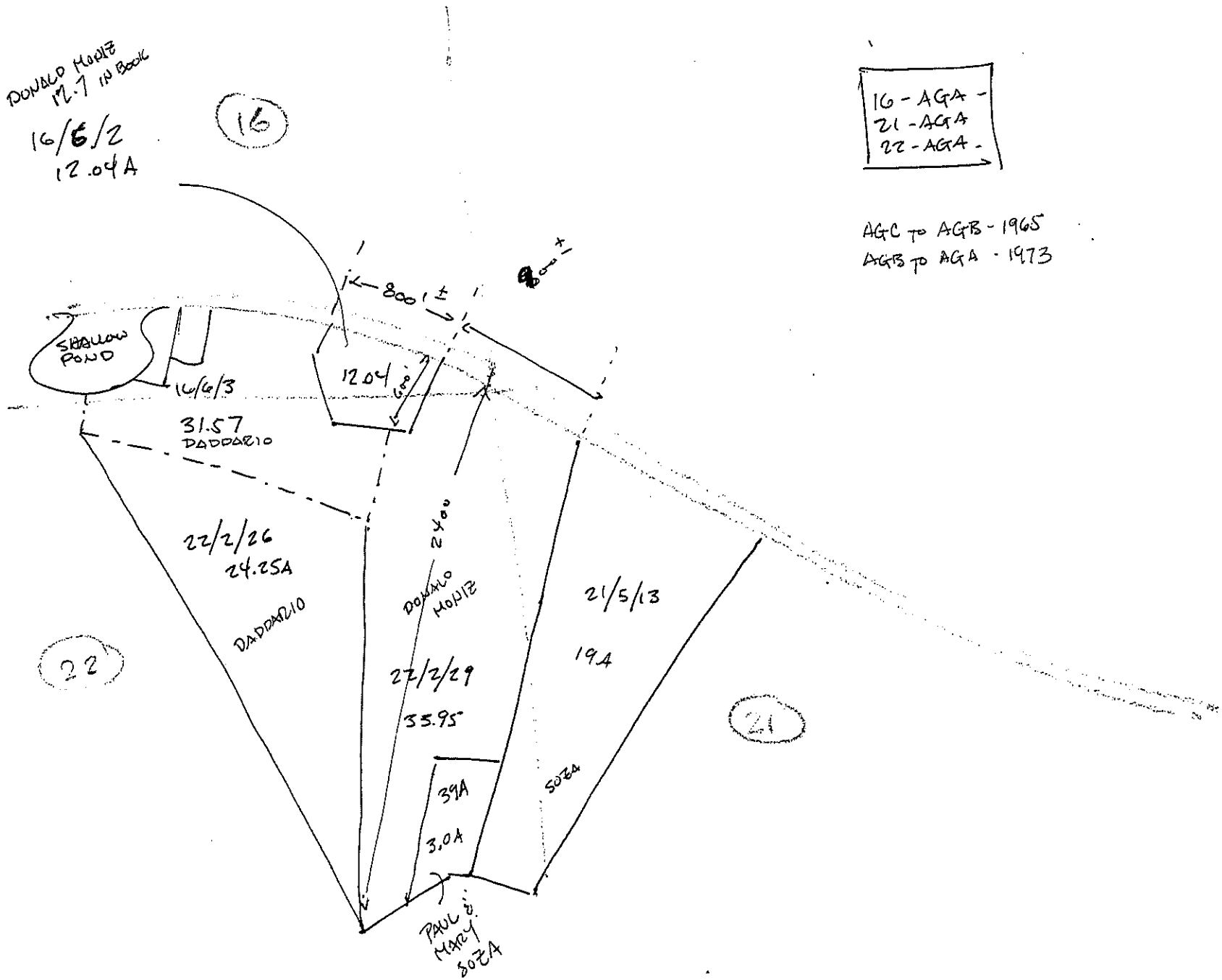
DATED: May 13/65



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 MONIZ
12.7 IN BOOK
16/6/2
12.04A
16
16 - AGA -
21 - AGA
22 - AGA -
AGC TO AGB - 1965
AGB TO AGA - 1973
800' ±
90° ±
SHALLOW POND
16/6/3
120'
60'
31.57
DADDARIO
22/2/26
24.25A
DADDARIO
240'
DONALD MONIZ
22/2/29
35.95
21/5/13
19.4
22
21
39A
3.0A
SOZA
PAUL & MARY SOZA

EXHIBIT

3

#2175

TOWN OF FALMOUTH
BOARD OF APPEALS

Application for a Special Permit

(Pursuant to 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 of Article XXI of Annual Town Meeting on March 7, 1966, approved by the Attorney General, and as amended, with reference to the use of the following described premises:

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

Owner Gile Monis and Gile Monis
(If other than applicant)

Location of premises Town Way, Landers Road, Hatchville, Mass.

Containing 78.27 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

Present use of premises Same - Removal of sand & gravel

Any further remarks in explanation of this application

Application received by E. W. Welsh

Hearing date set for Oct. 7 1968

Gile Monis
Signature of applicant

Appeal No. #2175

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 8:50 o'clock A.M.
and recorded in Vol. 4 on 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 tress, 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: [signature]

BARDELIS: [signature]

ARUDA: [signature]

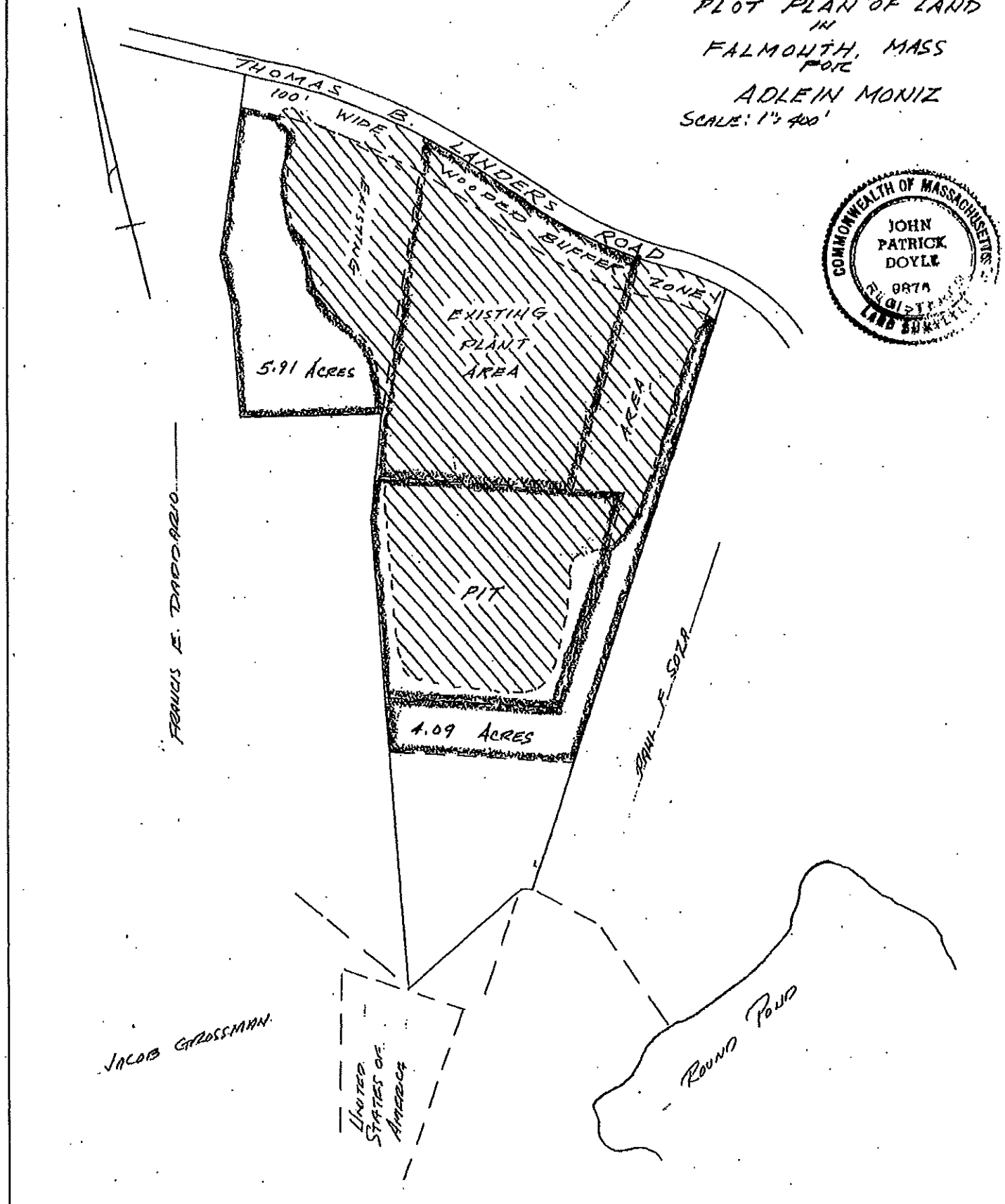
[signature]
MANUEL J. ARUDA, Clerk
Board of Appeals

DATED: [illegible]

1

PLOT PLAN OF LAND IN FALMOUTH, MASS FOR ADLEIN MONIZ

SCALE: 1" = 400'



COMMONWEALTH OF MASSACHUSETTS
JOHN PATRICK DOYLE
9874
REGISTERED LAND SURVEYOR

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

EXHIBIT

4

BOOK 4384 PAGE 264

02094

NOT AN OFFICIAL COPY

DONALD G. MONIZ and A. RICHARD MONIZ

of Falmouth, Barnstable County, Massachusetts,

in consideration of THREE HUNDRED NINETY-SIX THOUSAND-SEVEN HUNDRED FIFTY and 00/100 (396,750.00) DOLLARS

grant to WILLIAM P. BONITO

of P.O. Box A, Teaticket, MA 02536

with quitclaim covenants

the land in Falmouth, Barnstable County, Commonwealth of Massachusetts, bounded and described as follows:

NORTHEASTERLY by Thomas B. Landers Road by several courses, a total distance of One Thousand Fifty-seven and 76/100 (1,057.76) feet;

SOUTHEASTERLY by Land of Cape Cod Camping Club, Inc., One Thousand Four Hundred Twenty-seven and 34/100 (1,427.34) feet;

SOUTHWESTERLY by Land of said Cape Cod Camping Club, Inc., Two Hundred and 00/100 (200.00) feet;

SOUTHEASTERLY by Land of said Cape Cod Camping Club, Inc., Seven Hundred Ninety-six and 62/100 (796.62) feet; and again

SOUTHEASTERLY by Said Cape Cod Camping Club, Inc. One Hundred Fifty-seven and 93/100 (157.93) feet;

NORTHWESTERLY by Land of Francis E. Daddario, and land of Donald G. Moniz et al by several courses, a total distance of Two Thousand Six Hundred Thirty-two and 03/100 (2,632.03) feet.

Containing 36.43 acres more or less as shown on a plan entitled "Plan of Land Located in Falmouth, Mass. prepared for Donald G. Moniz et al, Scale: 1" = 100 Ft., Date: Jan. 10, 1985, Cape & Islands Surveying Inc., P.O. Box 334, Teaticket - Mass.", recorded Barnstable County Registry of Deeds, Plan Book 392 Page 66

For title reference Parcel 2 of a deed from Adlein Moniz to us dated December 12, 1975, recorded at the Barnstable County Registry of Deeds, Book 2282, Page 84.

CANCELLED

FAL

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Executed as a sealed instrument this 14th day of January 19 85

Donald G. Moniz

A. Richard Moniz

The Commonwealth of Massachusetts

Barnstable ss. January 14, 19 85

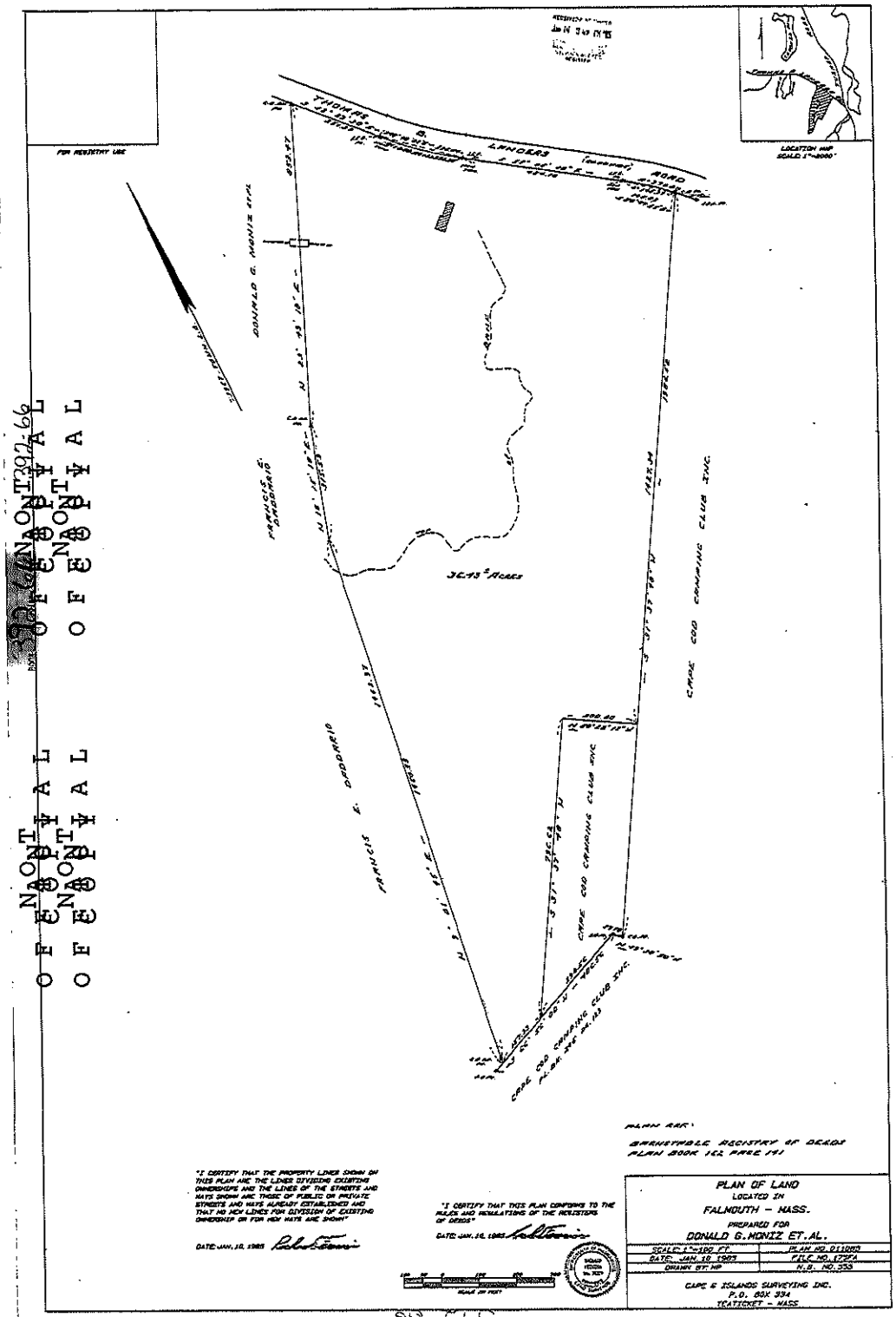
Then personally appeared the above named Donald G. Moniz and A. Richard Moniz,

and acknowledged the foregoing instrument to be their free act and deed,

Before me, Arthur H. Rapoza, Notary Public — ~~JUSTICE OF THE PEACE~~

My commission expires Sept. 22 19 89

RECORDED JAN 14 85

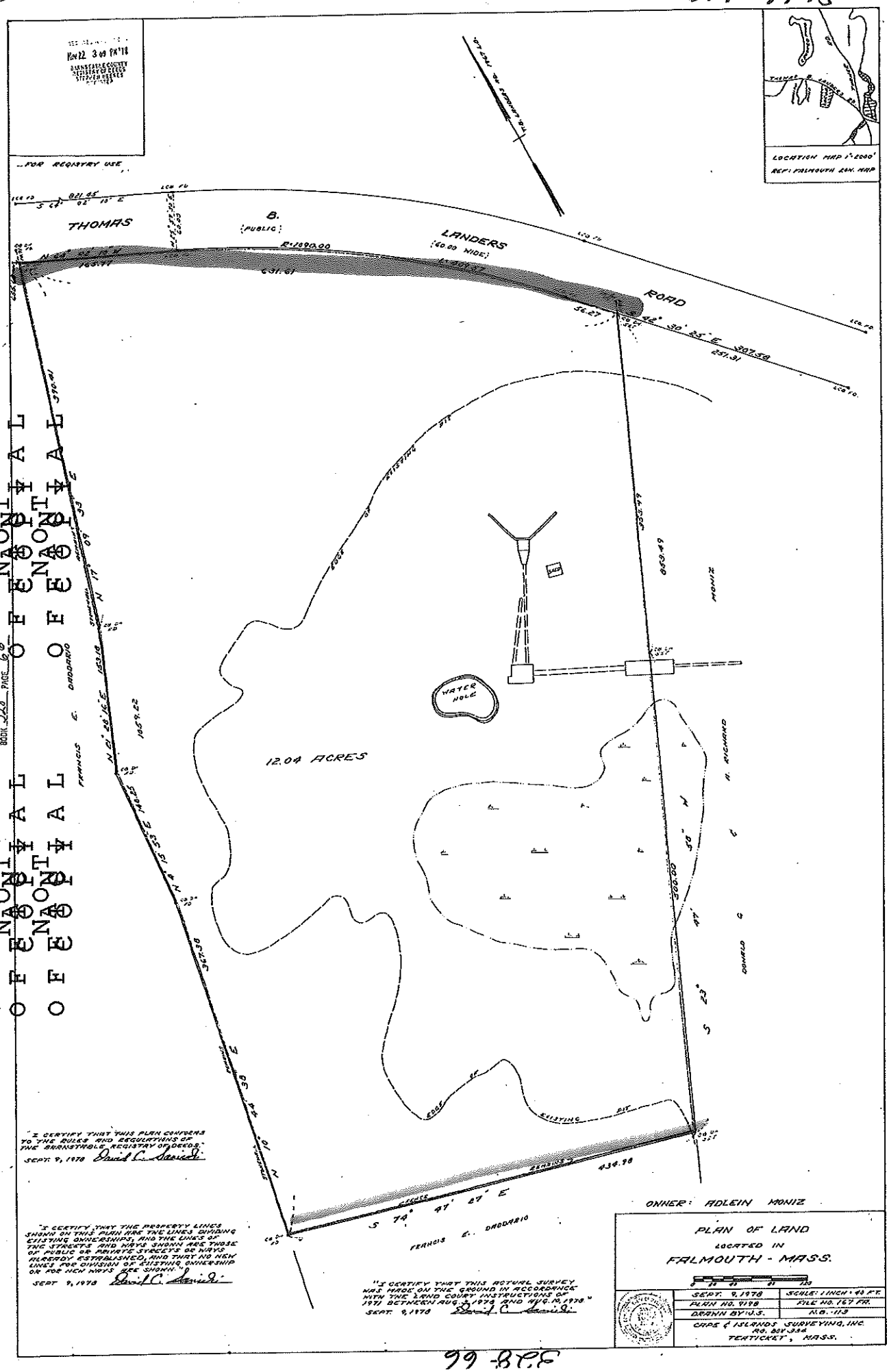


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EXHIBIT

5

SEPT 1978



"I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE BARNSTABLE REGISTRY OF DEEDS."
SEPT. 9, 1978 David C. Daniels

"I CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN."
SEPT. 9, 1978 David C. Daniels

"I CERTIFY THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND IN ACCORDANCE WITH THE LAND COURT INSTRUCTIONS OF 1971 BETWEEN AUG. 1, 1978 AND AUG. 10, 1978."
SEPT. 9, 1978 David C. Daniels

OWNER: ADLEIN MONIZ

PLAN OF LAND
LOCATED IN
FALMOUTH - MASS.

SEPT. 9, 1978	SCALE: 1 INCH = 40 FT.
PLAN NO. 9198	FILE NO. 167 FR.
DRAWN BY: J.S.	N.B. -113

CAPE & ISLANDS SURVEYING, INC.
NO. BOX 334
TEATICKET, MASS.

99-BPE

EXHIBIT

6

As Ctf 108437

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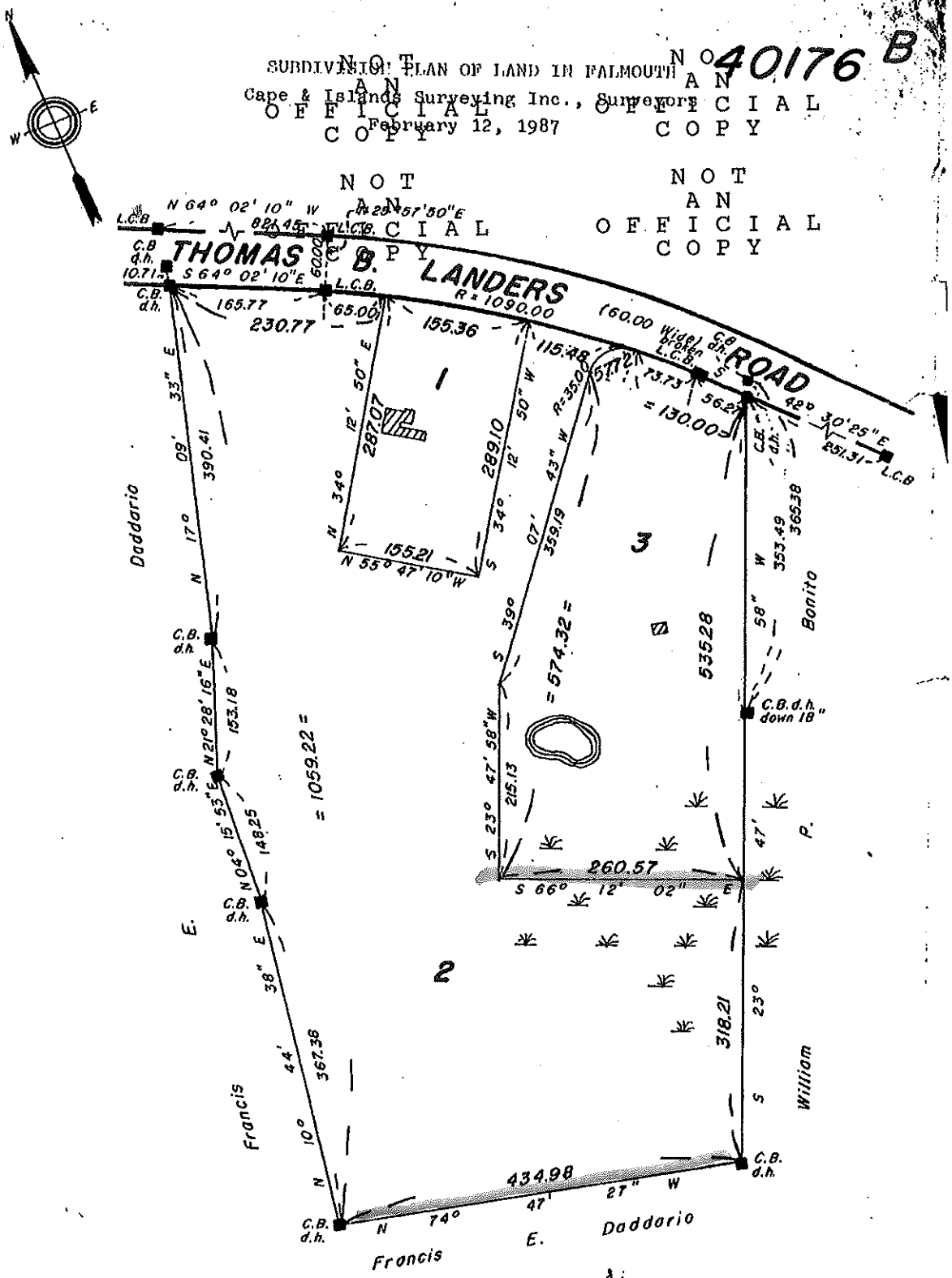
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SUBDIVISION PLAN OF LAND IN FALMOUTH

Cape & Islands Surveying Inc., Surveyors

February 12, 1987

No. 40176 B



Subdivision of Land
Shown on Plan 40176A
Filed with Cert. of Title No. 108437
Registry District of Barnstable County

Separate certificates of title may be issued for land shown hereon as Lots 1, 2 and 3
By the Court.

March 30, 1987 *Recorder.*

KM

Abutters are shown as on original decree plan.

Copy of part of plan filed in
LAND REGISTRATION OFFICE
March 30, 1987
Scale of this plan 120 feet to an inch
Louis A. Moore, Engineer for Court

Form LCP-S-3. 3m-6-88

EXHIBIT

7

Town of Falmouth

BUILDING AND ZONING DEPARTMENT

59 TOWN HALL SQUARE, FALMOUTH, MA 02540

(617) 548-7611 EXT. 249

JOHN ALCORN
COMMISSIONER

May 3, 1988

V. Douglas Errico
Hinckley, Allen, Snyder & Comen
Attorneys at Law
1 Boston Place
Boston, MA. 02108

Re: Moniz

Dear Mr. Errico:

This department has received your request for enforcement action relative to property owned by Moniz on Thomas B. Landers Road, formerly known as Mill Road. Much time and research has taken place based upon your request for this department to require that Moniz discontinue operations on the property that you indicated as Map 16, Section 6, Lot 2. Those operations that you indicated were sand and gravel mining operations, concrete batching and manufacturing purposes.

The following facts are relative to the subject property as well as adjacent property owned by Moniz.

May 13, 1965 the Zoning Board of Appeals issued a Permit, under appeal numbered 1882, for the screening, mixing, crusing and batching plant.

December 2, 1968 the Zoning Board of Appeals issued a Special Permit, under appeal numbered 2175, for removal of material for processing sand and gravel on 51 acres on Thomas B. Landers Road. The Special Permit would be in force for twenty (20) years (to 12/2/88) with extensions possible upon request.

April 29, 1977 the Building Department issued a building permit to remodel the present building for storage of equipment, under permit numbered 2877.

November 20, 1978 the Building Department issued a building permit to construct a batching plant and office buiilding, under permit numbered 7093.

August 29, 1984 the Zoning Board of Appeals issued a Special Permit to construct an 31' addition onto an existing building at Map 16, Sec. 6, Par. 2, Lot 198. The decision mentioned an existing non-conforming use on the property.

August 29, 1984 the Zoning Board of Appeals issued a Variance to construct a cement hopper not to exceed 49' in height and a storage building not to exceed 31' in height.

June 14, 1985 the Building Department issued two (2) building permits, numbered 85A-358 and 85A-359, to add a garage and a cement hopper.

May 5, 1987 Donald and Richard Moniz sold lots 1 & 2 (16/6/2/1&2) to Adelin Moniz.

May 5, 1987 Adelin Moniz sold lot 1 (16/6/2/1) to William Moniz, retaining lot 2.

Based upon the foregoing facts, and the fact that Mr. Moniz stated that mining ceased approximately 12 years ago, I find that there is no violation of the zoning by-laws by Donald Moniz at Map 16, Section 6, Lot 2 relative to sand and gravel mining operations, concrete batching and concrete manufacturing.

Note, also, that a plan has been filed with the Land Court showing the parcels mentioned above with the structures also shown on the plan. It also shows the extent of the former earth removal operations and the proximity from the property lines of the Daddario property.

This decision may be appealed in accordance with Section 7230 of Falmouth's Zoning By-law.

Sincerely,

John Alcorn
Building Commissioner

cc: Zoning Board of Appeals
Eric Turkington, Esquire
John Connolly, Esquire

EXHIBIT

8

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.

B 2175 1968 1 yr 41

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.

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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

Robert A. Sayers SAYERS
Joseph J. Costa COSTA
Victoria H. Lowell LOWELL

Victoria 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.

EXHIBIT

9

Hydrogeologic Study of Crushing Plant Area Thomas B. Landers Road, Falmouth, Massachusetts

Prepared for:
William Bonito
Processed Stone Inc.
Thomas Landers Road
Falmouth, MA 02540

Prepared by:
KV Associates, Inc.
281 Main Street
Falmouth, Massachusetts 02540

RECEIVED
MAR 21 1990
FALMOUTH ZONING
BOARD OF APPEALS

September 30, 1989

Job # 732

Hydrogeologic Study of Processed Stone Gravel Pit

This study was done to determine maximum height of groundwater on Lot 29, 33.45 acres, to comply with the Falmouth Zoning By-law 6420 which requires 10 feet from the bottom of the excavation pit to highest groundwater level. The groundwater direction and rate of flow was determined across the site. The relationship to the recharge zone of Long pond was discussed. A plan for revegetation of the site after excavation operations cease was also prepared.

Site location

The region lies in glacial outwash deposits, just south of Thomas B. Landers Road in Hatchville (Figure 1). The Mashpee pitted plain deposits, consisting mostly of gravelly sand and pebble to cobble gravel with some boulders, make up this area of Cape Cod. These outwash deposits were left by a retreating Pleistocene glacier about 15,000 years ago. Approximately 200 feet of sand and gravel overlies the crystalline bedrock (Oldale, 1969, 1981, 1986). The 33 acres of the site exist in an irregular pie-shaped piece with the crust lying on Thomas B. Landers Road and the point reaching southwesterly (Figure 2). The northwest region closest to the road has already been excavated. The southern region has an undulating sandy surface which rises to over 30 ft above water table heights. The southern region is heavily forested, presenting some access problems.

Hydrological Study

Regional groundwater flow in this area is southwesterly (see Figure 3). Local flow generally follows this trend except for the influence of the ponds. The crushed stone plant site lies between Coonamessett Pond and Jenkins Pond, both kettle hole ponds. The site required further definition of the local groundwater to be able to depict static water depths.

Five monitoring wells were augered on August 30, 1989, in order to project relative groundwater elevations. Medium to coarse sand with occasional gravel and cobble layers was encountered in all wells. Wells MW-2 and MW-5, in the already excavated portion of the lot, had silt layers at the bottom of the wells. Samples taken at the water level were sieved and found to be medium sand for all five wells.

Groundwater flow direction and rate was measured in all five wells, by the Model 40 GeoFlo Meter (KV Associates) and showed flow direction to be southward, consistent with the contoured measured depth to groundwater (Figure 3). Flow

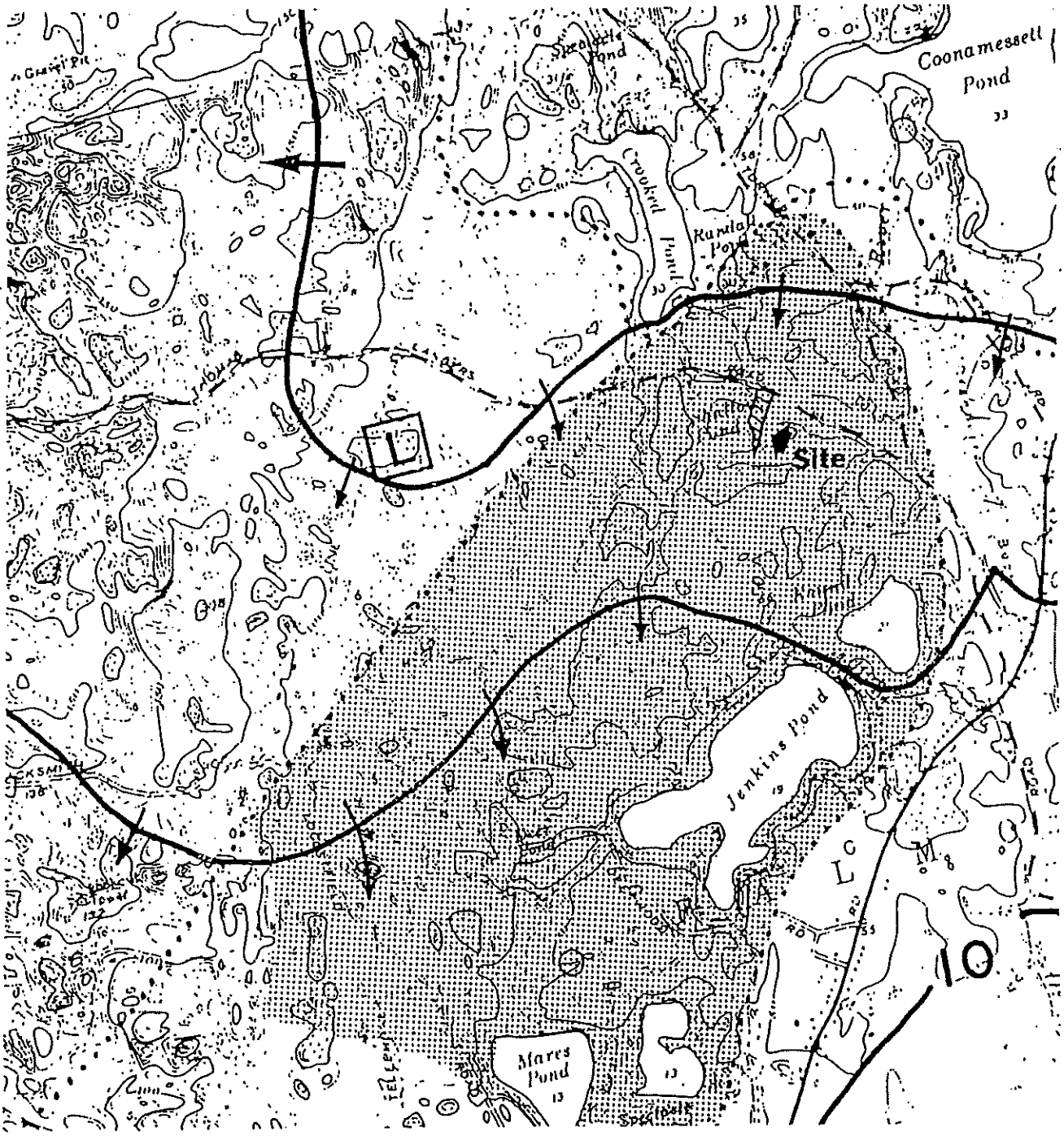


Figure 1. Location of Process Stone Site.
Dotted Region is Long Pond Recharge Zone

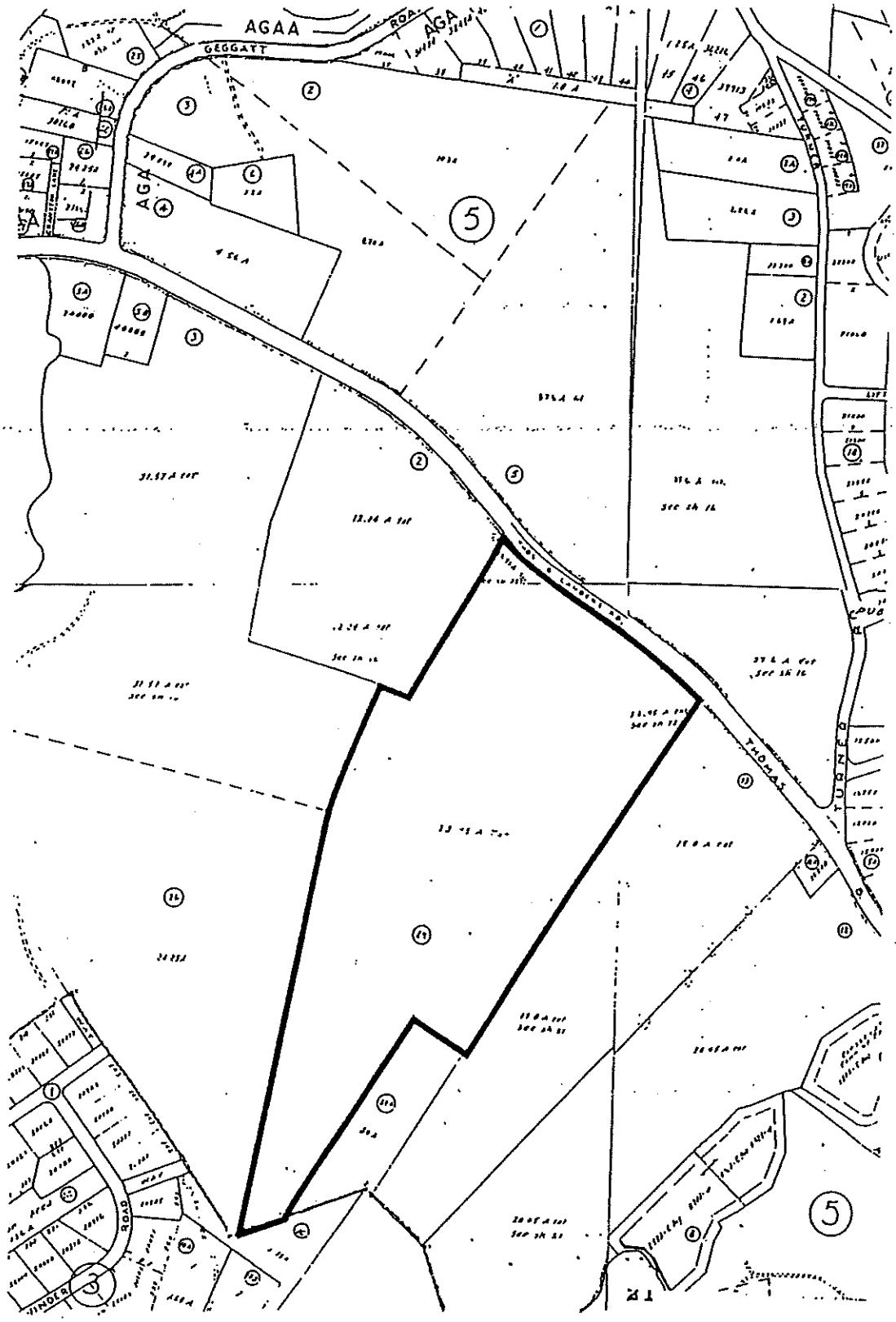


Figure 2. Location of Process Stone Sand and Gravel Region on Assessors Map Showing Property Boundary

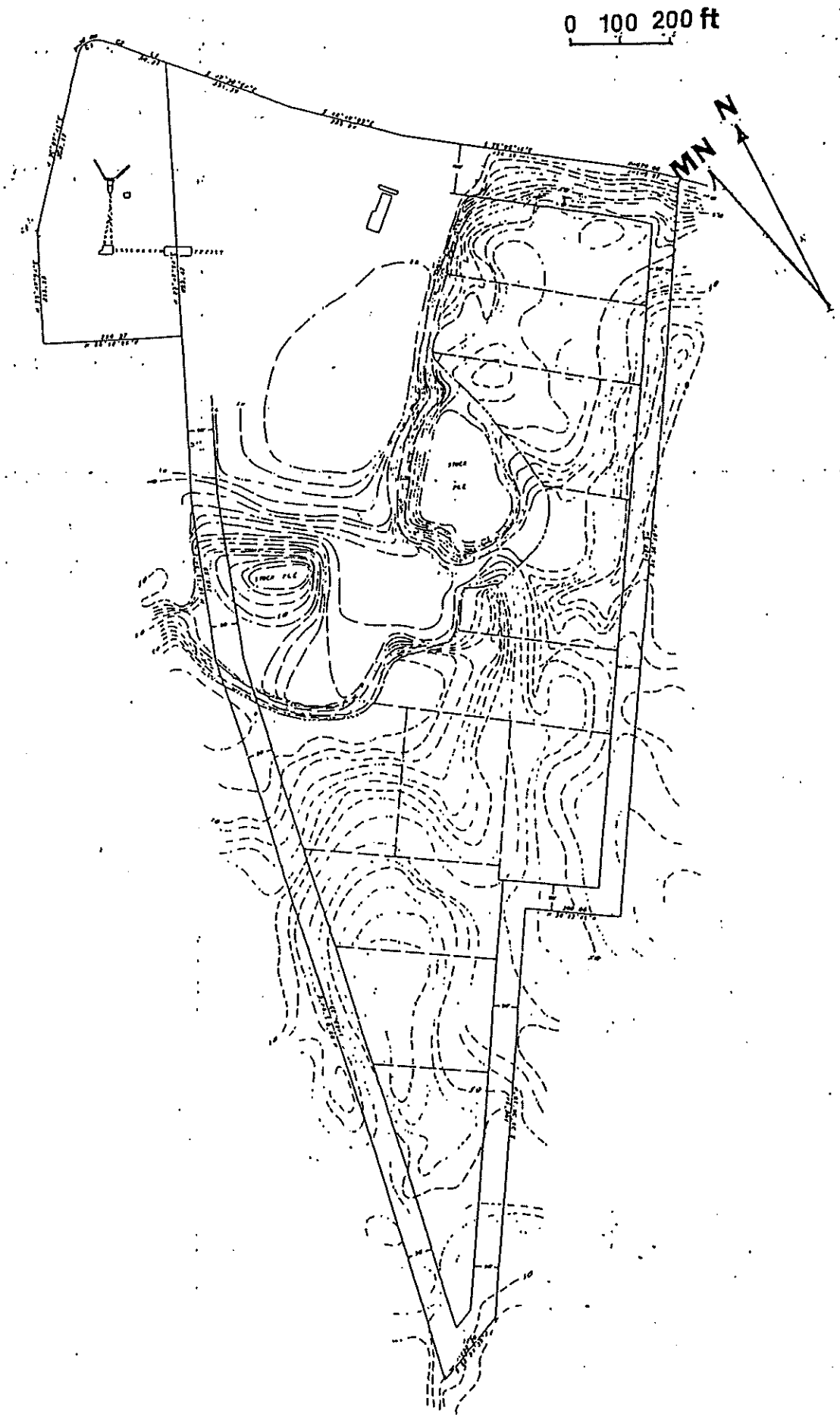


Figure 3. Detailed Topography of Site Showing Extent of Present Excavation in Nortwest Corner .

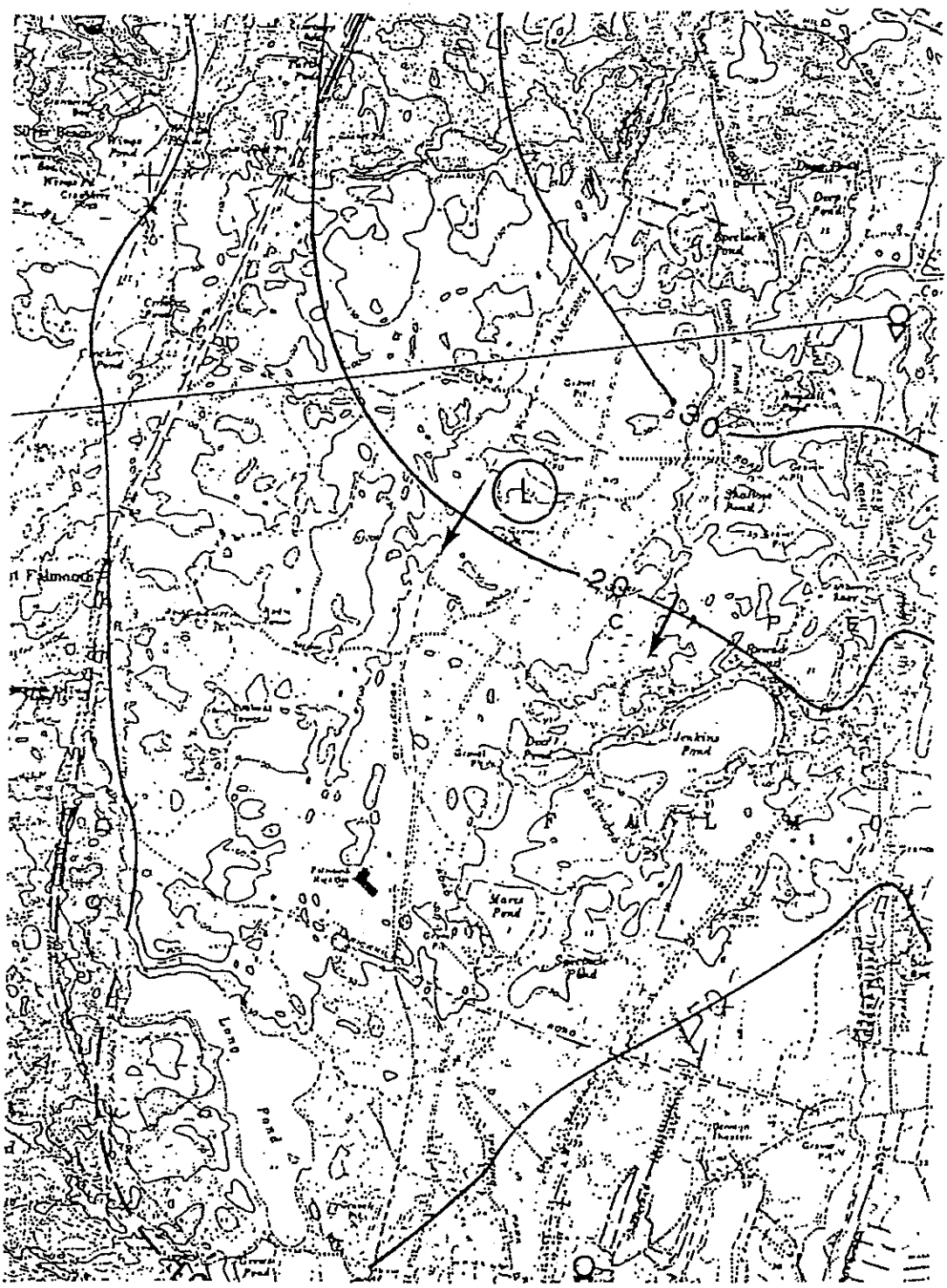


Figure 4. Regional flow conditions near site

rate varied from 0.9 ft/day to 2.95 ft/day, averaging 2.05 ft/day (See Table).

Well	Flow Direction (Magnetic North)	Flow Rate (ft/day)
MW-1	200	2.95
MW-2	183	0.9
MW-3	203	1.9
MW-4	182	2.6
MW-5	183	1.9

The groundwater flow rate can also be calculated using the Darcy equation:

$$\bar{V} = \frac{K \times dh/dl}{n} = \frac{(240) \times (.0015-.0030)}{.30} = 1.2\text{-}2.4 \text{ ft/d}$$

Where: $\bar{V}$ = Transport velocity
K = Average hydraulic conductivity (ft/day)
dh/dl = Slope of groundwater gradient
n = Field porosity

The groundwater gradient (dh/dl) across the site ranged from .3 to .6 ft per 200 ft, or .0015 to .0030. The average hydraulic conductivity for coarse sand and gravel is 240 ft/day, and a field porosity of .30 is common for medium sand. A calculated transport velocity of 1.8 ft/day exists on the property, which agrees well with the GeoFlo Meter measured average flow rate of 2.05 ft/day.

Highest Groundwater Level

The sauturated zone of an aquifer is that part of the aquifer within which all interconnected pore spaces are filled with water. The overlying portion of the aquifer in which pore spaces are predominantly filled with air or partially devold of water, is called the unsaturated zone. The interface or boundary between the two zones is the water table or static water zone.

Groundwater levels do not stay constant; but instead vary through the year, generally reflecting recharge of rainwater. During winter when evaporation is low the maxumum

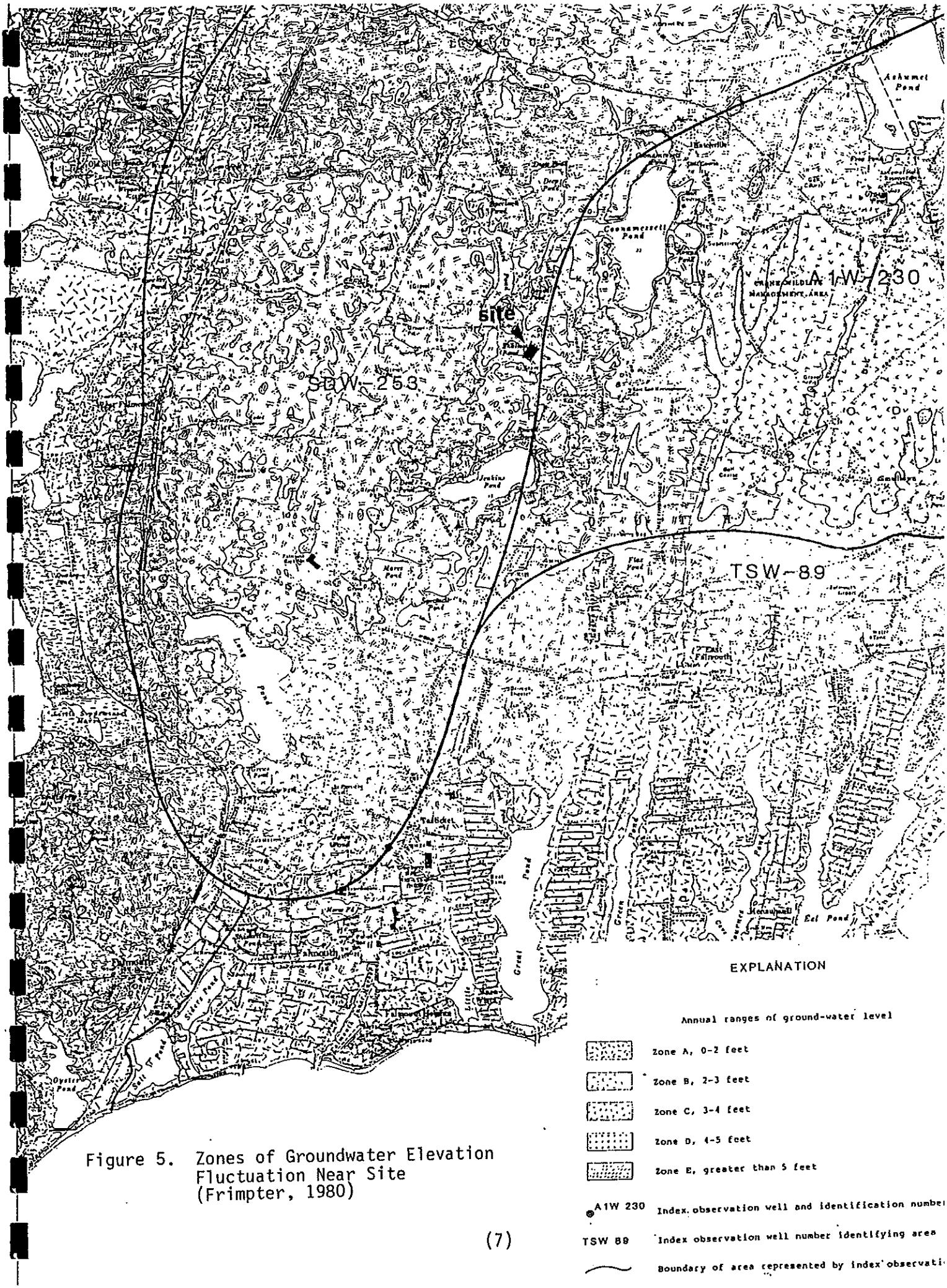


Figure 5. Zones of Groundwater Elevation Fluctuation Near Site (Frimpter, 1980)

recharge occurs resulting in a rise approaching 3 ft. from summer levels. During late summer rapid evaporation often eliminates any effective recharge, resulting in a lowering of the water table.

To relate groundwater elevation to a common frame of reference, the U.S.G.S. set up a series of reference wells which have over 10 years of elevational records. The cited reference values were based on estimation techniques developed by Frimpter (1980) and Frimpter and Fisher (1983).

Following the guidelines for estimating highest groundwater level outlined by Frimpter (USGS Report 83-4112), the site was located on the appropriate index map (Figure 4). It is near the border between two wells: Sandwich 253 (SDW 253) and Barnstable 230 (A1W 230).

The water level adjustment for the gravel pit is 3.6 feet. The average of the adjustment for the two wells was 4.4 and 2.8 feet, respectively. This value added to the depth to water value for each of the five wells, defines the high water elevation (in MSL) for the region. Adding an additional 10 ft to the high water level defines the elevation of the plane below which excavation should not go. The already excavated portion in the vicinity of well MW-5 is already 3.8 ft below the 10 foot limit. The parcels in the vicinity of well MW-3 can be excavated 50 feet and still conform to the by-law guidelines.

Revegetation Plan

Currently, the sand and gravel pit is surrounded by a 50 ft buffer zone. This region is left naturally vegetated. During excavation of the southern zone, the native Enfield Sandy Loam cap of soil containing a measurable silt fraction (3 t0 10%) will be stockpiled onsite. Following excavation to ten feet above high water across the subregion of each cell, the sandy loam topsoil will be used as a cap 1-2 feet deep. Small pines and shrub oaks will be replanted at 10-20 foot spacings in order to accomplish regrowth.

To encourage a planned regrowth, the pit region should be subdivided into cells. Each cell would be assigned a proposed excavation period. As one cell is excavated, the sandy loam cap from an existing working cell may be used to cover the flat bottom of the previously excavated cell.

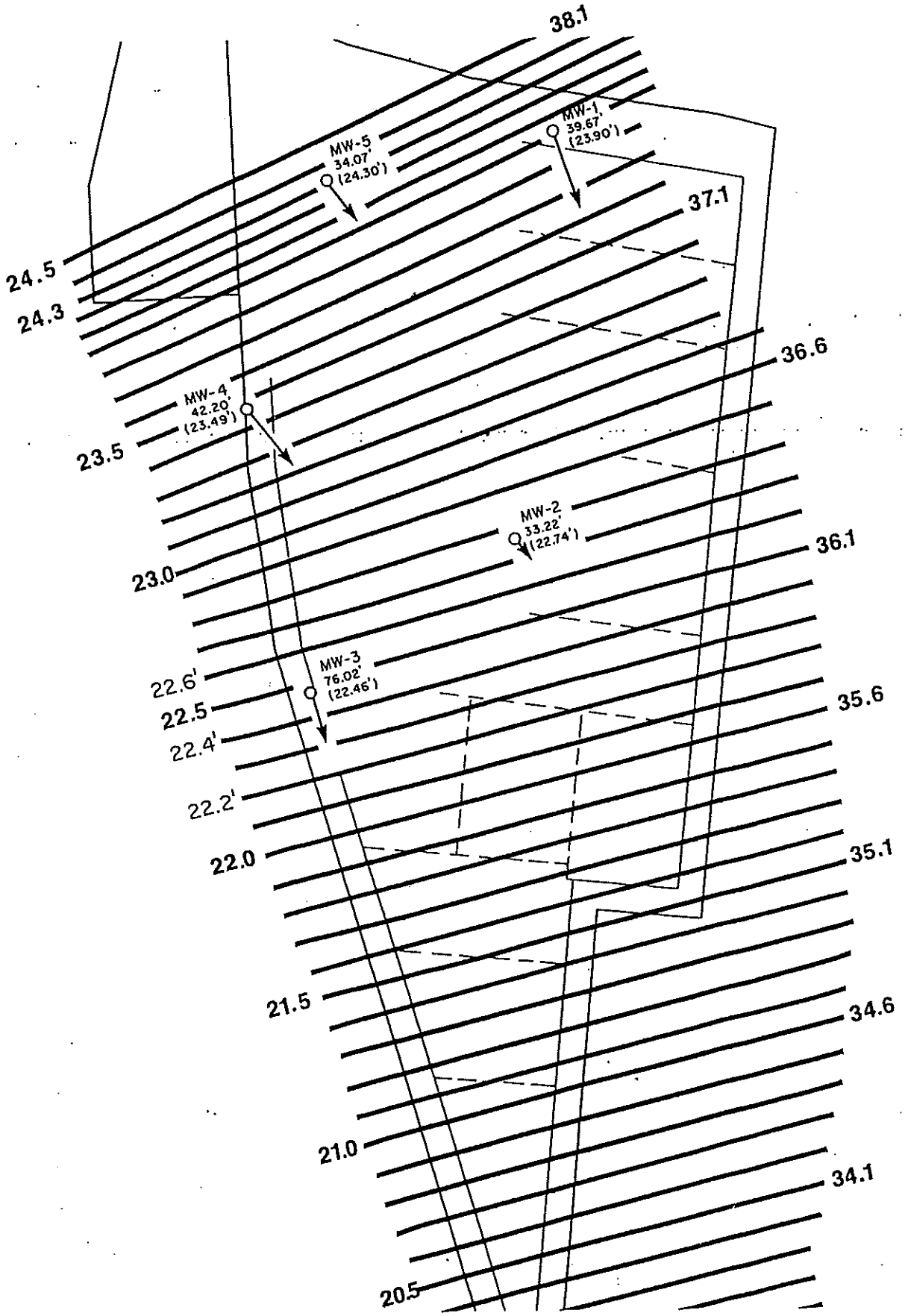


Figure 6. Observed Groundwater Elevations (Left Hand Side) in Mean Sea Level (MSL). Permissible Excavation Depth (in MSL)(Right Hand Side). Observed Groundwater Flow Directions are Given by Arrows.

REFERENCES

Frimpter, M. 1980.. Probable High Groundwater Levels on Cape Cod, Massachusetts: U.S.G.S. Water-Resources Investigations Report 80-1008,20p.

Frimpter, M. and Fisher, 1983. Estimating Highest Groundwater Levels for Constructions and Land Use Planning-A Cape Cod, Massachusetts Example: U.S. Geological Survey Water-Resources Investigations Report 83-4112,23p.

KVA, 1983. Groundwater Quality Assessment Program for Private Well Contamination Near Mares Pond. Prepared for the Board of Health, Town of Falmouth. KV Associates Technical Report 83-201.

KVA, 1987. Environmental Impact Statement for Lots 91, 92 and 93, Happy Hollow Road, Hatchville, Massachusetts. KV Associates Technical Study, 85-525.

Oldale, R. N. 1969. Seismic Investigations of Cape Cod, Martha's Vineyard and Nantucket, Massachusetts and a Topographic Map of the Basement Surface From Cape Cod Bay to the Islands: U.S.G.S. pp.650-B, P.B 122-B827.

Oldale, R. N. 1981. Geologic History of Cape Cod, Massachusetts U.S.G.S. Popular Publications: U.S. Government Printing Office, 1981-3550-776; 22pgs.

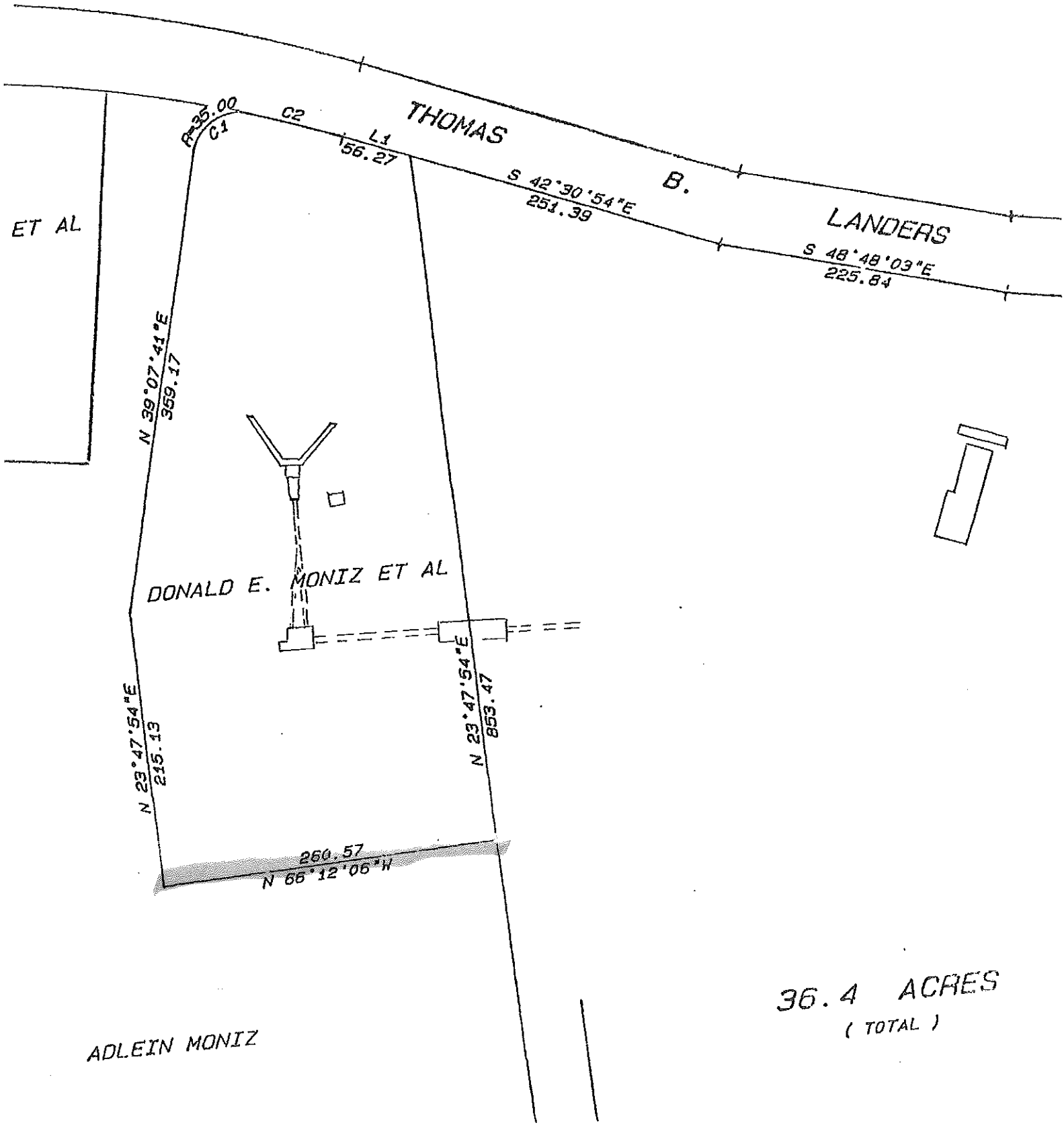
Oldale, R. N. 1986. Geologic Map of Cape Cod and The Islands, Massachusetts; scale 1:100,000; U.S.G.S. Miscellaneous Publications: Map I-1763-1 Plate.

Persky, J. H. 1986. Direction of Groundwater Flow and Groundwater Quality Near a Landfill in Falmouth, Massachusetts. U.S.G.S. Water Resources Investigations Report 85-4188.

EXHIBIT

10

1988



36.4 ACRES
(TOTAL)

EXHIBIT

11

WE, DONALD G. MONIZ AND A. RICHARD MONIZ, both of P.O. Box 41, Teaticket, Barnstable County, Massachusetts 02536

NOT AN OFFICIAL COPY

in consideration of FORTY-FIVE THOUSAND AND NO/100 ($45,000.00) DOLLARS

NOT AN OFFICIAL COPY

grant to PROCESSED STONE, INC., a Massachusetts corporation, whose usual mailing address is P.O. Box A, Teaticket, Barnstable County, Massachusetts 02536

NOT AN OFFICIAL COPY

with quitclaim covenants

The land with the buildings thereon located on Thomas B. Landers Road, Falmouth, Barnstable County, Massachusetts, bounded and described as follows:

NORTHEASTERLY by Thomas B. Landers Road, one hundred thirty and no/100 (130.00) feet;

SOUTHEASTERLY by land now or formerly of William P. Bonito, five hundred thirty five and 28/100 (535.28) feet;

SOUTHWESTERLY by LOT 2, two hundred sixty ad 57/100 (260.57) feet;

NORTHWESTERLY by LOT 2, five hundred seventy four and 32/100 (574.32) feet; and

NORTHERLY by LOT 2, fifty seven and 72/100 (57.72) feet.

All of said boundaries are determined by the Court to be located as shown on subdivision plan 40176-B, dated February 12, 1987, drawn by Cape & Islands Surveying, Inc., of which is filed in the Barnstable County Registry of Deeds in Land Registration Book 886, Page 77, with Certificate of Title No. 108437, and said land is shown thereon as LOT 3.

For title, see Certificate of Title No. 108437.

Fil 3 Pl 40176-B

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NOT AN OFFICIAL COPY

CANCELLED

G0356 2

DEEDS EXCISE

MAR-5'90

102.60

DEEDS REG BK
BARNSTABLE

03/05/90

CANCELLED

CHK 153.90

6941A000 14:09
EXCISE TAX

Executed as a sealed instrument this 2nd day of March, 19 90.

Donald G. Moniz
DONALD G. MONIZ

A. Richard Moniz
A. RICHARD MONIZ

The Commonwealth of Massachusetts

BARNSTABLE ss. March 2, 19 90

Then personally appeared the above named

DONALD G. MONIZ and A. RICHARD MONIZ

and acknowledged the foregoing instrument to be their free act and deed,

Before me, Mary P. [illegible]
Notary Public

My commission expires Jan 27 19 95

642635

20125.dd

137621

NOT AN OFFICIAL COPY

QUITCLAIM DEED

NOT AN OFFICIAL COPY

PROCESSED STONE, INC., a corporation duly organized and existing under the laws of the Commonwealth of Massachusetts, with a usual place of business at 160 Thomas B. Landers Road, P.O. Box A, Teaticket, MA 02653, for consideration in the amount of FIFTY THOUSAND and no/100 ($50,000.00) Dollars paid, grant to **WILLIAM BONITO**, of 107 Old Meetinghouse Road, East Falmouth, MA 02536,

with Quitclaim Covenants,

the land together with the buildings thereon located on Thomas B. Landers Road, Falmouth (West) Barnstable County, Massachusetts, bounded and described as follows:

NORTHEASTERLY	by Thomas B. Landers Road, one hundred thirty and no/100 (130.00) feet;
SOUTHEASTERLY	by land now or formerly of William P. Bonito, five hundred thirty-five and 28/100 (535.28) feet;
SOUTHWESTERLY	by LOT 2, two hundred sixty and 57/100 (260.57) feet;
NORTHWESTERLY	by LOT 2, five hundred seventy-four and 32/100 (574.32) feet; and
NORTHERLY	by LOT 2, on a curve having a radius of thirty-five feet, an arc distance of fifty-seven and 72/100 (57.72) feet.

All said boundaries are determined by the Court to be located as shown on subdivision plan 40176-B, dated February 12, 1987, drawn by Cape & Islands Surveying, Inc., Surveyors, which plan is filed in the Barnstable County Registry of Deeds in Land Registration Book 886, Page 77, with Certificate of Title No. 108437, and said lot is shown thereon as LOT 3.

For title, see Certificate of Title No. 119915.

JUN 30 10 50 AM '95
BARNSTABLE COUNTY
REGISTRY OF DEEDS
JOHN F. MEADE

20125.dd

NOT AN OFFICIAL COPY

IN WITNESS WHEREOF, the said PROCESSED STONE, INC. has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by WILLIAM P. BONITO, President, and SHARON M. LOSORDO, Treasurer, this 29th day of June, 1995.

PROCESSED STONE, INC.

By: William P. Bonito
William P. Bonito, President

By: Sharon M. Losordo
Sharon M. Losordo, Treasurer

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss. June 29, 1995

Then personally appeared the above named William P. Bonito, President, and Sharon M. Losordo, Treasurer, and acknowledged the foregoing instrument to be the free act and deed of PROCESSED STONE, INC., before me-

Albert J. Schulz
Notary Public

My commission expires: 09/19/97

BARNSTABLE COUNTY
REGISTRY OF DEEDS
COUNTY EXCISE TAX

06/30/95 #111111

TAX 114.00
TOTAL 114.00
CHECK 114.00

CANCELLED

0043
#02 #1111 10:50
COUNTY EXCISE TAX

DEEDS REG 01
BARNSTABLE

06/30/95

CANCELLED

TAX 171.00
CHEK 171.00

28666A006 10:47
EXCISE TAX 2

BARNSTABLE REGISTRY OF DEEDS

502023 119915

Noted on Cy 108437 982-35

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BARNSTABLE COUNTY
REGISTRY OF DEEDS
JOHN F. MEADE

MAR 5 2 22 PM '90

REGISTERED

EXHIBIT

12

TOWN OF FALMOUTH

BOARD OF APPEALS

NOTICE OF PUBLIC HEARING

UNDER ZONING BY-LAWS

Appeal No. 20-90 March 5, 1990

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

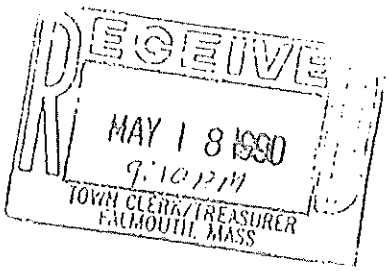
b. The area graded and seeded or planted to prevent erosion and to conceal the scars of stone removal.

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.

EXHIBIT

13

AFFIDAVIT OF SHARON M.LOSORDO

I, Sharon M. Losordo, being duly sworn hereby depose and say that:

1. I was born on January 12, 1955 and have resided in the town of Falmouth, Massachusetts for my entire life.

2. I am one of two (2) children born to William Bonito and Norma Bonito.

3. My late brother was William P. Bonito.

4. In 1978, I married Jonathan Losordo and we currently reside at 57 Bonito Avenue in East Falmouth.

5. In January of 1985, my father William Bonito purchased a 36.4 acre parcel of land located on Thomas B Landers Road from Donald G. Moniz and Richard Moniz.

6. At the time of my father's acquisition of the property in 1985, both my brother, William P. Bonito and I worked for my father at the site.

7. My brother was involved in all the "outside" activity of the sand and gravel business, and I was involved in the "inside" office activities and management of the business.

8. At the time of the purchase, the land was the site of a "sand and gravel" business which had been maintained and operated by the Moniz family for many years.

9. At the same time that my father purchased the 36. 4 acres from Donald and Richard Moniz in January of 1985, he also leased from the Moniz brothers a three acre parcel of land fronting on Thomas B. Landers Road immediately abutting the 36 acres.

10. That three acre parcel has a street address of 0 Thomas B. Landers Road.

11. That three acre parcel had been part of a larger twelve (12) acre parcel being used by the Moniz as part of their sand and gravel business.

12. The twelve acre parcel was in the Land Court registration process and being subdivided into three (3) lots.

13. The agreement between my father and the Moniz brothers was a "lease- purchase" with respect to the three acre parcel whereby my father would lease and use the property, making monthly payments toward the purchase price, and when all payments had been made, title to the three acres parcel would be conveyed to him.

14. At the time of leasing, the three acre parcel of land was being used in connection with the Moniz sand and gravel business.

15. In particular, the 3 acre parcel was the site of certain structures and equipment being used in processing material, which structures and equipment were located on both the 36 acre parcel and the 3 acre parcel.

16. Following the purchase of the 36 acre parcel, and the lease -purchase of the 3 acre parcel, my father continued to operate the sand and gravel business at the site located at the combined parcels under the corporate name of "Processed Stone Inc."

17. A copy of the Articles of Organization of "Processed Stone Inc." dated January 1985 is attached as Exhibit 1.

18. In March of 1990, my father had completed making the purchase payments on the 3 acre parcel of registered land, and Donald and Richard Moniz conveyed the land to "Processed Stone, Inc."

19. In May of 1990 the Falmouth Zoning Board of Appeals issued a special permit (Appeal 20-90) which re- authorized excavation and earthmoving on the 36 acre site, subject to certain conditions relating to the reclamation and restoration of the property.

20. We did not seek to do any further excavation on the 3 acre parcel and so that parcel was not made part of the special permit application. We did however continue to use the 3 acre parcel as a site for the placement of cranes, mobile crushers and screeners, and the storage of material.

21. Attached to this affidavit as Exhibit 2 is a series of photographs which show the equipment we used, and the type of activity taking place on the site.

22. In 1995, "Processed Stone, Inc." was dissolved and a new corporation entitled "William Bonito Construction, Inc" was formed. A copy of the Articles of Organization is attached as Exhibit 3.

23. I was, and still am, the principal officer of "William Bonito Construction"

24. My father passed away in January 2013.

25. My brother and I continued to manage the sand and gravel business as before.

26. He managed the "outside" activity of the business, and I continued to handle the "inside" office activities and management of the business.

27. Throughout this entire period of time from 1985, the sand and gravel business has involved the following activities:

(a) On- site excavation, mining, moving and removal of material, including sand, dirt, boulders, and stone of varying sizes and types, gravel;

(b) Acquisition, receipt and acceptance of similar material delivered to the site from other contractors;

(c) Crushing of boulders and stone of varying sizes;

(d) Batching of stone for use as gravel in road construction;

(e) Screening, separation, storage and stockpiling of excavated material and material delivered to the site;

(f) Stockpiling, storage and sale of all varieties of material excavated on, or delivered to the site, including mulch, wood chips and loam;

(g) Sale of all types of stockpiled material to contractors for use in projects elsewhere;

(h) Storage and operation of crushing equipment, screening equipment, cranes and hammers.

28. As the property has been extensively excavated and materials have been stockpiled over the years, we have had less need to incur the expense of owning and maintaining large permanent crushing and screening equipment on site.

29. With such large equipment, we used to have to bring the material to the machinery, but by renting smaller portable machinery and equipment on an "as needed" basis, the equipment can be brought to the material.

30. My brother William P. Bonito passed away in January of 2022.

31. As trustee, I am sole owner of the property and I have continued to operate and manage the sand and gravel business at the site.

32. Attached as Exhibit 4 is the Annual Report of "William Bonito Construction" dated February 14, 2024.

33. There is a substantial amount of material stored and stockpiled on the site, available for further processing (as needed) and sale to our customers who bring their own trucks and portable processing equipment to the site.

34. These activities are ongoing, although not on as large a scale as in the early days of our ownership, as much of the site has been excavated, and the material already processed.

35. I am now aware that special permit (Appeal No. 20-90) issued in 1990 for the excavation and earthmoving of material on the 36 acre site required that certain steps be taken as the work progressed, including the submission of plans to the town on an annual basis showing the amount and location of excavation, and the steps taken for the restoration and reclamation of excavated areas.

36. Our non- compliance with these requirements was not an intentional disregard of our obligations under the permit, but an unintentional oversight to the details of the permit as we went about managing daily operations on the site over the past 34 years.

37. It is my intention to wind up my involvement in the sand and gravel business and sell the land to Lawrence Lynch Realty Corp., which is willing to undertake the obligations set forth in the permit issued in 1990.

38. My family and I hope that you will look favorably on their application.

Subscribed and sworn to under the pains and penalties of perjury this 31st day of October 2024.

Sharon M. Losordo

Commonwealth of Massachusetts

County of Barnstable October 21, 2024

On this the 21st day of October 2024
there personally appeared before me:
Brett A. Sanidas
(as Notary)
the Affiant Sharon B. Lozada whose identity was proved to me through the following satisfactory evidence:

or

Personal Knowledge and acknowledged that he/she signed the within document voluntarily as his/her free act and deed for the purposes stated therein.

Notary Public Brett A. Sanidas
My commission expires: 4/5/2030

Brett A. Sanidas
My Commission Expires April 5, 2030
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS

EXHIBIT

1

100M-G.D.ARO-3(Rev. 12-80) 160411

Examiner

The Commonwealth of Massachusetts

OFFICE OF THE MASSACHUSETTS SECRETARY OF STATE

MICHAEL JOSEPH CONNOLLY, Secretary

ONE ASHBURTON PLACE, BOSTON, MASS. 02108

ARTICLES OF ORGANIZATION

(Under G.L. Ch. 156B)

Incorporators

NAME — **POST OFFICE ADDRESS**

Include given name in full in case of natural persons; in case of a corporation, give state of incorporation.

John Conathan, II — 969 Main Street, Osterville, MA 02655

The above-named incorporator(s) do hereby associate (themselves) with the intention of forming a corporation under the provisions of General Laws, Chapter 156B and hereby state(s):

Name Approved

1. The name by which the corporation shall be known is:

   Processed Stone, Inc.

2. The purpose for which the corporation is formed is as follows:

   To undertake the excavation of stone and gravel from the earth and to purchase the same for resale; to engage in earth moving and road construction; to own and operate heavy equipment; to own, acquire or lease real estate for that purpose; and generally to do all things now or hereafter permitted by Massachusetts law.

85 001854

C ☐
P ☐
M ☐
R.A. ☐

4

P.C.

Note: If the space provided under any article or item on this form is insufficient, additions shall be set forth on separate 8 1/2 x 11 sheets of paper leaving a left hand margin of at least 1 inch for binding. Additions to more than one article may be continued on a single sheet so long as each article requiring each such addition is clearly indicated.

3. The total number of shares and the par value, if any, of each class of stock within the corporation is authorized as follows:

CLASS OF STOCK	WITHOUT PAR VALUE	WITH PAR VALUE		
	NUMBER OF SHARES	NUMBER OF SHARES	PAR VALUE	AMOUNT
Preferred				$
Common	15,000			

*4. If more than one class is authorized, a description of each of the different classes of stock with, if any, the preferences, voting powers, qualifications, special or relative rights or privileges as to each class thereof and any series now established:

N/A

*5. The restrictions, if any, imposed by the Articles of Organization upon the transfer of shares of stock of any class are as follows:

None

*6. Other lawful provisions, if any, for the conduct and regulation of business and affairs of the corporation, for its voluntary dissolution, or for limiting, defining, or regulating the powers of the corporation, or of its directors or stockholders, or of any class of stockholders:

Meetings of the directors and stockholders shall be held at the Corporation's principal office, unless otherwise specified in the notice thereof, in which event meetings may be held anywhere in the United States of America.

*If there are no provisions state "None".

7. By-laws of the corporation have been duly adopted and the initial directors, president, treasurer and clerk, whose names are set out below, have been duly elected.

8. The effective date of organization of the corporation shall be the date of filing with the Secretary of the Commonwealth or if later date is desired, specify date, (not more than 30 days after the date of filing.)

9. The following information shall not for any purpose be treated as a permanent part of the Articles of Organization of the corporation.

   a. The post office address of the initial principal office of the corporation of Massachusetts is:

      P.O. Box A, Teaticket, MA 02653

   b. The name, residence, and post office address of each of the initial directors and following officers of the corporation are as follows:

	NAME	RESIDENCE	POST OFFICE ADDRESS
President:	William P. Bonito	9 Crocker Road	East Falmouth, MA 02653
Treasurer:	Sharon M. Losordo	43 Bonito Avenue	East Falmouth, MA 02653
Clerk:	Sharon M. Losordo	43 Bonito Avenue	East Falmouth, MA 02563
Directors:	William P. Bonito		
	Sharon M. Losordo		

   c. The date initially adopted on which the corporation's fiscal year ends is:

      June 30, ~~1985~~

   d. The date initially fixed in the by-laws for the annual meeting of stockholders of the corporation is:

      September 20, ~~1985~~

   e. The name and business address of the resident agent, if any, of the corporation is:

      N/A

IN WITNESS WHEREOF and under the penalties of perjury the INCORPORATOR(S) sign(s) these Articles of Organization this 7th day of January 19~~85~~ 88

The signature of each incorporator which is not a natural person must be an individual who shall show the capacity in which he acts and by signing shall represent under the penalties of perjury that he is duly authorized on its behalf to sign these Articles of Organization.

216916

SECRETARY OF THE COMMONWEALTH

1985 JAN 18 P 1:26

CORPORATION DIVISION

THE COMMONWEALTH OF MASSACHUSETTS

ARTICLES OF ORGANIZATION

GENERAL LAWS, CHAPTER 156B, SECTION 12

I hereby certify that, upon an examination of the within-written articles of organization, duly submitted to me, it appears that the provisions of the General Laws relative to the organization of corporations have been complied with, and I hereby approve said articles; and the filing fee in the amount of $ 150.00 having been paid, said articles are deemed to have been filed with me this 18th day of January 1985

Effective date

Michael Joseph Connolly

MICHAEL JOSEPH CONNOLLY
Secretary of State

PHOTO COPY OF ARTICLES OF ORGANIZATION TO BE SENT
TO BE FILLED IN BY CORPORATION

TO:

John Conathan, II, Esq.

969 Main Street

Osterville, MA 02655

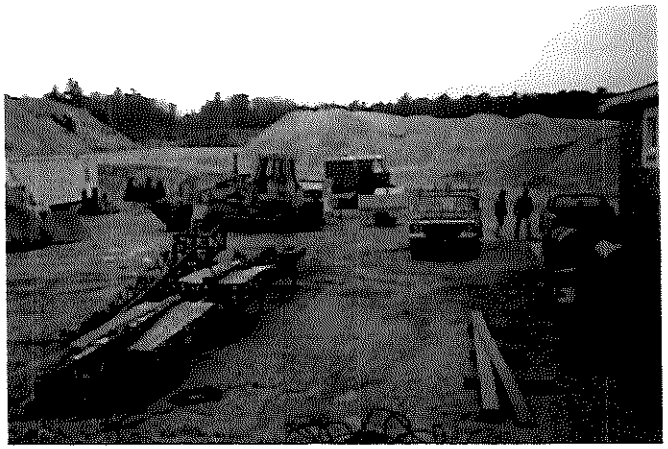
Telephone 617-428-3513

FILING FEE: 1/20 of 1% of the total amount of the authorized capital stock with par value, and one cent a share for all authorized shares without par value, but not less than $125. General Laws, Chapter 156B. Shares of stock with a par value less than one dollar shall be deemed to have par value of one dollar per share.

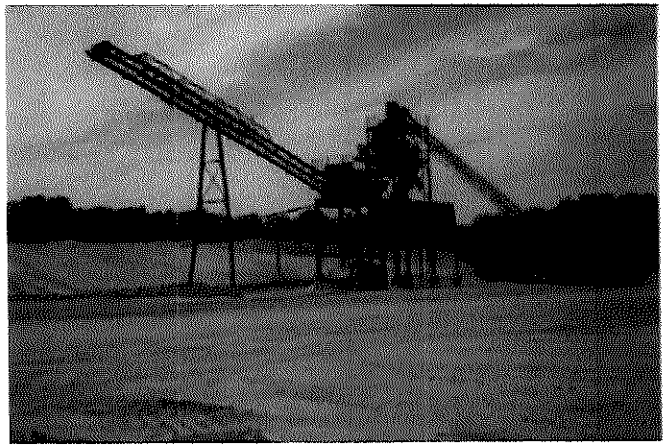
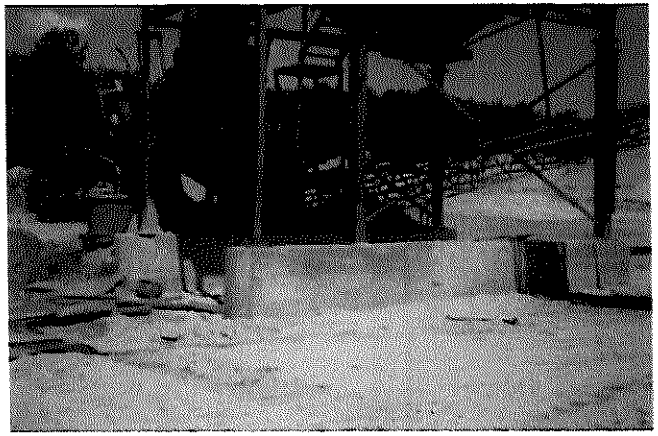
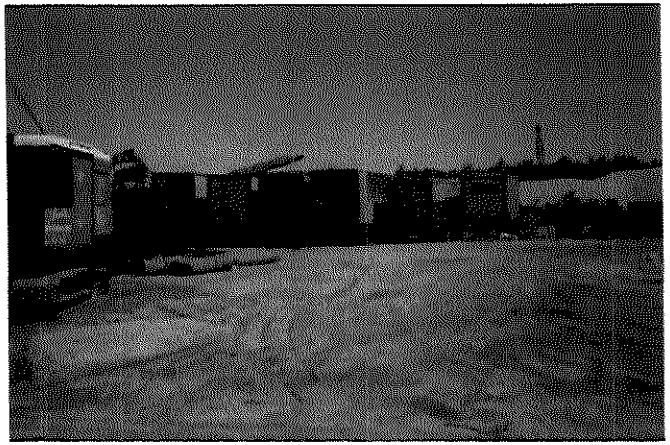
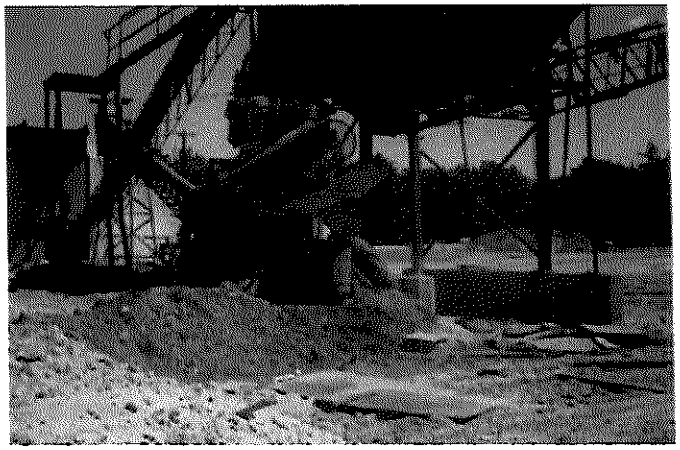
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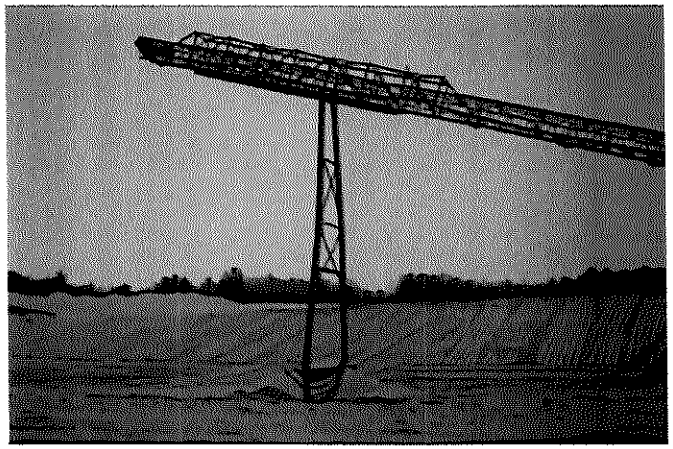
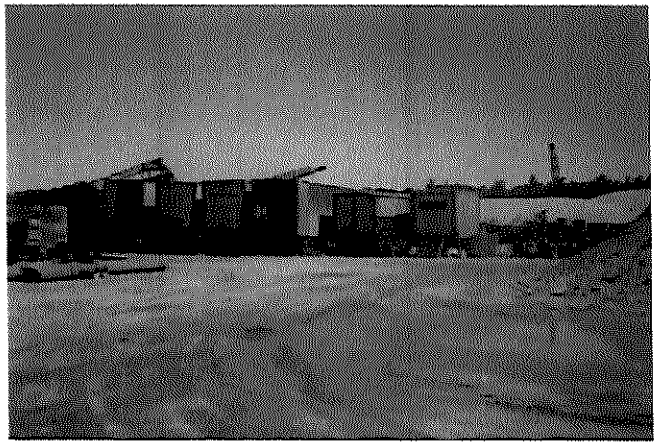
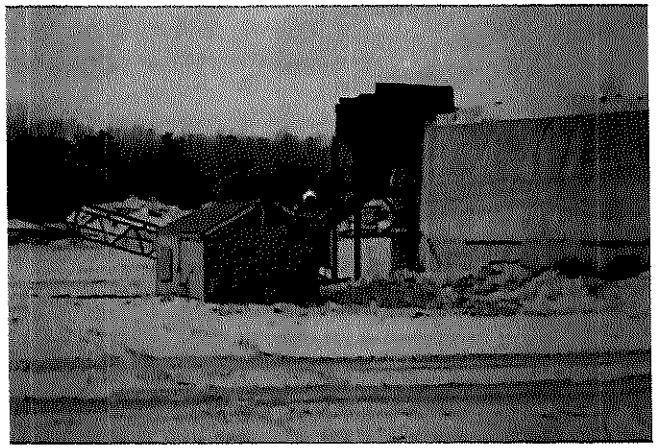
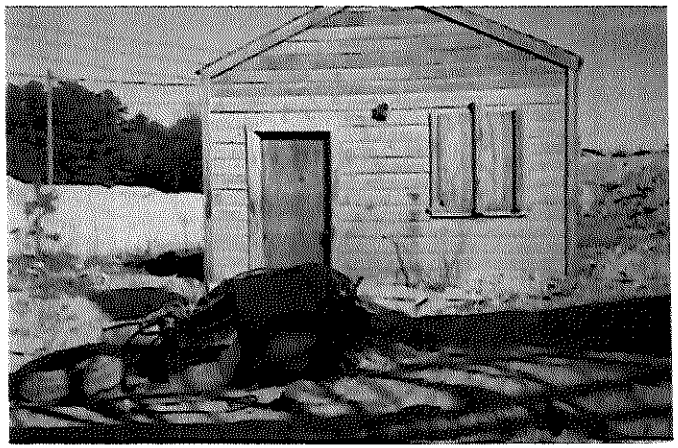
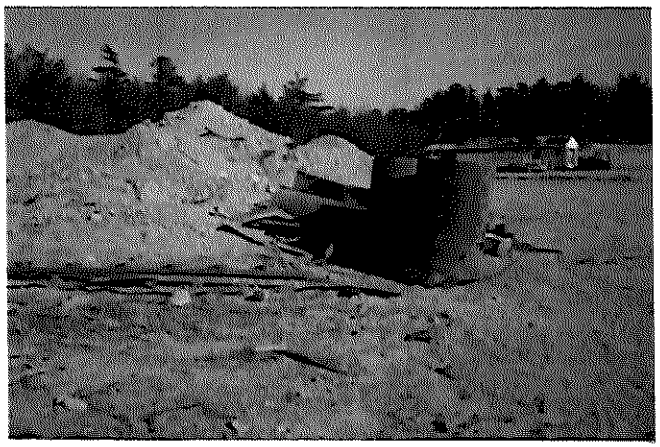
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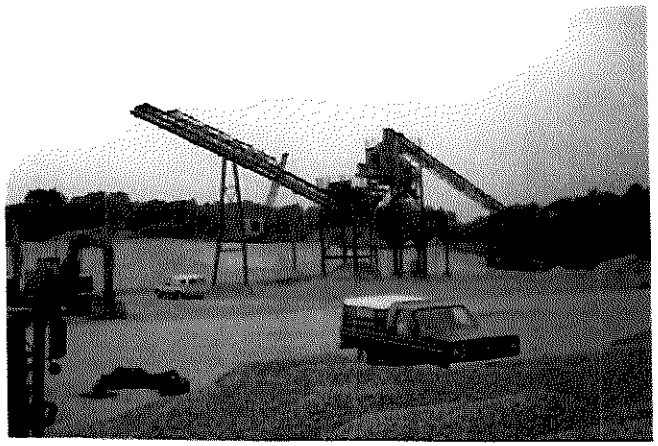
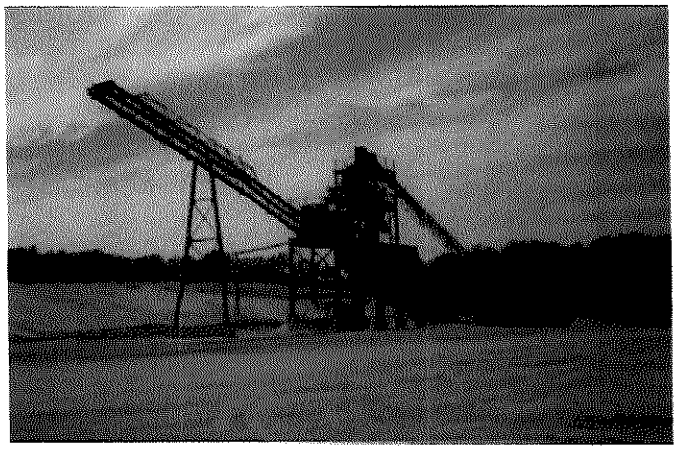
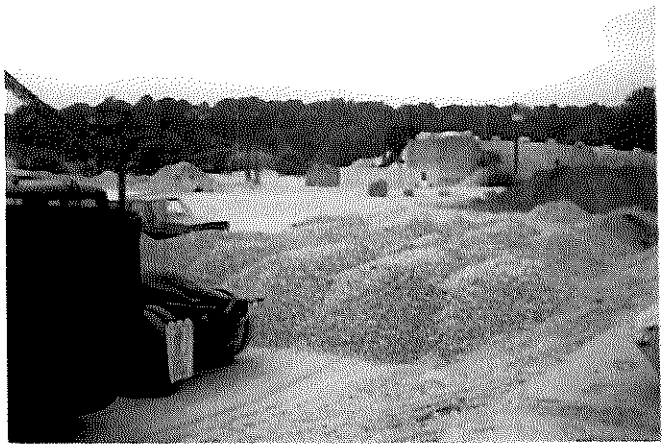


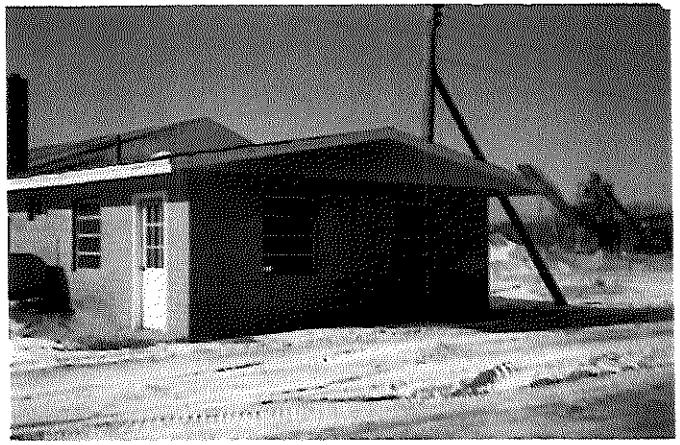
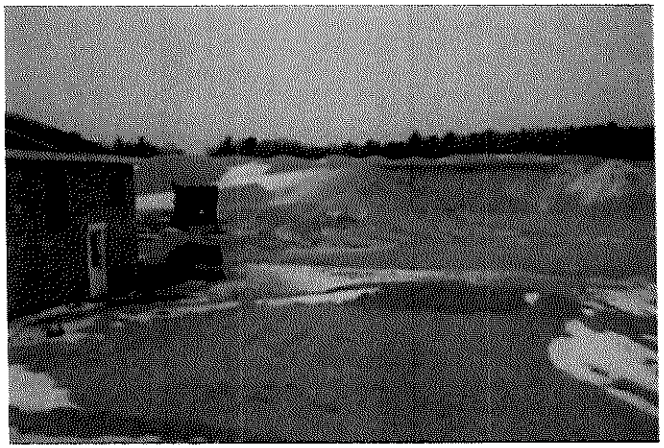
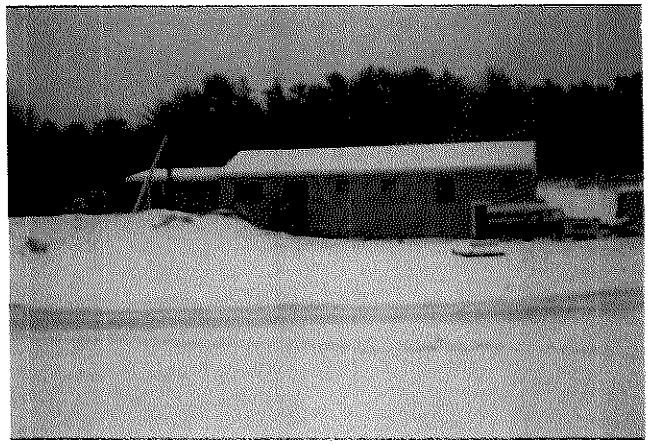
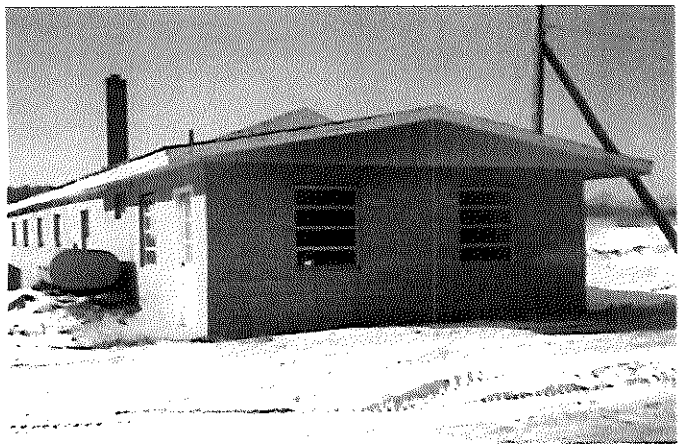





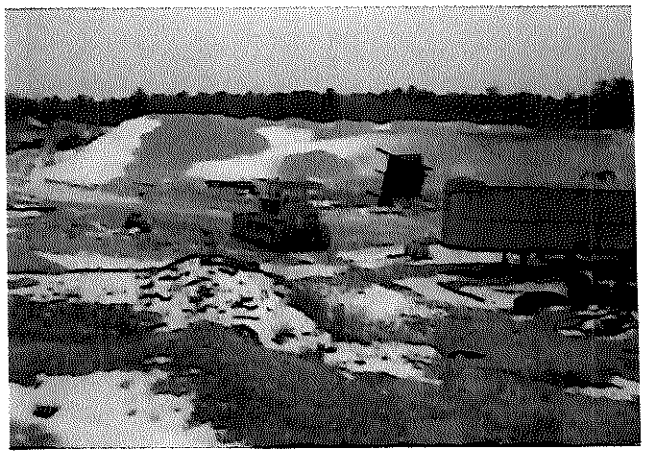
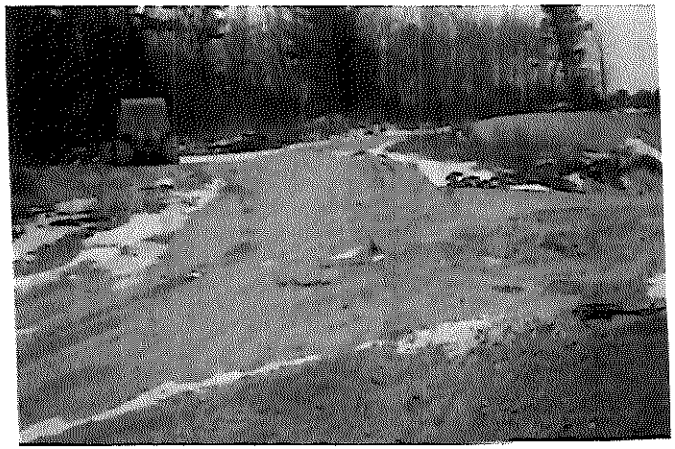


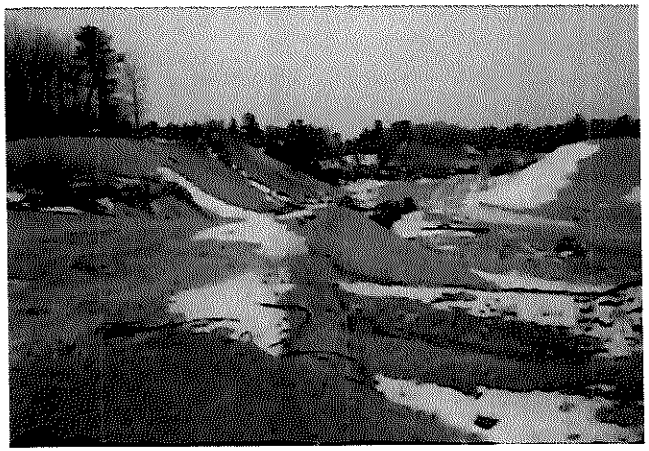
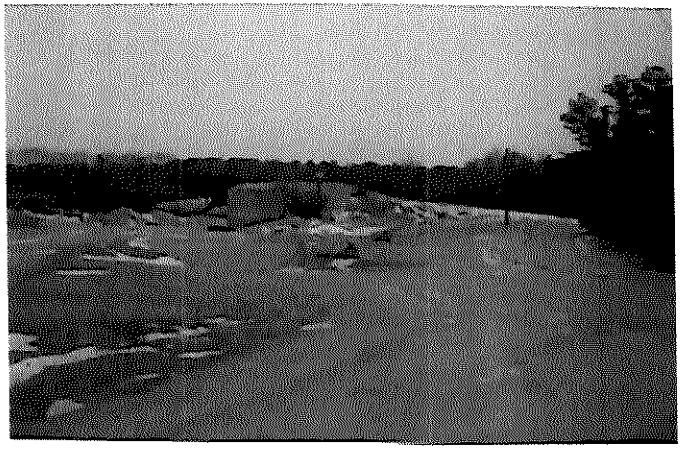






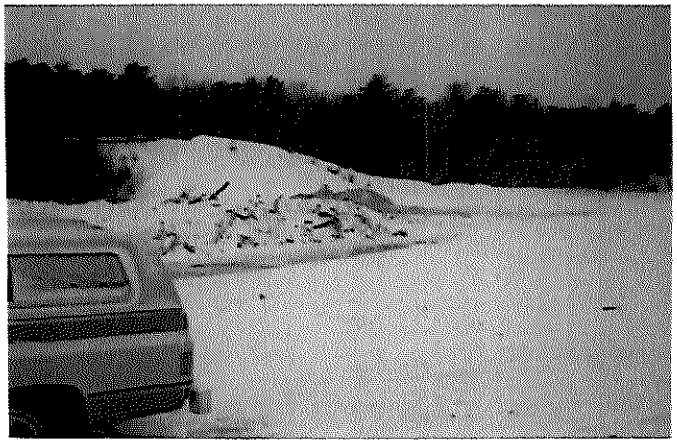


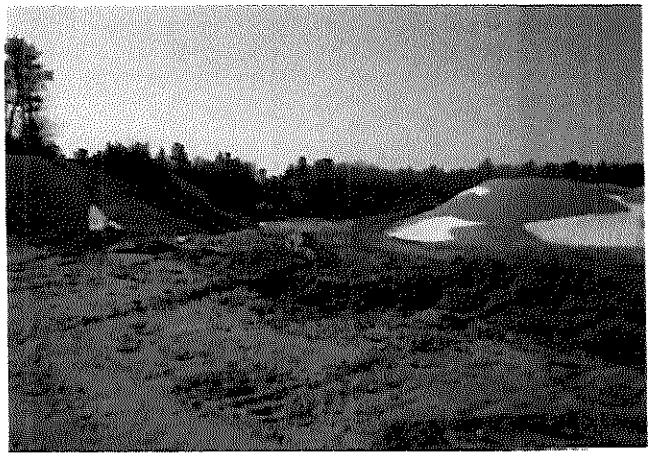





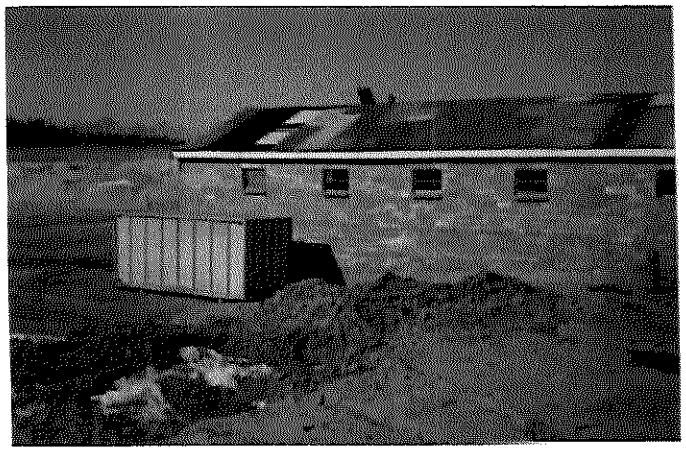





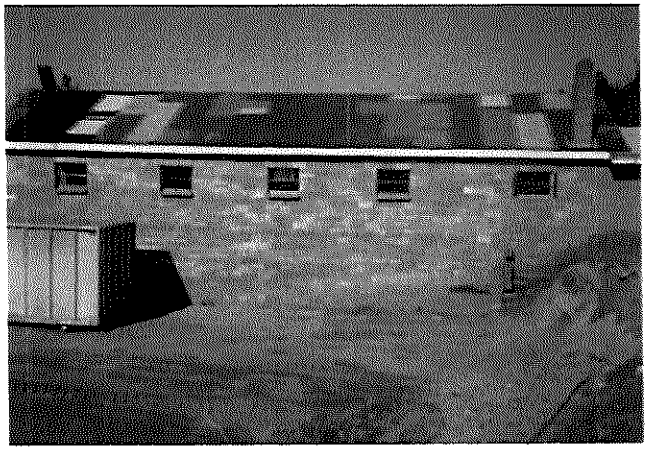



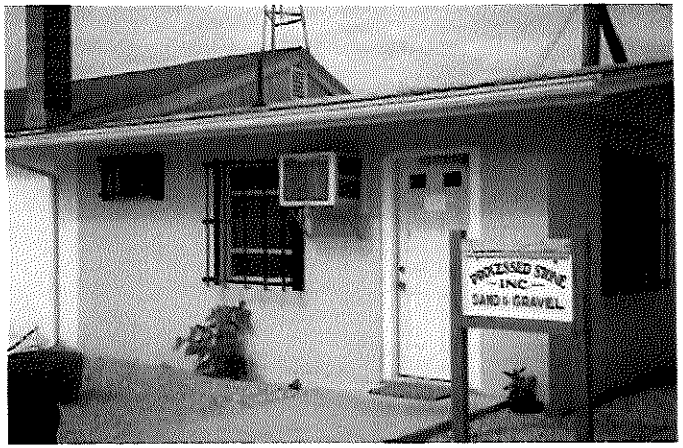



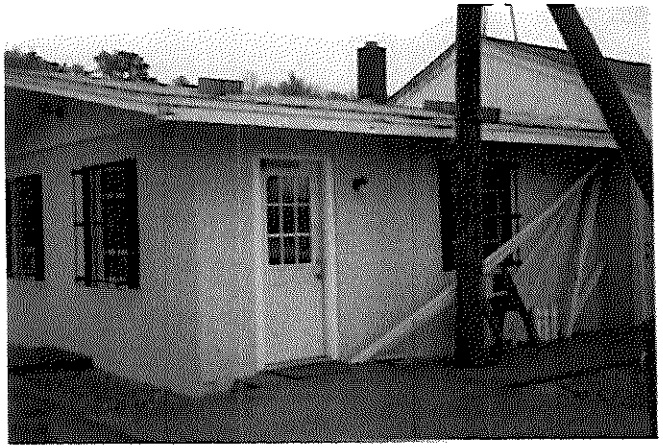





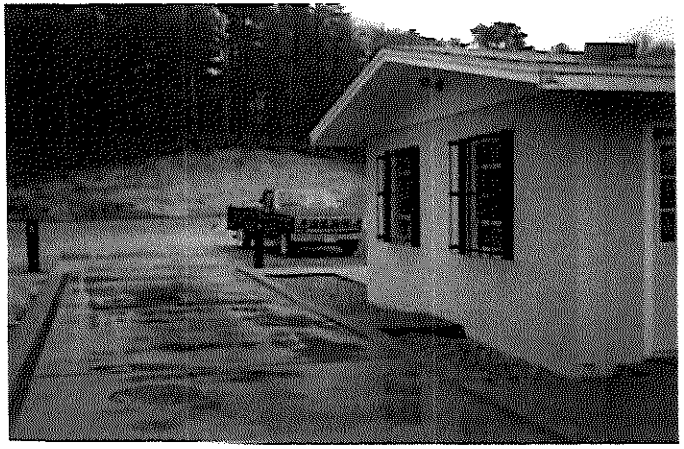


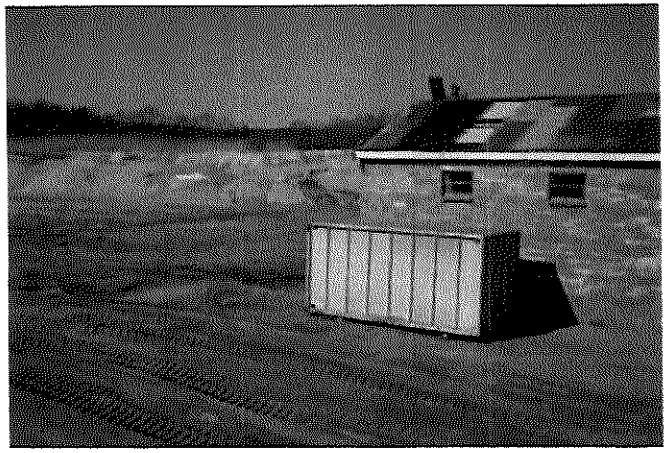



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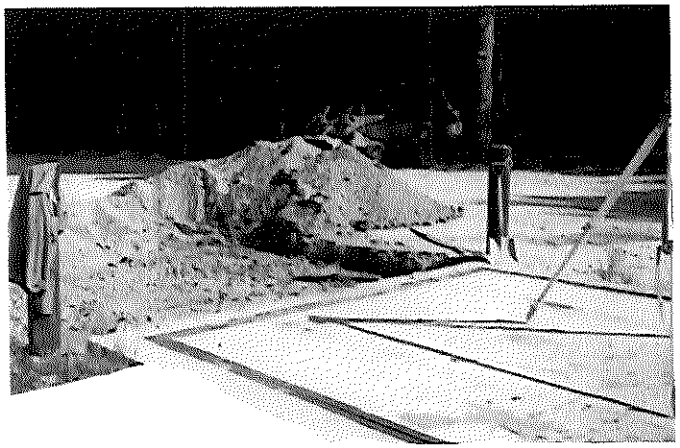


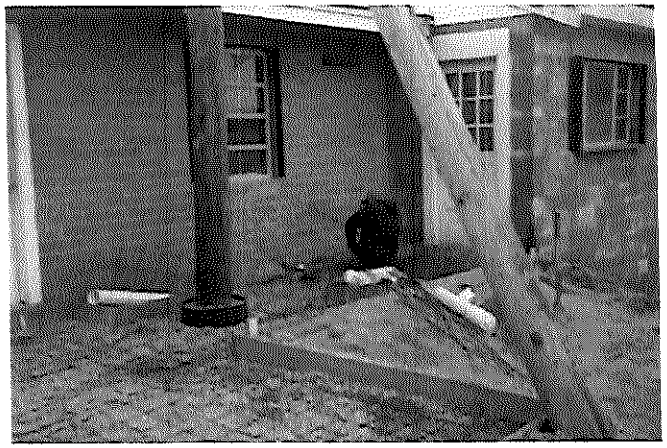


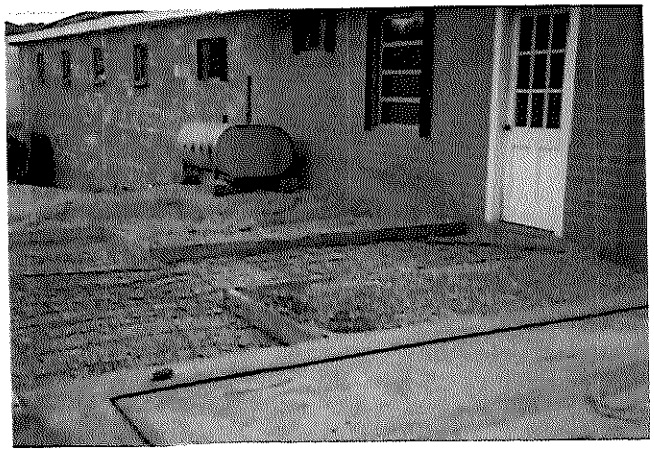


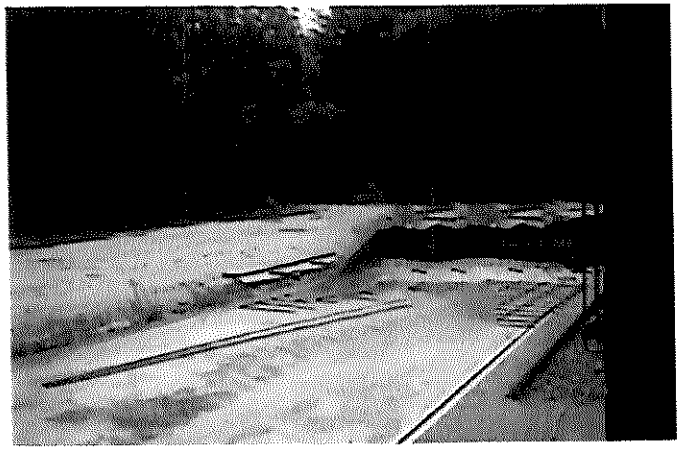



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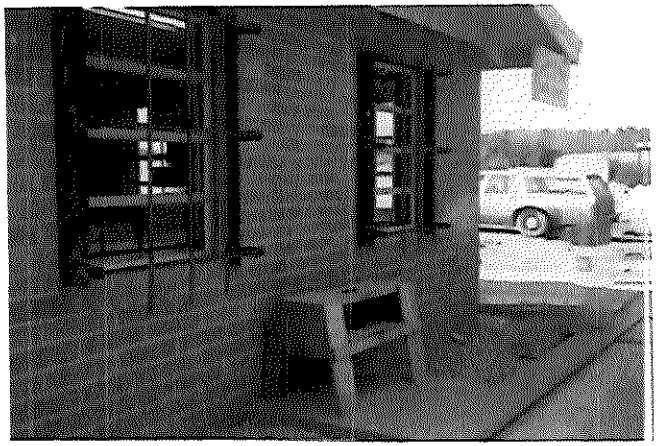


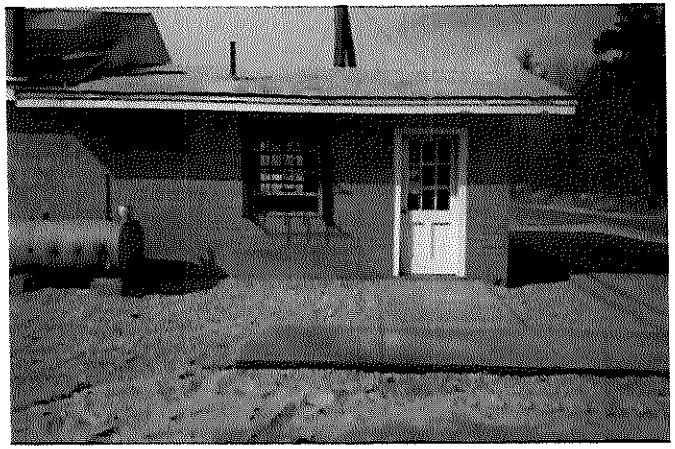


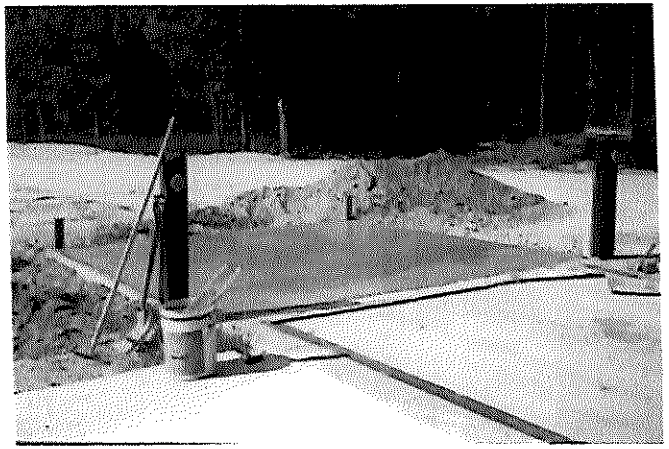


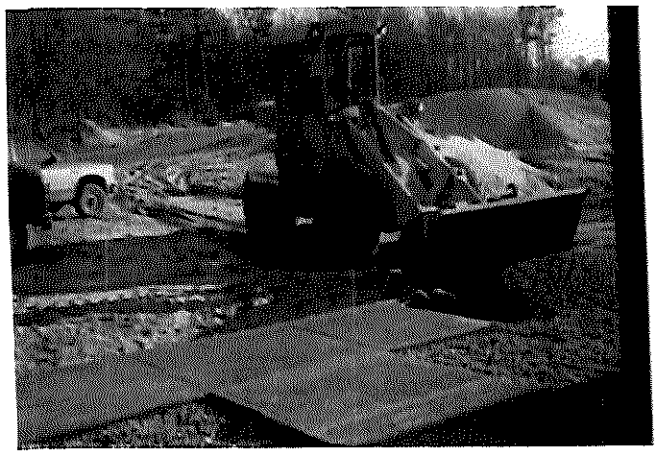
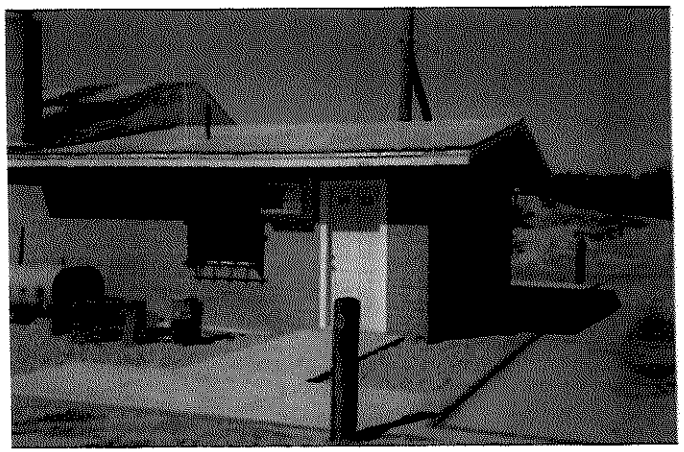
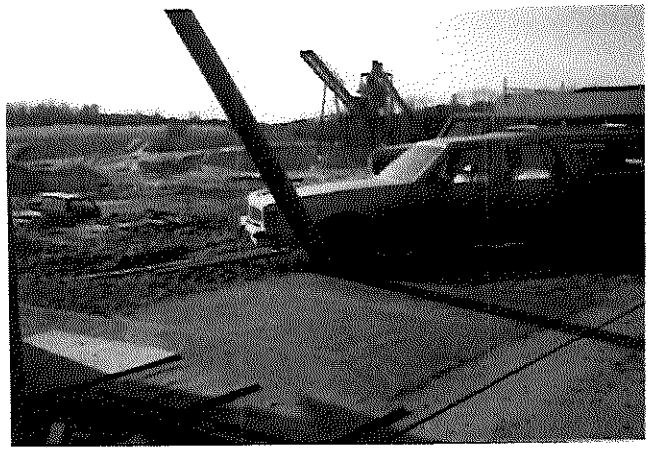


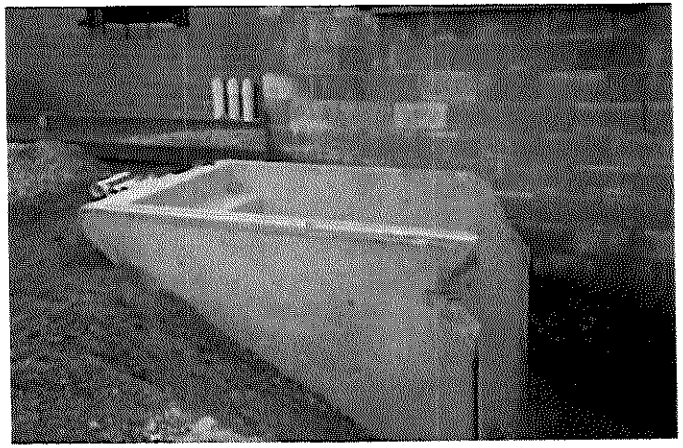
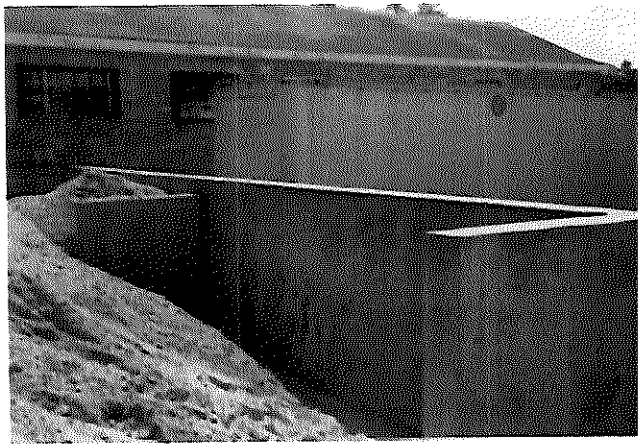
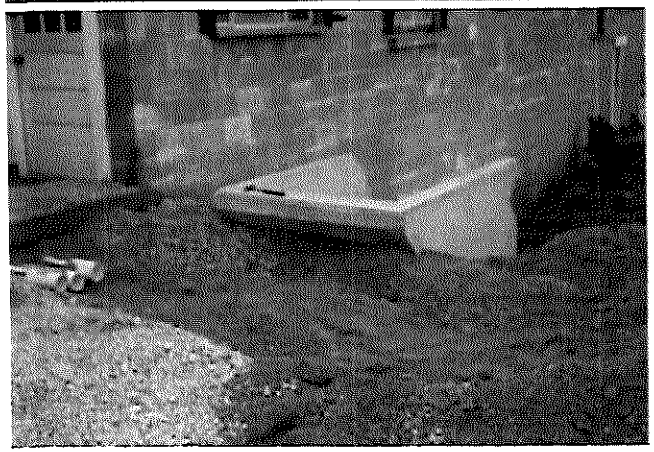
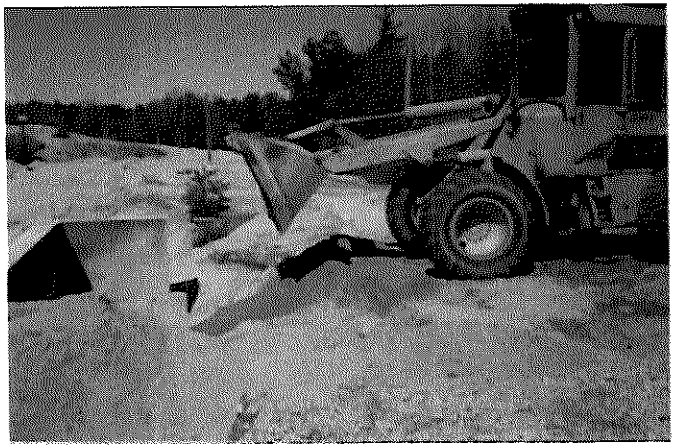




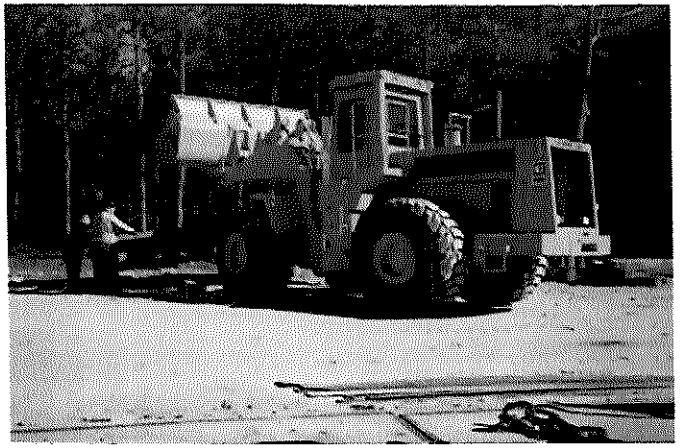
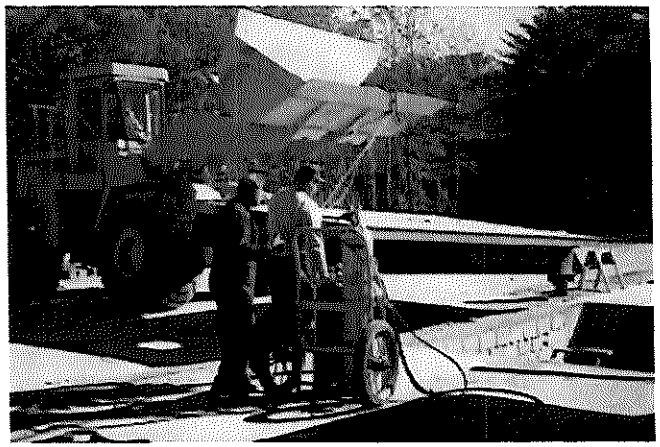


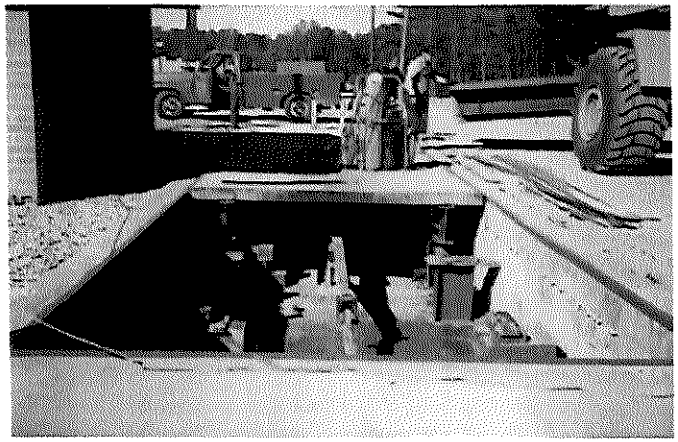


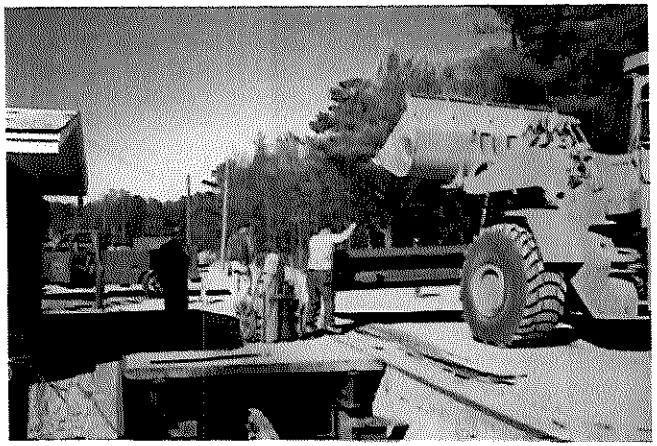
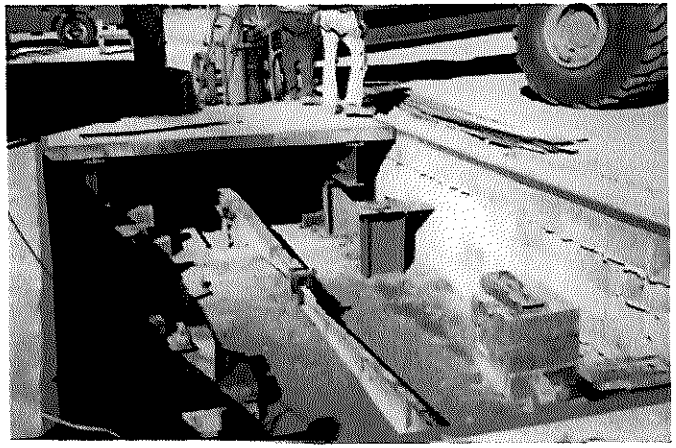
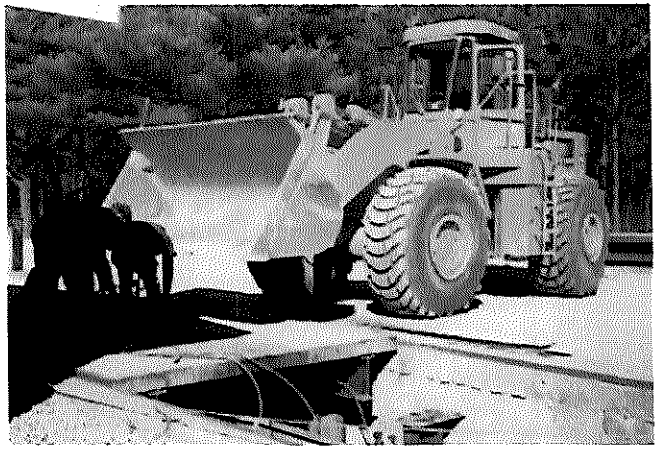




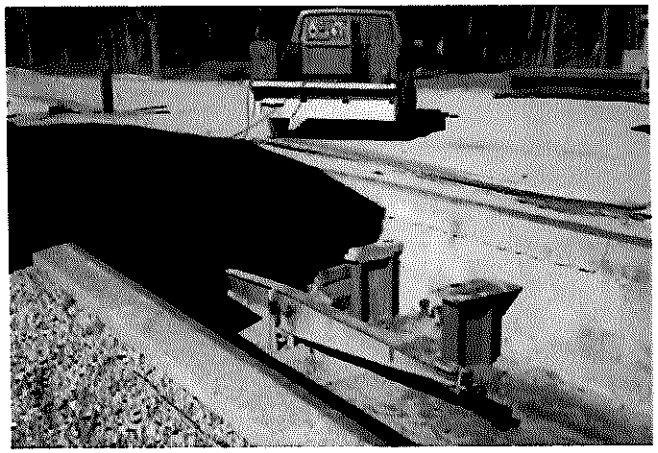
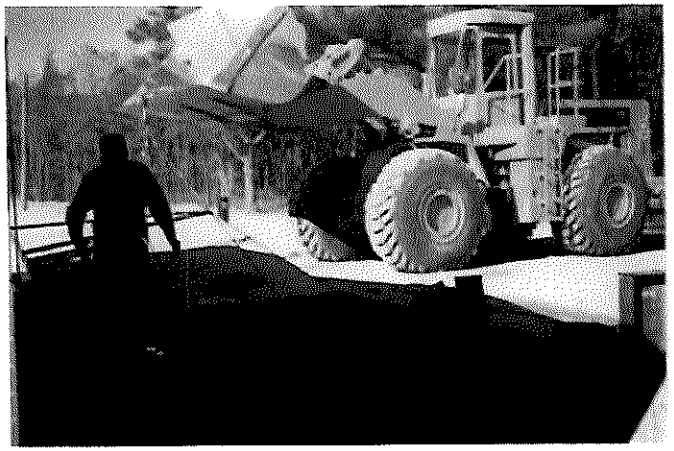





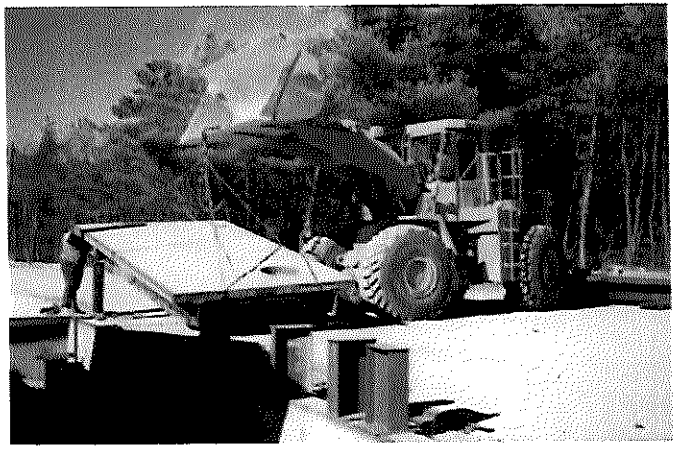
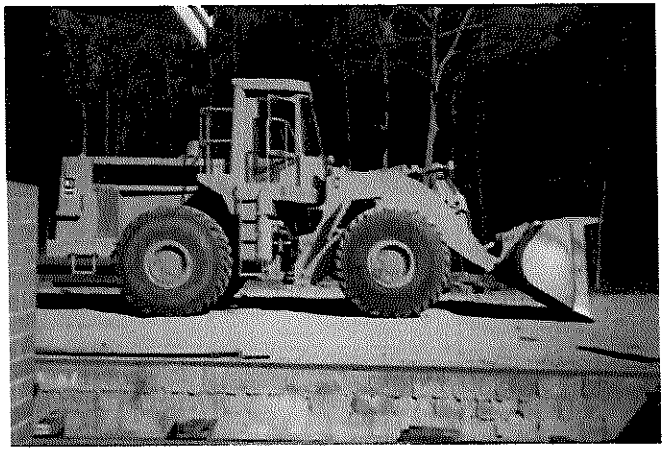
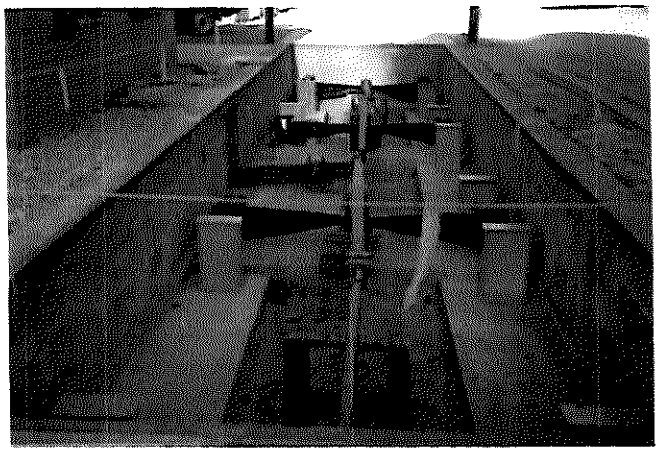


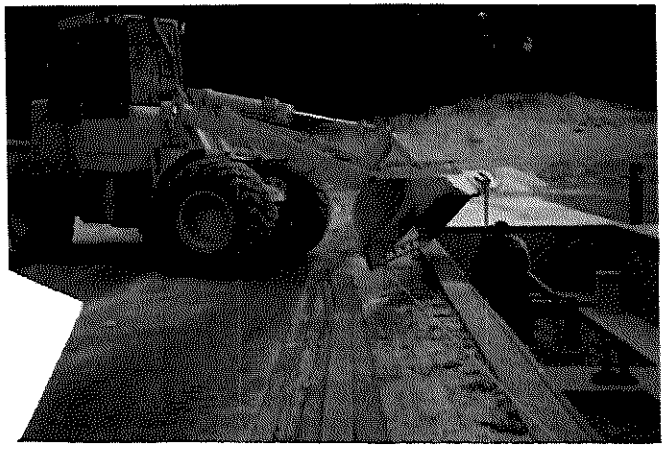



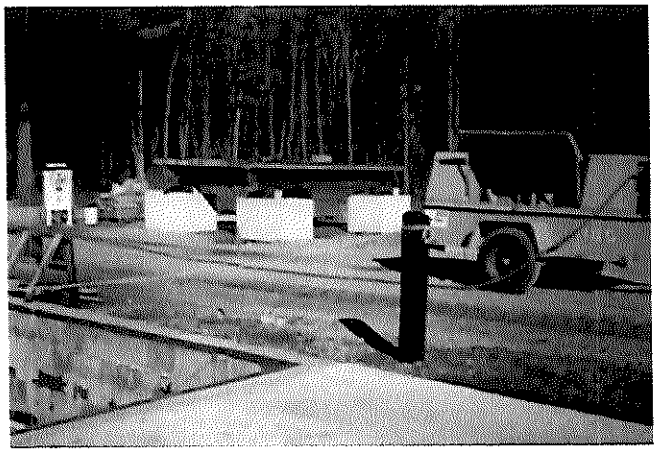


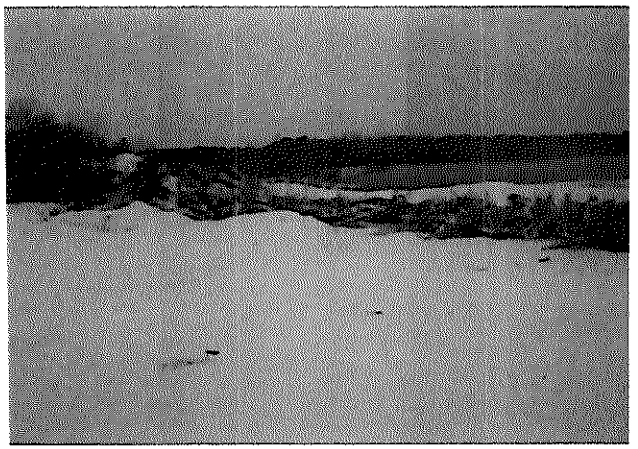




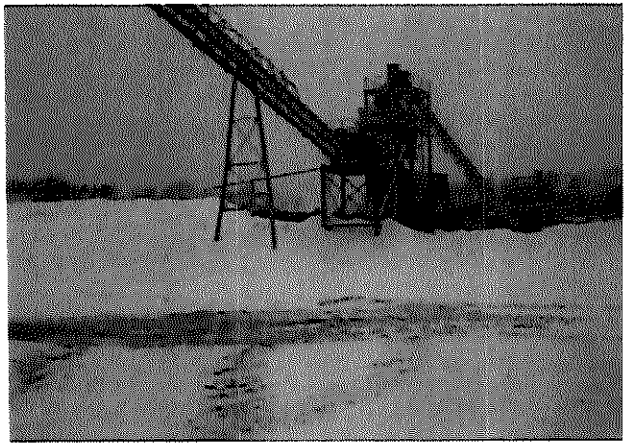



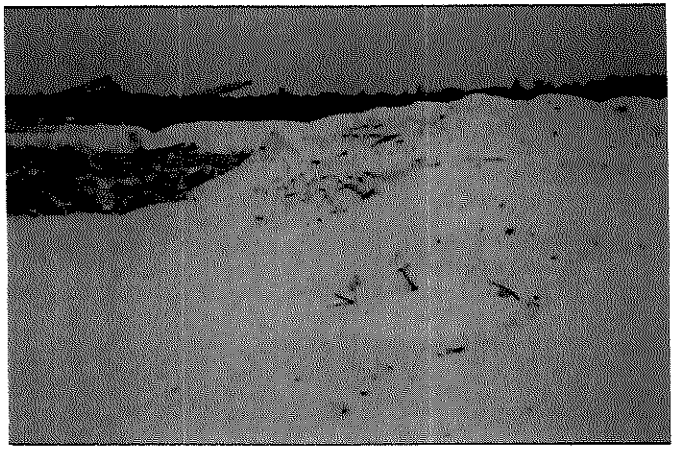
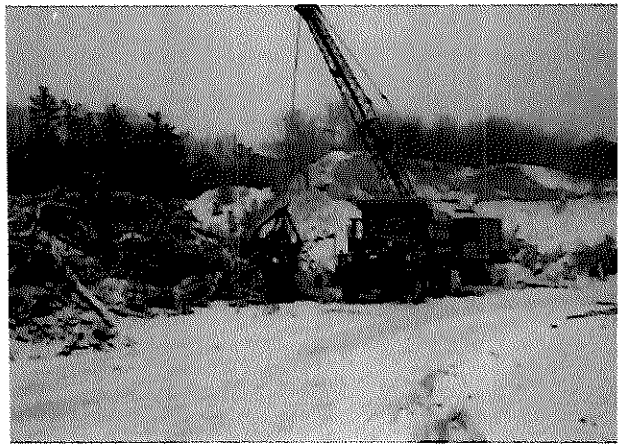







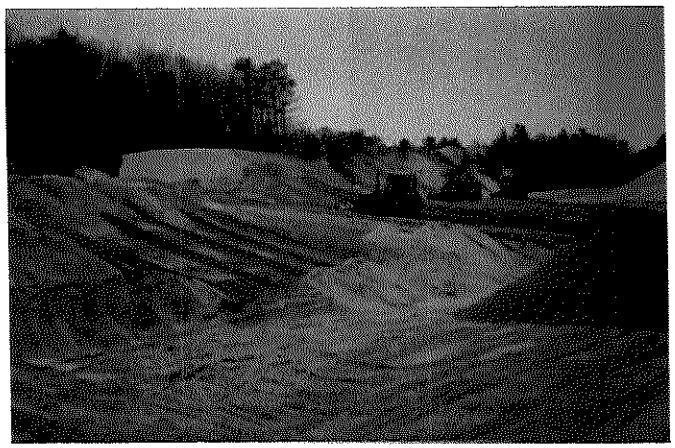


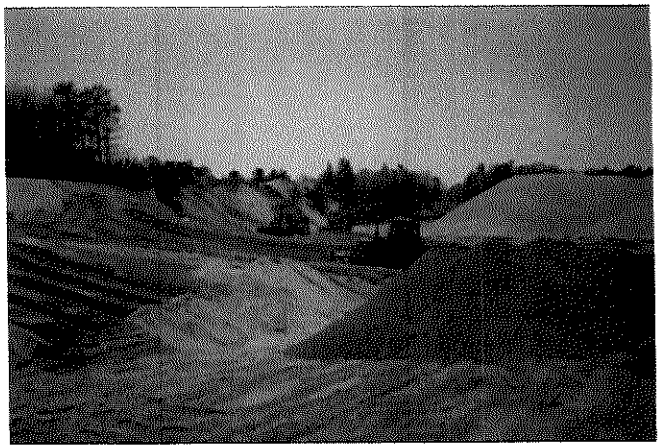


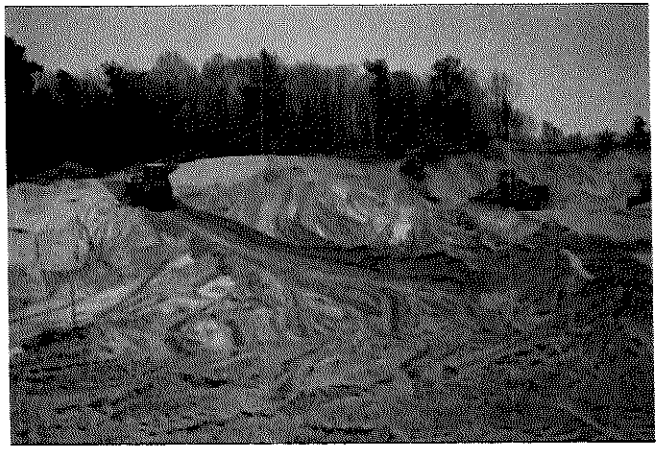



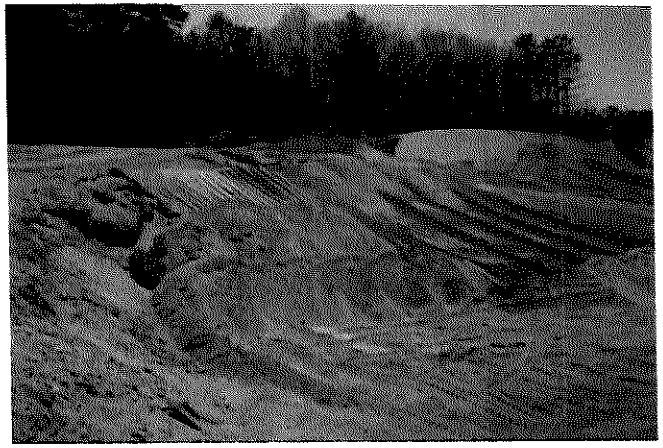



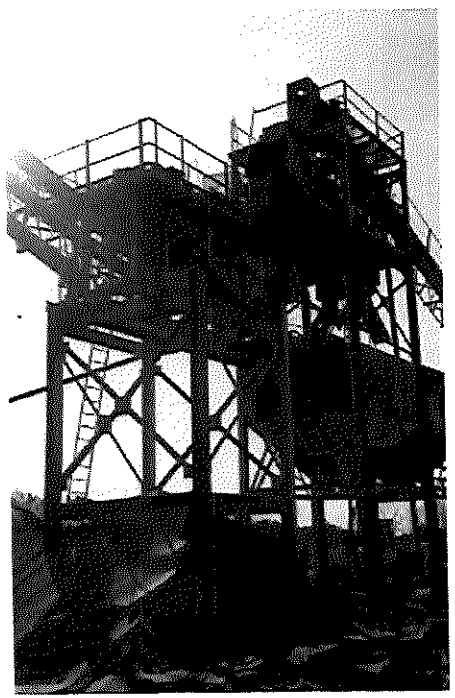
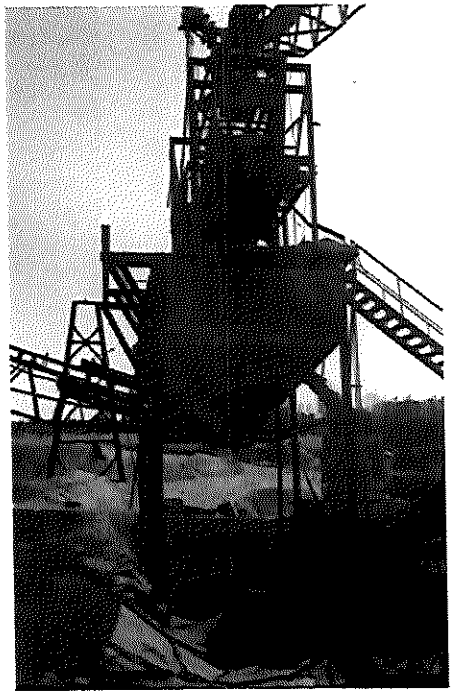
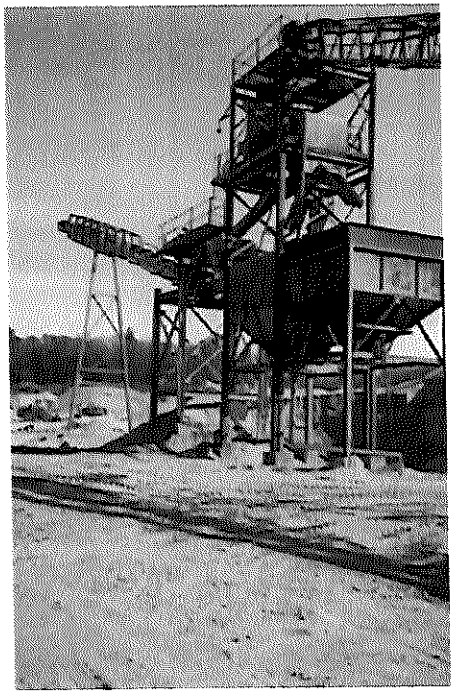
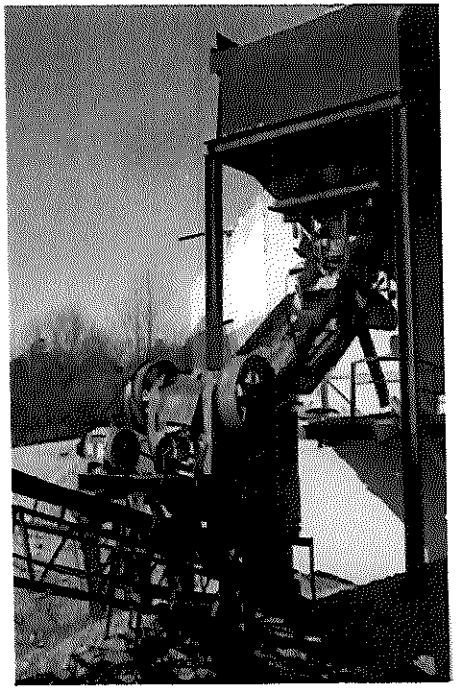






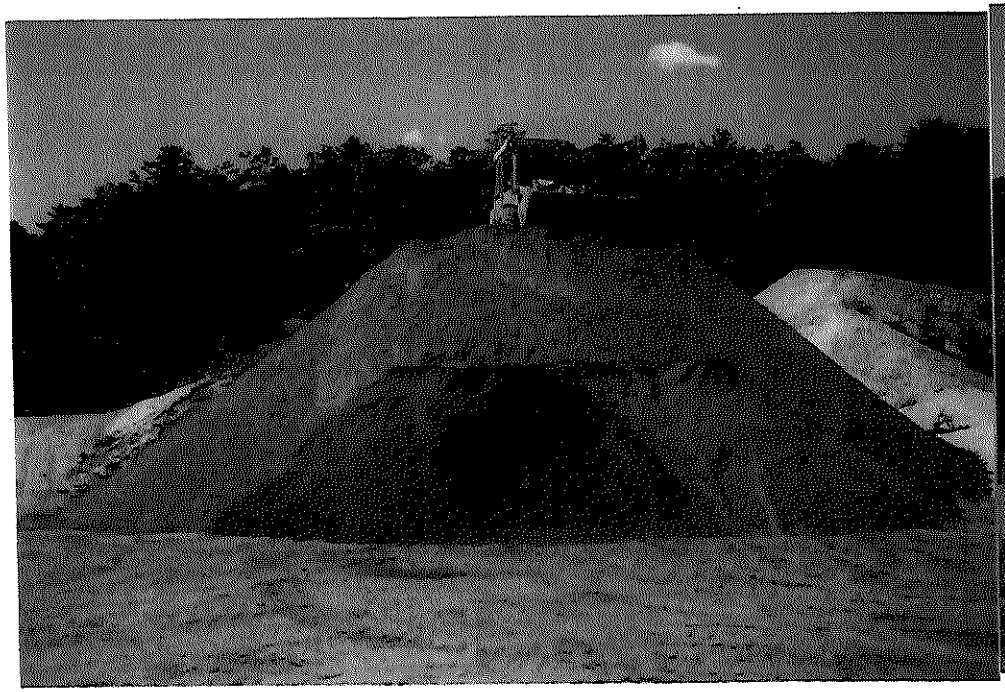


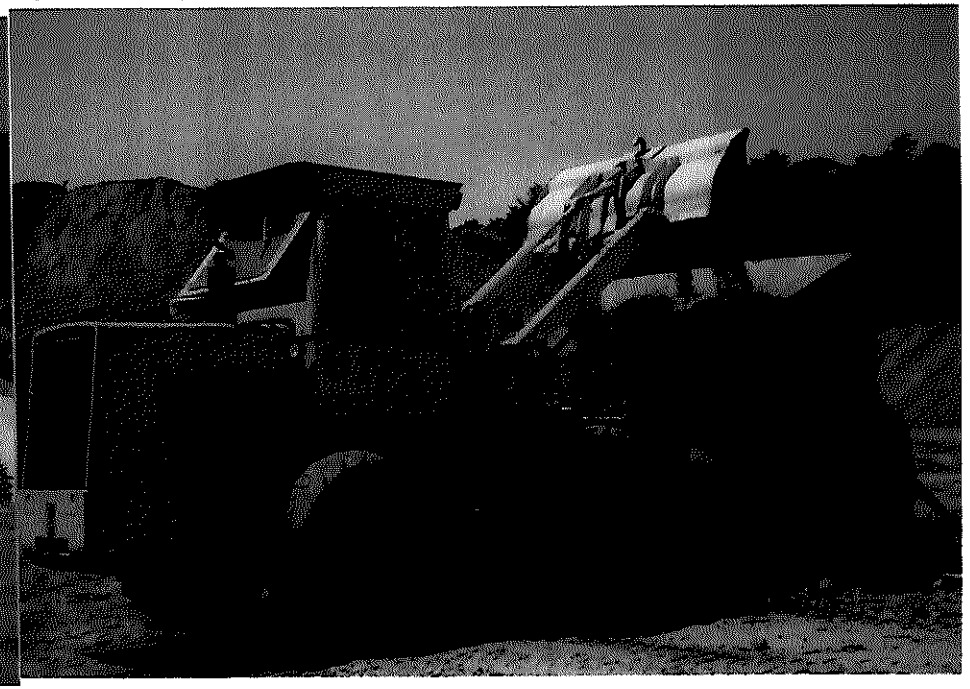





DEERE





EXHIBIT

3

Secretary of the Commonwealth of Massachusetts
William Francis Galvin

Business Entity Summary

ID Number: 043255459 [Request certificate] [New search]

Summary for: WILLIAM BONITO CONSTRUCTION, INC.

The exact name of the Domestic Profit Corporation: WILLIAM BONITO CONSTRUCTION, INC.	
Entity type: Domestic Profit Corporation	
Identification Number: 043255459	**Old ID Number:** 000484661
Date of Organization in Massachusetts: 01-09-1995	**Date of Revival:**
	Last date certain:
Current Fiscal Month/Day: 12/31	**Previous Fiscal Month/Day:** 12/31

The location of the Principal Office:

Address: 160 THOMAS B. LANDERS ROAD
City or town, State, Zip code, Country: E. FALMOUTH, MA 02536 USA

The name and address of the Registered Agent:

Name: SHARON LOSORDO
Address: 160 THOMAS B. LANDERS ROAD
City or town, State, Zip code, Country: E. FALMOUTH, MA 02536 USA

The Officers and Directors of the Corporation:

Title	Individual Name	Address
PRESIDENT	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA 02536 USA
TREASURER	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA USA
SECRETARY	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA USA
DIRECTOR	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA 02536 USA

Business entity stock is publicly traded: ☐

The total number of shares and the par value, if any, of each class of stock which this business entity is authorized to issue:

Class of Stock	Par value per share	Total Authorized	Total issued and outstanding

		No. of shares	Total par value	No. of shares
CNP	$0	20,000	$0	1,000

☐ **Consent** ☐ **Confidential Data** ☐ **Merger Allowed** ☐ **Manufacturing**

View filings for this business entity:

ALL FILINGS
Annual Report
Application For Revival
Articles of Amendment
Articles of Charter Surrender

View filings

Comments or notes associated with this business entity:

New search

EXHIBIT

4

The Commonwealth of Massachusetts, William Francis Galvin

Corporations Division

One Ashburton Place - Floor 17, Boston MA 02108-1512 | Phone: 617-727-9640

Annual Report

(General Laws, Chapter 156D, Section 16.22; 950 CMR 113.57)

Minimum Filing Fee: $100.00

Identification Number: 043255459

1. Exact name of the corporation:

WILLIAM BONITO CONSTRUCTION, INC.

2,3. Street address of the corporation registered office in the commonwealth and the name of the registered agent at that office:

Agent name: SHARON LOSORDO

Number and street: 160 THOMAS B. LANDERS ROAD

Address 2:

City or town: E. FALMOUTH State: MA Zip code: 02536

4. Street address of the corporation's principal office:

Number and street: 160 THOMAS B. LANDERS ROAD

Address 2:

City or town: E. FALMOUTH State: MA Zip code: 02536

Country: UNITED STATES

5. Provide the name and addresses of the corporation's board of directors and its president, treasurer, secretary, and if different, its chief executive officer and chief financial officer.

Title	Individual Name	Address
PRESIDENT	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA 02536 USA
TREASURER	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA USA
SECRETARY	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA USA
DIRECTOR	SHARON LOSORDO	57 BONITO AVE.,E. FALMOUTH, MA 02536 USA

6. Briefly describe the business of the corporation:

HEAVY CONSTRUCTION CONTRACTOR

7. Capital stock of each class and series:

Class of Stock	Par value per share (Enter 0 if no Par)	Total authorized number of shares	Total authorized par value	Total issued and outstanding number of shares
CNP	0	20,000	0	1,000

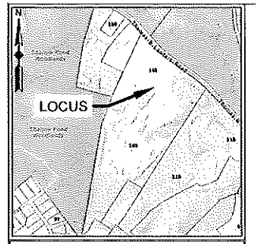
8. Check here if the stock of the corporation is publicly traded:

☐

9. Report is filed for fiscal year ending: 12/31/2023

Signed by SHARON M LOSORDO , its PRESIDENT

on this 14 Day of February, 2024



GENERAL NOTES

LOCATIONS ARE BASED ON AN "ON THE GROUND" INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 1988 DATUM. COORDINATE SYSTEM USED IS THE MA-MAINLAND COORDINATE SYSTEM, DATUM NAD 83, UNITS U.S. SURVEY FEET.

DIMENSIONS OF EXISTING BUILDINGS AND BUILDING OFFSETS SHOWN HEREON ARE TO CORNER BOARDS OR SIDING EXTERITS AND ARE DISPLAYED IN ENGINEERING UNITS WITH A PRECISION OF ONE TENTH (0.1) OF A FOOT. LOT COVERAGE IS CALCULATED TO CORNER BOARDS.

ZONING DISTRICT: AGA, WATER RESOURCE PROTECTION DISTRICT

PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF MINIMAL FLOOD HAZARD ZONE X BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD INSURANCE RATE MAP NO. 25001C0127J, WITH A MAP EFFECTIVE DATE OF JULY 16, 2014.

THIS LOT IS NOT WITHIN THE WINDBORNE DEBRIS REGION (ONE MILE FROM SHORELINE) AS SHOWN ON THE FALMOUTH HIGH WIND DISTRICT MAP.
THIS LOT IS LOCATED WITHIN A DEP APPROVED ZONE II WELLHEAD PROTECTION AREA
THIS LOT IS NOT MAPPED WITHIN A MESA NATURAL HERITAGE AND ENDANGERED SPECIES AREA.
THIS LOT IS LOCATED WITHIN THE GREAT POND COASTAL POND OVERLAY DISTRICT.

LOT AREA = 33.4± ACRES (COMBINED PARCELS 22 02 029 000 & 16 06 002 003)

LOT COVERAGE BY STRUCTURES = 2,240 S.F., 0.2%
LOT COVERAGE BY STRUCTURES, PAVEMENT AND PARKING = 11,600 S.F., 0.7%

A COMPREHENSIVE ZONING ANALYSIS HAS NOT BEEN PERFORMED BEYOND THE ITEMS LISTED ABOVE.

DEED REFERENCE: BOOK 36149 PAGE 54 & LC CTF 234749

PLAN REFERENCE: BOOK 392 PAGE 66

OWNER: SHARON M. LOSORDO
PO BOX 711
EAST FALMOUTH, MA 02536

PROPOSED EQUIPMENT

THE FOLLOWING IS A LIST OF EIGHT MACHINES (EQUIPMENT) PROPOSED TO OPERATE WITHIN THIS PROPERTY FOR THE PROCESSING OF MATERIAL.

1. CRUSHER - PREMIERTRACK R400 UNIT. MOBILE EQUIPMENT USED ON-SITE WHEN PROCESSING ROCK.
2. SCREENER - TEREX COLT 1600 UNIT. MOBILE EQUIPMENT USED ON-SITE TO SORT MATERIAL BY PARTICLE SIZE.
3. CONVEYORS - TELESTACK TC-424K UNIT. MOBILE EQUIPMENT USED ON-SITE TO TRANSFER MATERIAL BETWEEN EQUIPMENTS, FROM STOCK PILES AND/OR TO SEPARATE MATERIAL STOCK PILES.
4. EXCAVATOR - CAT 330 MODEL. EQUIPMENT KEPT ON-SITE AND USED TO MOVE MATERIAL.
5. LOADER - CAT 950 MODEL. EQUIPMENT KEPT ON-SITE AND USED TO MOVE MATERIAL.
6. BULLDOZER - CAT D6 MODEL. EQUIPMENT KEPT ON-SITE AND USED TO MOVE MATERIAL.
7. TRACTOR TRAILER. VEHICLES USED TO TRANSPORT LARGE QUANTITIES OF MATERIAL IN-COMING TO THIS SITE AND TO DELIVER MATERIAL OFF-SITE.
8. DUMPSTER TRUCKS. VEHICLES USED TO TRANSPORT TYPICAL QUANTITIES OF MATERIAL IN-COMING TO THIS SITE AND TO DELIVER MATERIAL OFF-SITE.

LEGEND

- SIDE SLOPE RESTORATION WITH TREE PLANTINGS ON SLOPE GRADES NO STEEPER THAN 3:1
- RESTORATION OF 50' BUFFER ALONG PROPERTY LINES WITH NATIVE VEGETATION
- EXISTING NATURALLY VEGETATED BUFFER ALONG PROPERTY LINES (NO WORK ZONE)
- PROPERTY AREA PROPOSED FOR MATERIAL SCREENING & CRUSHING
- PROPOSED FINISH GRADES
- GROUNDWATER LEVEL, CAPE COD COMMISSION GIS

NOTICE
THIS PLAN MAY NOT BE ADDED TO, DELETED FROM OR ALTERED IN ANY WAY BY ANYONE OTHER THAN CAPE & ISLANDS ENGINEERING, INC.

UNLESS OTHERWISE NOTED ON THIS PLAN, THE ORIGINAL AND ONLY APPROVED VERSION OF THIS PLAN IS THE SEALED, SIGNED, DATED, AND WET STAMPED VERSION OF THE PLAN PLOTTED BY CAPE & ISLANDS ENGINEERING, INC.

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DATE	DESCRIPTION	BY	CHK

PREPARED FOR
LAWRENCE LYNCH REALTY CORPORATION
PO BOX 913
FALMOUTH, MA 02541

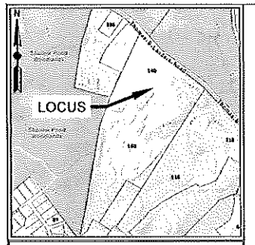
PROJECT:
160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO.: 1 OF 8 | DATE: OCTOBER 16, 2024
DRAWN BY: RLR | CHECKED BY: MC

PREPARED BY:
CAPE & ISLANDS ENGINEERING
SUMMERFIELD PARK
600 FALMOUTH ROAD SUITE 301C
MASHPEE, MA 02649
508.477.7272 PHONE
508.477.5972 FAX
www.CapeEng.com

DRAWING TITLE:
SANDS & GRAVEL PIT
PROPOSED SITE CONDITIONS

ASSESSORS INFORMATION: MAP 22-02-029-000 & 16-06-002-003)



GENERAL NOTES

LOCATIONS ARE BASED ON JJF "ON THE GROUND" INSTRUMENT SURVEY AND ELEVATIONS BASED ON THE NAVD 1988 DATUM. COORDINATE SYSTEM USED IS THE MA-MAINLAND COORDINATE SYSTEM, DATUM: NAD 83, UNITS: U.S. SURVEY FEET.

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ZONING DISTRICT: AGA, WATER RESOURCE PROTECTION DISTRICT

PROPERTY IS LOCATED WITHIN AN AREA HAVING A ZONE DESIGNATION OF MINIMAL FLOOD HAZARD ZONE X BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), ON FLOOD INSURANCE RATE MAP NO. 25001C0727J, WITH A MAP EFFECTIVE DATE OF JULY 16, 2014.

THIS LOT IS NOT WITHIN THE WINDBORNE DEBRIS REGION (ONE MILE FROM SHORELINE) AS SHOWN ON THE FALMOUTH HIGH WIND DISTRICT MAP.
THIS LOT IS LOCATED WITHIN A DEP APPROVED ZONE II WELLHEAD PROTECTION AREA.
THIS LOT IS NOT MAPPED WITHIN A MESA NATURAL HERITAGE AND ENDANGERED SPECIES AREA.
THIS LOT IS LOCATED WITHIN THE GREAT POND COASTAL POND OVERLAY DISTRICT.

LOT AREA = 39.4± ACRES

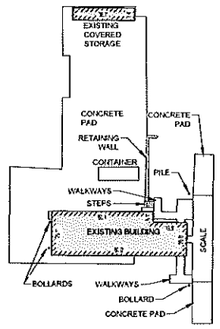
LOT COVERAGE BY STRUCTURES = 2,240 S.F., 0.2%
LOT COVERAGE BY STRUCTURES, PAVEMENT AND PARKING = 11,800 S.F., 0.7%

A COMPREHENSIVE ZONING ANALYSIS HAS NOT BEEN PERFORMED BEYOND THE ITEMS LISTED ABOVE.

DEED REFERENCE: BOOK 36149 PAGE 54 & LC CTF 234749

PLAN REFERENCE: BOOK 302 PAGE 66

OWNER: SHARON M. LOSORDO
PO BOX 711
EAST FALMOUTH, MA 02536



EXISTING BUILDING PLAN DETAIL
SCALE: 1" = 40'

0 20 40 80
SCALE: 1" = 40'

NAD 83

PARCEL
1606 002 003
3.0± ACRES

PARCEL
22 02 029 000
35.4± ACRES

PARCEL ID
16 06 002 002
N/F
RICHARD S. CLEMENT

PARCEL ID
16 06 003 000A
N/F
THREE HUNDRED
COMMITTEE LAND TRUST

PARCEL ID
22 03 001C 003A
N/F
SUN CAPE COD RV LLC

PARCEL ID
22 02 030A 000
N/F
SUN CAPE COD RV LLC

PARCEL ID
21 05 013 000
N/F
SUN CAPE COD RV LLC

FORMER DONALD G. MONIZ PARCEL NOT INCLUDED IN SPECIAL PERMIT APPEAL NO.: 20-99

THOMAS B. LANDERS
(60 WIDE - PUBLIC)

ACCESS DRIVEWAY

100' PROPERTY SETBACK

NATURALLY VEGETATED

MATERIAL PILES: STONES

MATERIAL PILES: LOAM

MATERIAL PILES: UNSORTED

MATERIAL PILES: SAND

MATERIAL PILES: SORTED & UNSORTED PILES OF SAND, GRAVEL & STONES

MATERIAL PILES: WELL SORTED SAND

MATERIAL PILES: MULCH & LANDSCAPE CLIPPINGS

OPEN MATERIAL STORAGE (SAND, GRAVEL & STONE)

COVERED STORAGE

CONC. BLOCK WALL (TYP.)

CONC. PAD

STRUCTURE

COVER

PAVED DRIVEWAY ENTRANCE

STONE DRIVEWAY

EDGE OF PAVEMENT

CB/DH FOUND

GROUNDWATER CONTOUR & ELEVATION PC

LEGEND

- CB ------- CONCRETE BOUND
- SB ------- STONE BOUND
- RC ------- ROD CAP
- IPF ------- IRON PIPE FOUND
- AREA OF STRUCTURE INCLUDED IN EXISTING LOT COVERAGE
- TREE LINE
- EXISTING PIT BOTTOM OF SLOPE
- GROUNDWATER LEVEL: CAPE COD COMMISSION GIS

ON-SITE MATERIAL PILES

- MATERIAL PILE: STONES
- MATERIAL PILE: LOAM
- MATERIAL PILE: SAND
- UNSORTED SAND, STONES & LOAM
- MULCH & CLIPPINGS

0 40 80 160
SCALE: 1" = 80'

NOTICE
THIS PLAN MAY NOT BE ADDED TO, DELETED FROM, OR ALTERED IN ANY WAY BY ANY ONE OTHER THAN CAPE & ISLANDS ENGINEERING, INC.

UNLESS AND UNTIL SUCH TIME AS A PERSON(S), INC., STAMP APPEARS ON THIS PLAN NO PERSON OR PERSONS, MUNICIPAL OR PUBLIC OFFICIAL, MAY RELY UPON THE INFORMATION CONTAINED HEREON, AND THIS PLAN REMAINS THE PROPERTY OF CAPE AND ISLANDS ENGINEERING, INC.

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DATE	DESCRIPTION	BY	CHK

PREPARED FOR
LAWRENCE LYNCH REALTY CORPORATION
PO BOX 513
FALMOUTH, MA 02541

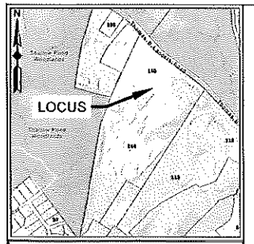
PROJECT:
160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO.: 2 OF 8 | DATE: OCTOBER 16, 2024
DRAWN BY: JJF, RLR | CHECKED BY: MCC

PREPARED BY
CAPE & ISLANDS ENGINEERING
SUMMERFIELD PARK
600 FALMOUTH ROAD SUITE 3010
MASHPEE, MA 02649
508.477.7272 PHONE
508.477.5072 FAX
www.CapeEng.com

DRAWING TITLE:
SANDS & GRAVEL PIT
EXISTING CONDITIONS

ASSESSORS INFORMATION: MAP 22-02-029-000 & 16-06-002-003



GENERAL NOTES

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DEED REFERENCE: BOOK 36149 PAGE 54 & LC CTF 234749

PLAN REFERENCE: BOOK 382 PAGE 66

OWNER: SHARON M. LOSORDO
P.O BOX 711
EAST FALMOUTH, MA 02536

NAD 83
N

PARCEL
16 06 002 003
39.0± ACRES

PARCEL ID
16 06 002 002
N/F
RICHARD S. CLEMENT

PARCEL ID
15 06 003 000A
N/F
THREE HUNDRED
COMMITTEE LAND TRUST

PARCEL
22 02 029 000
36.4± ACRES

PARCEL ID
21 06 013 000
N/F
SUN CAPE COD RV LLC

PARCEL ID
22 03 001C 003A
N/F
SUN CAPE COD RV LLC

PARCEL ID
22 02 039A 000
N/F
SUN CAPE COD RV LLC

N 39° 06' 50" E
359.19'
N 23° 47' 05" E
215.13'
R=35.00'
L=57.72'
R=1060.00'
L=73.73'
S 42° 31' 18" E
55.27'
CBOH FOUND
CONC. WALL
FORMER DONALD G. MONEZ PARCEL NOT INCLUDED IN SPECIAL PERMIT APPEAL NO.: 20-90
N 66° 12' 55" W
265.57'
S 23° 47' 05" W
254.47'
N 23° 47' 05" E
318.19'
N 18° 13' 05" E
315.59'
OPEN MATERIAL STORAGE (SAND, GRAVEL & STONE)
STONE DRIVEWAY
CONC. BLOCK WALL (TYP.)
CBLE FOUND
COVERED STORAGE
CONC. PAD
STRUCTURE
ACCESS DRIVEWAY
GROUNDWATER CONTOUR ELEVATION 7'
R=1030.00'
L=229.29'
THOMAS B. LANDERS
(60' WIDE - PUBLIC)
EDGE OF PAVEMENT
PAVED DRIVEWAY ENTRANCE
S 55° 08' 37" E
434.10'
APPROVED LIMITS OF EARTH REMOVAL (100' SETBACK FROM PROPERTY LINE)
NATURALLY VEGETATED
R=970.00'
L=445.03'
CBOH FOUND
N 58° 32' E
1462.98'
S 31° 35' 35" W
796.62'
S 58° 24' 25" W
200.00'
S 31° 35' 35" W
1427.34'
S 66° 53' 47" W
157.93'
APPROVED LIMITS OF EARTH REMOVAL (50' SETBACK FROM PROPERTY LINE)
200' PROPERTY SETBACK
GROUNDWATER CONTOUR ELEVATION 9'
GROUNDWATER CONTOUR ELEVATION 8'
SECTION I (60,000 S.F.)
SECTION II (60,000 S.F.)
SECTION III (60,000 S.F.)
SECTION IV (60,000 S.F.)
SECTION V (60,000 S.F.)
SECTION VI (60,000 S.F.)
SECTION VII (60,000 S.F.)
SECTION VIII (60,000 S.F.)
SECTION IX (60,000 S.F.)
SECTION X (60,000 S.F.)
SECTION XI (60,000 S.F.)

0 40 80 160
SCALE: 1" = 80'

LEGEND

- CB ------- CONCRETE BOUND
- SB ------- STONE BOUND
- DRC ------- ROD CAP
- DIP ------- IRON PIPE FOUND
- AREA OF STRUCTURE INCLUDED IN EXISTING LOT COVERAGE
- DEFINED AREA OF EARTH REMOVAL (SECTIONS) 1990 SPECIAL PERMIT APPEAL NO. 20-90
- DEFINED EARTH REMOVAL BOTTOM AREA - 1990 SPECIAL PERMIT APPEAL NO. 20-90
- TREE LINE
- EXISTING PIT BOTTOM OF SLOPE
- GROUNDWATER LEVEL, CAPE COD COMMISSION GIS

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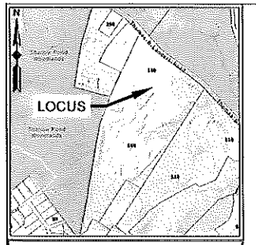
PROJECT
160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO. 3 OF 8 | DATE: OCTOBER 16, 2024
DRAWN BY: RLR | CHECKED BY: RLR

PREPARED BY:
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DRAWING TITLE
OVERALL SITE SECTION PLAN
SANDS & GRAVEL PIT

ASSESSORS INFORMATION: MAP 22-02-029-000 & 16-06-002-003)



LOCUS MAP NOT TO SCALE

SITE CONTROLS, RESTORATION & STABILIZATION NOTES:

1) THE OWNER SHALL PROVIDE AND MAINTAIN PROPER NOISE, DUST AND EROSION CONTROLS ON-SITE.
2) ALL AREAS OF MATERIAL EXCAVATION SHALL BE PERFORMED TO THE APPROVED ELEVATIONS. ADDITIONAL FILL MATERIAL REQUIRE TO ESTABLISH FINISH GRADES SHALL BE PROPERLY COMPACTED AS NOTED IN THE DETAILS ON THIS SITE PLAN. ALL FILLED AREAS NOT INTENDED TO BE USED FOR ON-GOING SITE OPERATIONS SHALL BE FINISHED WITH 6-INCHES (6") OF TOP SOILS AND SEEDED WITH A NATIVE GRASS SEED MIX.
3) ALL CLEARED AREAS SHALL BE RESTORED AND STABILIZE WITH A MINIMUM SIX-INCHES (6") OF TOP SOIL. TOP SOIL PREVIOUSLY EXCAVATED FROM THE SITE DURING EARTH MATERIAL REMOVAL, AND PREVIOUSLY STOCKPILES ON-SITE, SHALL BE SPREAD THROUGHOUT THE RESTORATION AREAS TO ESTABLISH FINISH GRADES.
4) ALL EXCAVATED SLOPES SHALL BE STABILIZED, FILLED AND COMPACTED AS NEEDED, AND NOT TO EXCEED 3:1 (HORIZONTAL TO VERTICAL) SLOPES.
5) TEMPORARY SURFACE RUNOFF DESTINATION AREAS MAY BE CONSTRUCTED IN A MANNER SUCH THAT THERE IS NO INTERFERENCE WITH ON-GOING SITE OPERATIONS.
6) DRAINAGE SWALES AND TEMPORARY STONE CHECKS MAY BE CONSTRUCTED, IF PRACTICAL, DURING ALL STAGES OF EARTHWORK ACTIVITY ON THE SITE.
7) ALL DESIGNATED AREAS FOR SURFACE RUNOFF DESTINATION SHALL BE PROPERLY MANAGED AND MAINTAINED BY REMOVING FINE SEDIMENTS THAT COLLECT AND SETTLE ON THE SURFACE AND SCARIFYING THE SURFACE AREA TO ALLOW RUNOFF WATER TO INFILTRATE INTO THE GROUND.
8) UNSUITABLE FILL MATERIAL SUCH AS LEAF, STUMPS, LOGS, ETC., SHALL NOT BURIED ON SITE OR USED AS BACKFILL MATERIAL.
9) DISPOSAL OF ALL REFUSE MATERIALS IS THE RESPONSIBILITY OF THE PROPERTY OWNER AND MUST BE HAULED OFF-SITE IN ACCORDANCE WITH ALL FEDERAL, STATE AND LOCAL REQUIREMENTS.
10) RESTORED SIDE SLOPE GRADES ALONG THE PERIMETER OF THE SAND & GRAVEL PIT SHALL BE VEGETATED WITH NATIVE SEED MIX AND NATIVE PLANTINGS. EXISTING AND ESTABLISHED VEGETATION SHALL NOT BE REMOVED TO ACHIEVE THIS GOAL. NOTE: SPECIAL PERMIT APPEAL NO 20-90 SPECIFIED SLOPE GRADES TO BE PLANTED WITH NATIVE PINE TREES AT A DENSITY OF ONE PINE TREE EVERY 64 SQUARE FEET (EIGHT-FEET ON-CENTER) IN A STAGGERED PATTERN
11) ALL DISTURBED AND LOAMED AREAS SHALL BE SEEDED WITH A NATIVE GRASS OR NATIVE WILD FLOWER SEED MIX, OR COMBINATION OF THESE. THE RECOMMENDED SEED MIX FOR THIS SITE IS NEW ENGLAND NATIVE WARM SEASON GRASS MIX - A MIXTURE OF: LITTLE BLUESTEM, BIG BLUESTEM, VIRGINIA WILD RYE, INDIAN GRASS, RED FESCUE AND SWITCH GRASS.

RESTORATION RELATIVE TO 1990 SPECIAL PERMIT

SANDS & GAVEL PIT RESTORATION PLAN

LOCATION	[1] TARGET ELEVATION FEET, NAVD88	RESTORATION ACTIVITY	RESTORATION FILL VOLUME, CUBIC YARDS
PRE-1990 PERMIT AREA	37	FILL	22,000
PERMIT SECTION I	35	N/A	0
PERMIT SECTION II	35.5	N/A	0
PERMIT SECTION III	36	FILL	700
PERMIT SECTION IV	36.5	FILL	2,100
PERMIT SECTION V	37	FILL	4,100
PERMIT SECTION VI	34.5	FILL	1,700
PERMIT SECTION VII	34.5	FILL	5,100
PERMIT SECTION VIII	34.5	FILL	5,000
PERMIT SECTION IX	34.5	FILL	5,900
PERMIT SECTION X	34	N/A	0
PERMIT SECTION XI	34.5	N/A	0
		[2] TOTAL	45,700

[1] TARGET DEPTH CONVERTED FROM NGVD29 DEPICTED ON PERMIT PLANS FOR SPECIAL PERMIT NO. 20-90 TO NAVD88. THE TARGET RESTORATION GRADES ARE SET TO AT LEAST 10-FEET ABOVE GROUNDWATER ELEVATIONS.

[2] APPROXIMATELY 45,700 CUBIC YARDS IS NEEDED TO RESTORE GRADES WITHIN THE PROPERTY HIGHLIGHTED AREAS.

THERE IS A COMBINED 192,600 CUBIC YARDS OF EARTH REMOVAL AND STOCK PILES OF SORTED AND UNSORTED MATERIAL AVAILABLE WITHIN THE ENTIRE SITE.

OF THE 192,600 CUBIC YARDS AVAILABLE, THERE IS APPROXIMATELY 31,000 CUBIC YARDS OF UNEXCAVATED EARTH MATERIAL WITHIN SECTION

OF THE 192,600 CUBIC YARDS AVAILABLE, THERE IS APPROXIMATELY 40,900 CUBIC YARDS OF UNEXCAVATED EARTH MATERIAL WITHIN SECTION X & SECTION XI.

LEGEND

- DEFINED AREA OF EARTH REMOVAL (SECTIONS) 1990 SPECIAL PERMIT APPEAL NO.: 20-90
- DEFINED EARTH REMOVING BOTTOM AREA 1990 SPECIAL PERMIT APPEAL NO.: 20-90
- EARTH REMOVAL BELOW ELEVATION 37-FT. PRE-1990 APPEAL PERMIT GRAVEL PIT
- EXCESSIVE EARTH REMOVAL COMPARED TO 1990 SPECIAL PERIAT APPEAL NO. 20-90
- AVAILABLE EARTH REMOVAL COMPARED TO 1990 SPECIAL PERMIT APPEAL NO. 20-90
- TREE LINE
- EXISTING PIT BOTTOM OF SLOPE
- GROUNDWATER LEVEL CAPE COD COMMISSION GIS

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PREPARED FOR

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P.O BOX 913
FALMOUTH, MA 02541

PROJECT

160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO.: 4 OF 8 | DATE: OCTOBER 16, 2024
DRAWN BY: RLR | CHECKED BY: RLR

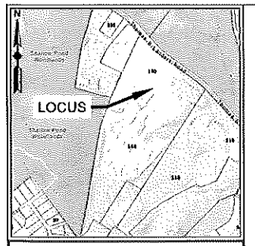
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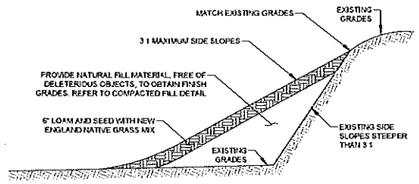
DRAWING TITLE:

SANDS & GRAVEL PIT
RESTORATION & RECLAMATION PLAN

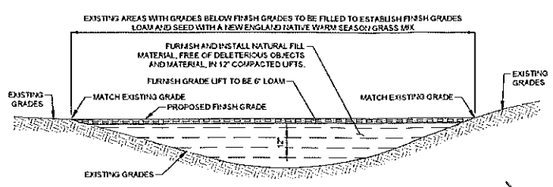
ASSESSORS INFORMATION MAP 22-02-029-000 & 16-06-002-003)



LOCUS MAP NOT TO SCALE



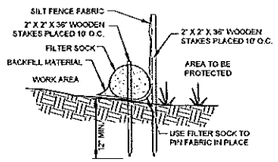
SIDE SLOPE RESTORATION - TYPICAL CROSS SECTION
NOT TO SCALE



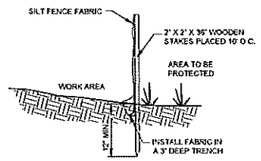
COMPACTED FILL - TYPICAL CROSS SECTION
NOT TO SCALE

EROSION CONTROL NOTES:

1) EROSION AND SEDIMENT CONTROL MEASURES SHALL BE CONSTRUCTED IN ACCORDANCE WITH STANDARDS AND SPECIFICATIONS OF THE TOWN OF FALMOUTH "SOIL EROSION & SEDIMENTATION CONTROL STANDARD CONDITIONS".
2) EROSION CONTROL MEASURES ARE TO BE MAINTAINED AND REPLACED OR UPGRADED AS REQUIRED TO ACHIEVE PROPER SEDIMENT CONTROL DURING CONSTRUCTION.
3) IT IS THE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE PROPERTY OWNER TO INSTALL ADDITIONAL CONTROL MEASURES DURING CONSTRUCTION AS REQUIRED TO PROTECT ANY ADJACENT AREAS FROM HERU AND TO PROTECT NATURAL UNDISTURBED AREAS.
4) SEDIMENT REMOVED FROM EROSION CONTROL STRUCTURES SHALL BE DISPOSED OF IN A MANNER WHICH IS CONSISTENT WITH THE INTENT OF THIS PLAN. ALL FILTER SOCKS OR SILT FENCE RETAINING SEDIMENT OVER 1/3 THEIR HEIGHT SHALL HAVE THE SEDIMENT REMOVED AND ALL DAMAGED EROSION CONTROLS REMOVED AND REPLACED.
5) SITE OPERATIONS SHALL INCLUDE CONTROLLING DUST AND WIND EROSION THROUGHOUT THE LIFE OF THE SITE'S OPERATION. DUST CONTROL SHALL INCLUDE, BUT IS NOT LIMITED TO, SPRINKLING OF WATER ON EXPOSED SOILS AND HAUL ROADS. CONTRACTOR SHALL CONTROL DUST TO PREVENT A HAZARD TO TRAFFIC ON ADJACENT ROADWAYS.
6) IN DISTURBED AREAS FOR RESTORATION, IF THE SURFACE MATERIAL IS NOT SUITABLE FOR THE GROWING OF SEED, A MINIMUM OF 6 INCHES OF LOAM WILL BE REQUIRED.
7) THE CONTRACTOR MUST KEEP ON SITE AT ALL TIMES ADDITIONAL SILT FENCE AND FILTER SOCKS FOR INSTALLATION AS NEEDED TO MITIGATE ANY SEDIMENTATION OR EROSION EMERGENCY CONDITION.
8) TEMPORARY SEDIMENTATION BASIN MAY NOT BE PRACTICAL DURING ALL STAGES OF CONSTRUCTION. EARTHWORK ACTIVITY ON THE SITE MUST BE DONE IN A MANNER SUCH THAT RUNOFF IS DIRECTED TO TEMPORARY DRAINAGE SWALES IF NOT CONTAINED ON-SITE.



LIMIT OF WORK - FILTER SOCK
NOT TO SCALE



LIMIT OF WORK - SILT FENCE
NOT TO SCALE

EXISTING UTILITIES NOTE:

NOT ALL UTILITIES ON THE PROPERTY HAVE BEEN LOCATED OR ARE ILLUSTRATED ON THIS SET OF SITE PLAN DRAWINGS.
THE CONTRACTOR SHALL ARRANGE FOR DIG-SAFE (1-888-344-7233) AND A PRIVATE UTILITY MARKING COMPANY TO MARK UTILITIES ON THE SITE. THE CONTRACTOR SHALL VERIFY THE LOCATIONS OF ANY CROSSINGS OF PROPOSED AND EXISTING UTILITIES AND CONTACT THE ENGINEER IF CONFLICT BETWEEN UTILITIES IS ENCOUNTERED.

EXISTING WALL TO BE REMOVED
N 39° 06' 50" E 359.19'
N 23° 47' 05" E 216.13'
R=35.00' L=57.72'
R=1030.00' L=73.73'
CBDH FOUND
S 42° 31' 18" E 56.27'
S 42° 31' 18" E 251.35'
N 66° 12' 55" W 1469.98'
PARCEL ID 16 06 002 002 N/F RICHARD S. CLEMENT
PROPOSED LIMIT OF WORK WITH FILTER SOCK ALONG EDGE OF ACCESS DRIVEWAY
PROPOSED LIMIT OF WORK ALONG 50' PROPERTY LINE BUFFER
N 23° 47' 05" E 316.18'
N 18° 13' 05" E 316.58'
PARCEL ID 16 06 003 000A N/F THREE HUNDRED COMMITTEE LAND TRUST
CBDH FOUND
GROUNDWATER CONTOUR ELEVATION 27'
R=1030.00' L=220.29'
THOMAS B. LANDERS (60' WIDE - PUBLIC)
S 55° 08' 01" E 434.10'
R=970.00' L=146.03'
CBDH FOUND
NAD 83
N
OPEN DRAIN BASIN #1 7,000 S.F. AREA
293 L x 10' W x 1' H STONE CHECK
APPROVED LIMITS OF EARTH REMOVAL (50' SETBACK FROM PROPERTY LINE)
MATCH LINE - SEE GRADING & DRAINAGE PLAN 1
MATCH LINE - SEE GRADING & DRAINAGE PLAN 2
MATCH LINE - SEE GRADING & DRAINAGE PLAN 3
OPEN DRAIN BASIN #2 3,700 S.F. AREA
160' L x 10' W x 1' H STONE CHECK
APPROVED LIMITS OF EARTH REMOVAL (100' SETBACK FROM PROPERTY LINE)
PROPOSED LIMIT OF WORK ALONG 100' STREET LINE BUFFER
PARCEL ID 16 06 003 000A N/F THREE HUNDRED COMMITTEE LAND TRUST
N 66° 59' 37" E 1469.98'
PROPOSED LIMIT OF WORK ALONG 50' PROPERTY LINE BUFFER
100' L x 10' W x 1' H STONE CHECK
OPEN DRAIN BASIN #5 7,300 S.F. AREA
220' L x 10' W x 1' H STONE CHECK
OPEN DRAIN BASIN #4 7,500 S.F. AREA
APPROVED LIMITS OF EARTH REMOVAL (50' SETBACK FROM PROPERTY LINE)
PROPOSED LIMIT OF WORK ALONG 50' PROPERTY LINE BUFFER
S 31° 35' 35" W 790.66'
N 58° 24' 25" W 200.00'
PROPOSED LIMIT OF WORK ALONG 50' PROPERTY LINE BUFFER
PARCEL ID 21 05 013 000 N/F SUN CAPE COD RV LLC
1427.34' S 31° 35' 35" W
OPEN DRAIN BASIN #3 7,300 S.F. AREA
300' L x 10' W x 1' H STONE CHECK
APPROVED LIMITS OF EARTH REMOVAL (50' SETBACK FROM PROPERTY LINE)
PROPOSED LIMIT OF WORK ALONG 50' PROPERTY LINE BUFFER
157.93' S 66° 53' 47" W
PARCEL ID 22 03 001C 003A N/F SUN CAPE COD RV LLC
APPROVED LIMITS OF EARTH REMOVAL (50' SETBACK FROM PROPERTY LINE)
PARCEL ID 22 02 030A 000 N/F SUN CAPE COD RV LLC
GROUNDWATER CONTOUR ELEVATION 25'
GROUNDWATER CONTOUR ELEVATION 27'
GROUNDWATER CONTOUR ELEVATION 29'
0 40 80 160
SCALE 1" = 80'

LEGEND

- 35.1 ——— EXISTING GRADE ELEVATIONS
- 34.5 ——— PROPOSED GRADE ELEVATIONS
- 35 ——— EXISTING GRADE CONTOURS
- 35' ——— PROPOSED FINISH GRADE CONTOURS
- GROUNDWATER LEVEL, CAPE COD COMMISSION GIS
- LOW ——— LIMIT OF WORK & GRADING ALONG BUFFER SETBACK
- LIMIT OF WORK WITH FILTER SOCK
- EDGE OF VEGETATION CLEARING

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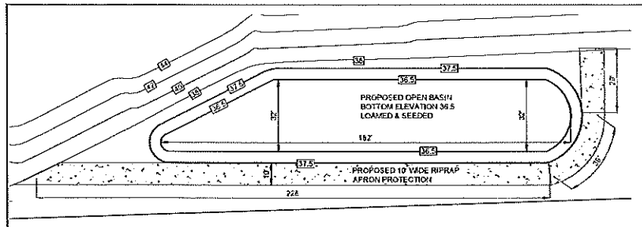
PROJECT
160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO.: 5 OF 8 | DATE: OCTOBER 16, 2024
DRAWN BY: RLR | CHECKED BY: MC

PREPARED BY:
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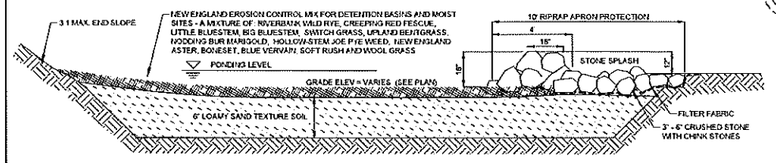
DRAWING TITLE
SAND & GRAVEL PIT
OVERALL GRADING PLAN

ASSESSORS INFORMATION MAP 22-02-029-000 & 16-06-002-003)



OPEN DRAIN BASIN #1 PLAN DETAIL

SCALE: 1" = 20'



OPEN DRAINAGE BASIN - TYPICAL SECTION

NOT TO SCALE

NAD 83

N

LEGEND

- 35.1 ——— EXISTING GRADE ELEVATIONS
- 33.5 ——— PROPOSED GRADE ELEVATIONS
- EXISTING GRADE CONTOURS
- 36 PROPOSED FINISH GRADE CONTOURS
- 30 GROUNDWATER LEVEL, CAPE COD COMMISSION GIS
- LOW LIMIT OF WORK & GRADING ALONG BUFFER SETBACK
- LIMIT OF WORK WITH FILTER SOCK
- EDGE OF VEGETATION CLEARING

0 20 40 80

SCALE: 1" = 40'

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PREPARED FOR

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PO BOX 513
FALMOUTH, MA 02541

PROJECT:

160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO. 6 OF 8	DATE: OCTOBER 16, 2024
DRAWN BY: RLR	CHECKED BY: MC

PREPARED BY:

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DRAWING TITLE

SAND & GRAVEL PIT
GRADING & DRAINAGE PLAN 1

ASSESSORS INFORMATION: MAP 22-02-029-000 & 16-06-002-003

MATCH LINE - SEE GRADING & DRAINAGE PLAN 1

MATCH LINE - SEE GRADING & DRAINAGE PLAN 3

PARCEL
27 02 029.000
36.4± ACRES

THOMAS B. LANDERS
(60' WIDE - PUBLIC)

EDGE OF PAVEMENT

S 35° 56' 01" E
454.10'

R=970.00'
L=146.03'

CBDH FOUND

PAVED ENTRY/EXIT ENTRANCE

MAD 83

N

165' L x 10' W x 1'H STONE CHECK

OPEN DRAIN BASIN #2
3,700 S.F. AREA

PROPOSED LIMIT OF WORK ALONG 100' STREET LINE BUFFER

NATURALLY VEGETATED

PROPOSED LIMIT OF WORK ALONG 50' PROPERTY LINE BUFFER

NATURALLY VEGETATED

1427.34'
S 31° 35' 35" W

OPEN DRAIN BASIN #3
7,300 S.F. AREA

300' L x 10' W x 1' H STONE CHECK

SURFACE FLOW

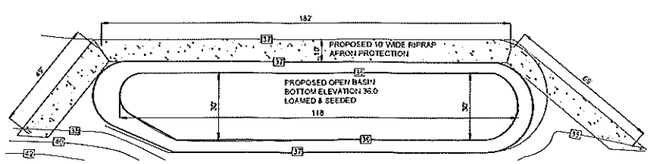
GROUNDWATER CONTOUR ELEVATION 25'

LOW

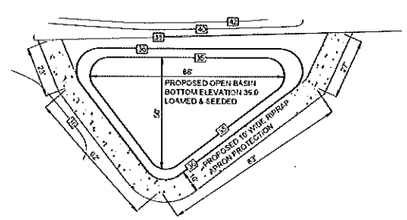
0 20 40 80
SCALE: 1" = 40'

LEGEND

+35.1	EXISTING GRADE ELEVATIONS
35.5	PROPOSED GRADE ELEVATIONS
38	EXISTING GRADE CONTOURS
36'	PROPOSED FINISH GRADE CONTOURS
	GROUNDWATER LEVEL, CAPE COD COMMISSION GIS
LOW	LIMIT OF WORK & GRADING ALONG BUFFER SETBACK
	LIMIT OF WORK WITH FILTER SOCK
	EDGE OF VEGETATION CLEARING



OPEN DRAIN BASIN #3 PLAN DETAIL
SCALE: 1" = 30'



OPEN DRAIN BASIN #2 PLAN DETAIL
SCALE: 1" = 20'

RAUL LAWRENCE LYNCH JR. No. 40585 REGISTERED PROFESSIONAL ENGINEER COMMONWEALTH OF MASSACHUSETTS

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DATE	DESCRIPTION	BY	CHK

PREPARED FOR

LAWRENCE LYNCH REALTY CORPORATION
PO BOX 513
FALMOUTH, MA 02541

PROJECT:

160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO. 7 OF 8	DATE: OCTOBER 16, 2024
DRAWN BY: RLR	CHECKED BY: MC

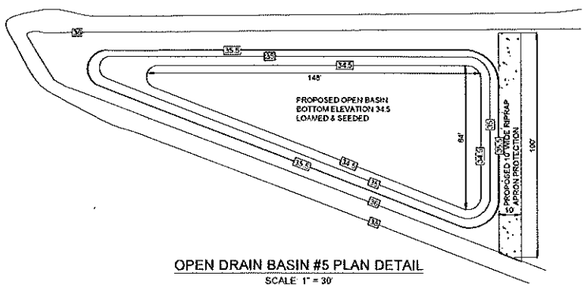
PREPARED BY:

CAPE & ISLANDS ENGINEERING
SUMMERFIELD PARK
820 FALMOUTH ROAD SUITE 301C
MASHPEE, MA 02649
508.477.7272 PHONE
508.477.5072 FAX
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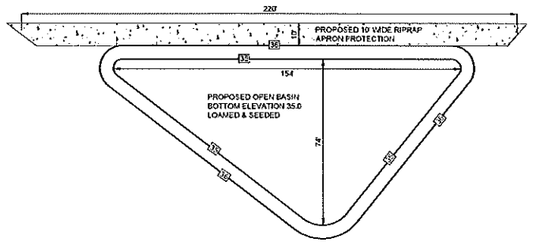
DRAWING TITLE

SAND & GRAVEL PIT
GRADING & DRAINAGE PLAN 2

ASSESSORS INFORMATION: MAP 22-02-029-000 & 16-06-002-003



OPEN DRAIN BASIN #5 PLAN DETAIL
SCALE 1" = 30'



OPEN DRAIN BASIN #4 PLAN DETAIL
SCALE 1" = 30'

LEGEND

- 35.0 ---------- EXISTING GRADE ELEVATIONS
- 38.5 ---------- PROPOSED GRADE ELEVATIONS
- 30 ---------- EXISTING GRADE CONTOURS
- 32 ---------- PROPOSED FINISH GRADE CONTOURS
- GROUNDWATER LEVEL, CAPE COD COMMISSION GIS
- LOW LIMIT OF WORK & GRADING ALONG BUFFER SETBACK
- LIMIT OF WORK WITH FILTER SOCK
- EDGE OF VEGETATION CLEARING

0 20 40 80
SCALE 1" = 40'

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-			
DATE	DESCRIPTION	BY	CHK

PREPARED FOR
LAWRENCE LYNCH REALTY CORPORATION
PO BOX 513
FALMOUTH, MA 02541

PROJECT:
160 THOMAS B. LANDERS ROAD
FALMOUTH, MASSACHUSETTS

SHEET NO.: 6 OF 8 | DATE: OCTOBER 16, 2024
DRAWN BY: RLR | CHECKED BY: MC

PREPARED BY:
CAPE & ISLANDS ENGINEERING
SUMMERFIELD PARK
600 FALMOUTH ROAD SUITE 301C
MASHPEE, MA 02649
508.477.7272 PHONE
508.477.9072 FAX
www.CapeEng.com

DRAWING TITLE
SAND & GRAVEL PIT
GRADING & DRAINAGE PLAN 3

ASSESSORS INFORMATION MAP 22-02-029-000 & 16-05-002-003)

Assessors • Building • Con/Com • Engineering • Health • Historical Comm.

Fire Department • Marine & Environmental Services • Planning • Select Board

Water • Wastewater

Zoning Board of Appeals
Falmouth, MA

Referral under MGL C 40A, § 11 and Chapter 240-219 of the Code of Falmouth

Applicant: Lawrence Lynch Realty Corp. Date of Referral Request: 10/29/24
Address: 0/160 Thomas B. Landers Road, E.Falmouth
Map 16 Section 06 Parcel 002 Lot 003 (#0)
Map 22 Section 02 Parcel 029 Lot 00 (#160)

Application No: 106-24 Date Referral Due to ZBA: 12/02/24

Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-12.1 of the Code of Falmouth to renew existing special permit #20-90 for excavation and restoration and to allow the continued use of processing and storage of material. The subject property is 39.4 acres of AGA zoned land, located within the Zone II overlay and the Great Pond Coastal Pond overlay.

The Board of Appeals requests that you consider the above-referenced special permit under this referral request as required by Falmouth Bylaws. If there are any questions relative to this request please contact the Board of Appeals.

Plans are on file in the Board of Appeals Office.

Thank you,
Noreen Stockman
Zoning Administrator

Your Comments on above-referenced:

1. According to condition #2 of Special Permit 20-90, required plans were not issued to the Building Commissioner annually, therefore this permit is null and void. Please apply for a new Special Permit under 240-14.5.
2. Provide 3rd party verification which confirm conditions established by the ZBA are met.

Note: If you have no comment on the above-referenced appeal, or you feel it is of no interest or concern to your department or board, please sign below, date and return this form to the Board of Appeals office.

No Comment ☐ _____ Date 11-6-24

Assessors ● Building • Con/Com • Engineering • Health • Historical Comm.

Fire Department • Marine & Environmental Services • Planning • Select Board

Water ● Wastewater

Zoning Board of Appeals
Falmouth, MA

Referral under MGL C 40A, § 11 and Chapter 240-219 of the Code of Falmouth

Applicant: Lawrence Lynch Realty Corp. **Date of Referral Request: 10/29/24**
Address: 0/160 Thomas B. Landers Road, E.Falmouth
Map 16 Section 06 Parcel 002 Lot 003 (#0)
Map 22 Section 02 Parcel 029 Lot 00 (#160)

Application No: 106-24 **Date Referral Due to ZBA: 12/02/24**

Applied to the Zoning Board of Appeals for a special permit pursuant to section(s) 240-12.1 of the Code of Falmouth to renew existing special permit #20-90 for excavation and restoration and to allow the continued use of processing and storage of material. The subject property is 39.4 acres of AGA zoned land, located within the Zone II overlay and the Great Pond Coastal Pond overlay.

The Board of Appeals requests that you consider the above-referenced special permit under this referral request as required by Falmouth Bylaws. If there are any questions relative to this request please contact the Board of Appeals.

Plans are on file in the Board of Appeals Office.

Thank you,
Noreen Stockman
Zoning Administrator

Your Comments on above-referenced:

See attached.

Note: If you have no comment on the above-referenced appeal, or you feel it is of no interest or concern to your department or board, please sign below, date and return this form to the Board of Appeals office.

No Comment □ Scott Lehr _____Date_11/25/2024

1. This application was reviewed for impacts on public right of ways and public utilities. Thomas B Landers Road is a Public right of way in this area.

   No alterations are proposed to the right of way; any changes within the right of way would require filing a permit with the Engineering Division.

2. Any connections or alterations to public utilities require permission from the appropriate Town Department.

3. With disturbance greater than 1 acre, this site would be subject to Chapter 277 and therefore would require a Stormwater Permit. In Falmouth, Stormwater Permits are reviewed by our outside Stormwater Consultant, Comprehensive Environmental Inc. at the expense of the Applicant.

   Please submit stormwater mitigation materials required by Chapter 277 Stormwater Management Rules and Regulations. We will forward this material to the outside consultant to obtain an estimate to review.

EDWARD W. KIRK
ATTORNEY AT LAW
WIANNO PLACE
901 MAIN STREET
OSTERVILLE, MASSACHUSETTS 02655-0393

P. O. BOX 393
(508) 428-4800

FACSIMILE
(508) 428-4111

Jordan Velozo
Chief Regulatory Officer
Cape Cod Commission
Main Street
Barnstable, Mass

February 7, 2025

Re: Lawrence Lynch Zoning Application
0 & 160 Thomas B. Landers Road
Falmouth, Mass.

Dear Jordan:

There is a hearing scheduled for Thursday, February 13, 2025 before the Falmouth Zoning Board of Appeals ("the board") on the application[1] of the Lawrence Lynch Realty Corp. to *"renew"* a permit issued by the board in a decision dated May 18, 1990. A copy of the decision (Appeal No. 20-90) is attached as Exhibit 1. This permit authorized earthmoving and excavation activities subject to certain conditions. The activity authorized in Appeal No. 20 – 90 had previously been authorized by earlier decisions of the Board in 1968 and 1988.

While the decision gave the permit a life of three (3) years, the last sentence of the decision of May 18, 1990 authorizes the board to *"renew"* the permit without regard to the timing of the renewal.

As you know, there have been questions and concerns as to whether or not, under the particular facts and circumstances of this case, the Lynch application for renewal presents a Development of Regional Impact ("DRI") which would be subject to the jurisdiction and review by the Cape Cod Commission.

On February 5, 2024, following conferences and correspondence relating to the property, you were kind enough to provide me with a letter which outlined the criteria for determining whether or not a project was in "substantial compliance" with a previously issued permit and therefore not required to obtain approval by the commission. See Attached Exhibit 2.

---

[1] Lynch's current application also includes a request that the Board determine that other permits which authorize the processing and storage of material on site, which predate and are independent of the decision and conditions of May 18, 1990, remain valid and in effect.

The application which is now before the Board is not proposing any "changes" to the activities which were authorized by the "original local approval". The purpose of the application for renewal is to be able to carry out exactly the activities which were authorized by that permit. Nor does the current application requests permission to do any thing more than what was authorized by the original local approval. Not only is there no *substantial change*, but there is *no* change.

I believe that was the basis for your final conclusion:

"[t]he town of Falmouth may approve the extension/renewal of that original permit without making a mandatory DRI referral to the commission so long as there is no substantial change or modification as to what was permitted in the most recent renewal of the permit. However, if additional local development review is required in the form of a new permit or a modification to the original approval, or if a renewal will result in different or increased impacts to regional resources, the Town may wish to seek an informal jurisdictional determination. Also hopefully it goes without saying that the plain language of these regulations applies such that in the event there is an enforcement order or a permit revocation because of noncompliance, the project would be subject to commission review."

My reading and understanding of that language is that you were not stating that under the current circumstances the board *must require a new permit and therefore must refer* the matter to the commission as a DRI. My reading and understanding of your letter is that it will be the board's decision whether to authorize a renewal of the permit, and if the board chooses to renew, a referral to the commission is not required.

At 11:55 a.m. on December 9, 2024, three (3) days before our previous scheduled hearing before the board, I received an e-mail from Noreen Stockman stating that she had "communicated with Jordan **Velozo** at Cape Cod Commission(CCC) and *she is requiring a referral* for the application of 160 Thomas B. Landers. At the board meeting on Thursday the Board will be voting to refer the case."

As a result of receiving that information, I requested a continuance of our hearing which had been scheduled for December 12 2024 and the matter is now scheduled to be heard on February 13, 2025.

I have been attempting to determine whether I have misread your letter of February 5, 2024, or whether as a result of communication received from Noreen, you have changed the position outlined in your letter of February 5, 2024, or whether Noreen has misunderstood your position on the question.

I went to the Falmouth Town Hall yesterday to review the file and saw for the first time an email which you sent to Noreen at 3:57 p.m. on December 9, 2024, a copy of which is attached as Exhibit 3.

Your e-mail states that:

"My position is that the development has not been constructed in substantial compliance with the applicable development permit or approval, as required to qualify for this exemption. My position is based on the understanding that construction was undertaken after the permit was expired AND that work deviated from the original approval such that it will require additional local development permit review in the form of a new permit, approval, or a modification to the original approval. Please correct me if I have a misunderstanding".

Had I been aware of that correspondence back in December, and at the time that we discussed this on December 17, 2024 at your office, perhaps the issue could have been clarified at that time, as we had discussed the details of the history of the prior permit prior to your letter of February 5, 2024.

The work done on the site was in "substantial compliance" (as that term is defined) with the permit as issued. The landowner did not perform any work which was not authorized by the permit. The current proposal is for "renewal" of the permit and is not requesting approval to perform any activity which was not authorized by the permit issued in 1990. We acknowledge that the prior owner and permit holder did not comply with the condition which required him to submit paperwork to the Building Commissioner as required by the permit. But the work itself was in compliance with the terms of the permit. We are simply seeking to be able to complete the process as allowed by the permit. Doing so does not constitute a "Development of Regional Impact".

It would be of benefit to all concerned if you could provide some clarity on the question of whether (even before the board has had a chance to review the facts) you are *requiring at this time that the matter must be referred to the commission* as a DRI, or whether the matter will have to come to the the commission as a DRI *if* the board decides not to authorize a renewal of the permit, and requires the applicant to submit an application for a new permit.

Thank you for your attention and courtesy in the matter.

Very truly yours,

Edward W. Kirk

ewk/sek

cc: Noreen Stockman
Brett Sanidas, Esq.
Lawrence - Lynch Realty Corp.

EXHIBIT

1

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

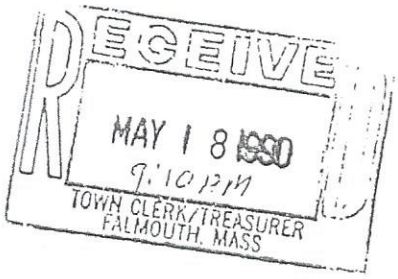
b. The area graded and seeded or planted to prevent erosion and to conceal the scars of stone removal.

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.

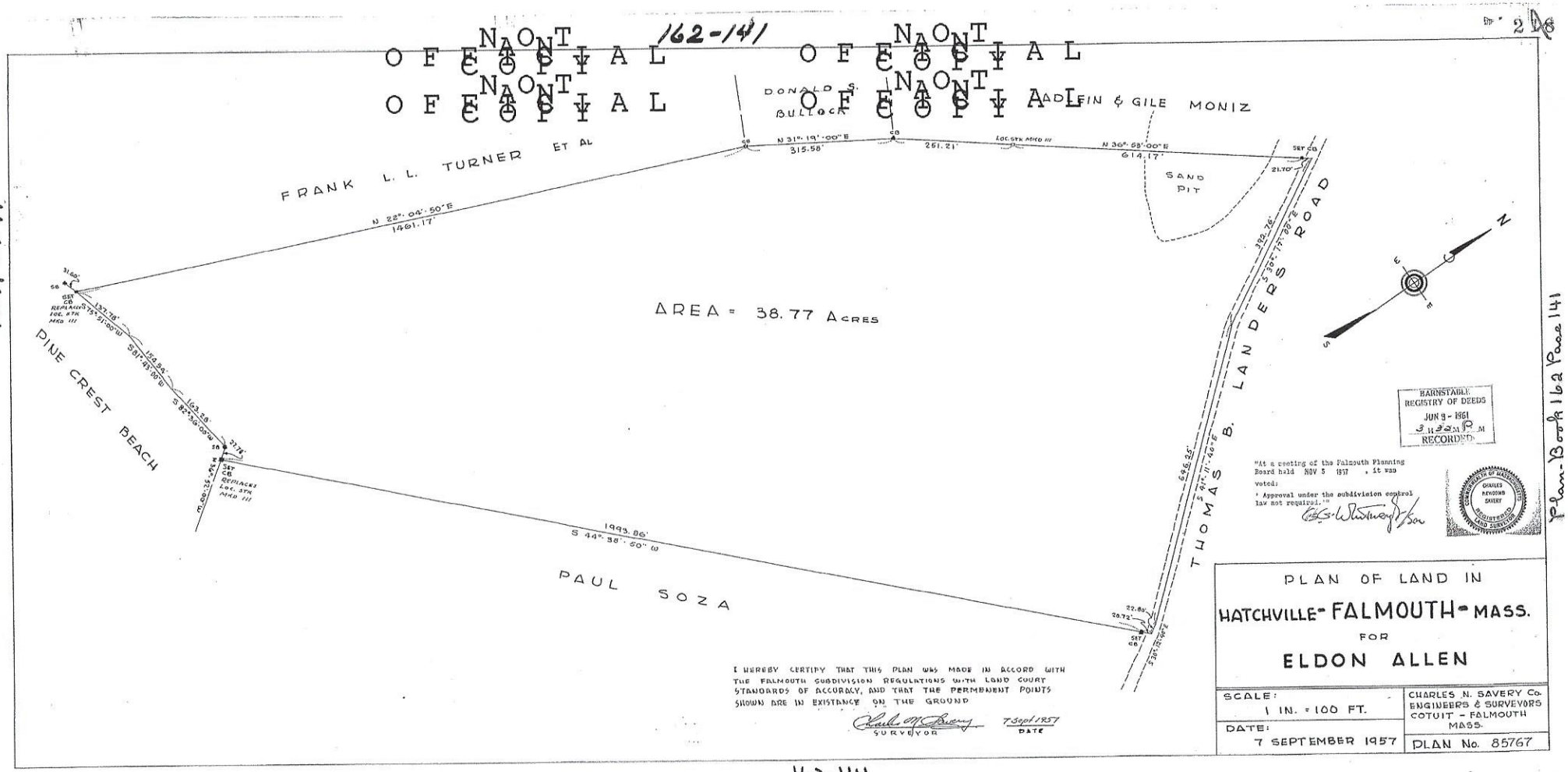
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162-141

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HARNSTABLE REGISTRY OF DEEDS
JUN 9 - 1961
3 H 20 M P.M.
RECORDED

"At a meeting of the Falmouth Planning Board held NOV 5 1957, it was voted:
' Approval under the subdivision control law not required.'"

Charles N. Savery & Son

COMMONWEALTH OF MASSACHUSETTS
CHARLES NEWCOMB SAVERY
REGISTERED LAND SURVEYOR

I HEREBY CERTIFY THAT THIS PLAN WAS MADE IN ACCORD WITH THE FALMOUTH SUBDIVISION REGULATIONS WITH LAND COURT STANDARDS OF ACCURACY, AND THAT THE PERMENENT POINTS SHOWN ARE IN EXISTANCE ON THE GROUND

Charles N. Savery
SURVEYOR

7 Sept 1957
DATE

PLAN OF LAND IN
HATCHVILLE - FALMOUTH - MASS.
FOR
ELDON ALLEN

SCALE: 1 IN. = 100 FT.	CHARLES N. SAVERY Co. ENGINEERS & SURVEYORS COTUIT - FALMOUTH MASS.
DATE: 7 SEPTEMBER 1957	PLAN No. 85767

Plan Book 162 Page 141

162-141

EXHIBIT

2

Re: Permitting for Thomas B. Landers Road- Falmouth

From: Jordan Velozo (jordan.velozo@capecodcommission.org)

To: ed.kirk@verizon.net

Cc: brett@falmouthlaw.com

Date: Monday, February 5, 2024 at 03:29 PM EST

Good afternoon Ed,

I apologize for the delayed response-- I was out of the office last week and am in the process of sorting through a backlog of emails.

Relative to the Property at Thomas B. Landers Road, Section 22(b) of the Commission Act reads, in part: *"(b) This act shall not apply to any development which prior to July first, nineteen hundred and eighty-nine has received... a special permit or variance under chapter forty A... and which development is constructed or is thereafter constructed in substantial compliance therewith."*

The term **substantial compliance** has been defined in the Commission's Enabling Regulations as follows: *"For the purposes of determining if a project is exempt under Section 22(b) of the Act, a development will be deemed to be constructed in substantial compliance with the applicable development permit or approval on a case-by-case basis. The determination of whether a project substantially complies with an original local permit or approval shall be based upon all of the following factors:*
The proposed project is in substantial compliance if: (i) the proposed project and use reflect the nature and purpose of the project and use in the original local approval; and (ii) the changes do not result in the requirement for additional local development permit review in the form of a new permit, approval or a modification to the original approval; and (iii) the changes do not result in different or increased impacts, as compared with the original local approval, to the interests protected by the Act and the Regional Policy Plan.
The burden is on the project proponent to demonstrate that the change is not substantial. In order to resolve any issues regarding the requirement of DRI review, the project proponent may file an application with the Commission for a Jurisdictional Determination, as authorized by section 12(j) of the Act.

The Commission will presume that the project is no longer in substantial compliance with the original permit or approval if the project was the subject of an enforcement order or permit revocation because of non-compliance with the original approval. The applicant may present evidence to the Commission that, notwithstanding the enforcement order, the project is still in substantial compliance with the originally issued permit or approval."

Therefore, to answer the question in your email, the Town of Falmouth may approve the **extension/renewal** of that original permit, without making a mandatory DRI referral to the Commission, **so long as there is no substantial change or modification as to what was permitted in the most recent renewal of the permit.** However, if additional local development review is required in the form of a new permit or a modification to the original approval, or if a renewal will result in different or increased impacts to regional resources, the Town may wish to seek an informal jurisdictional determination.

Also, hopefully it goes without saying that the plain language of these regulations applies such that in the event that there is an enforcement order or a permit revocation because of non-compliance, the Project would be subject to Commission review.

Let me know if you have any questions,
Jordan

Jordan Velozo
Chief Regulatory Officer
Cape Cod Commission
508-744-1253
jordan.velozo@capecodcommission.org

From: ed.kirk@verizon.net <ed.kirk@verizon.net>
Sent: Monday, February 5, 2024 10:01 AM
To: Jordan Velozo <jordan.velozo@capecodcommission.org>
Cc: Brett Sanidas <brett@falmouthlaw.com>
Subject: Re: Permitting for Thomas B. Landers Road- Falmouth

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Jordan:

Just checking back to see if you can confirm that my understanding of your view of the permitting status of the property is correct.

With that confirmation, the parties can finalize their purchase and sale agreement and begin the local permitting process.

Thanks.

Ed Kirk

On Monday, January 29, 2024 at 12:30:42 PM EST, ed.kirk@verizon.net <ed.kirk@verizon.net> wrote:

Hi Jordan:

Thank you again very much for making a "house call" and coming to Osterville and meeting with us on Wednesday.

We appreciate the time you have spent reviewing the permitting history of the land on Thomas B. Landers Road, and your consideration of our plans to clean up the permitting prior to a sale of the property.

For purposes of clarity going forward:

It is my understanding that, despite the absence of prior renewals/extensions of the permit granted in Appeal No. 20-90, the owner will not be deemed by the Commission to be non-compliant with the condition requiring renewal, if the town of Falmouth approves the extension/renewal of that permit at this time, upon such conditions as the town deems appropriate.

In such case, the Commission will not require a review of the project as a potential DRI.

If my understanding of the situation is correct, could you please confirm at your convenience.

Thanks again.

Ed Kirk

On Tuesday, January 16, 2024 at 04:24:59 PM EST, ed.kirk@verizon.net <ed.kirk@verizon.net> wrote:

Hi Jordan:

Thanks for the call today.

This will confirm our meeting for next Wednesday, January 24, 2024 at my office at 11 a.m. My humble quarters are on the second floor at "Wianno Place" being 901 Main Street in Osterville.

Brett Sanidas, the attorney for the current owner of the subject property will join us.

We very much appreciate this accommodation.

Thanks.

Ed Kirk

EXHIBIT

3

Noreen Stockman

From: Jordan Velozo <jordan.velozo@capecodcommission.org>
Sent: Monday, December 9, 2024 3:51 PM
To: Noreen Stockman
Subject: Re: [EXTERNAL] - Re: 160 Thomas B. Landers Rd, Falmouth

Hi Noreen,

The relevant part of Chapter A is Section 3(c)(iii).

See also the definition of Outdoor Use under Chapter A, Section 1(c):
Outdoor Use: A use with facilities or activities that are predominantly accommodated outside, rather than within a structure. For instance, gravel mining, commercial parking lots, golf courses, marinas, and outdoor active recreation uses would generally be classified as Outdoor Uses. For all Outdoor Uses, the size of the facility shall be based on the Total Project Area.

See also Chapter A, Section 5(c) which discusses the transitional exemption from DRI Review.

The Applicant's position is that they qualify for this transitional exemption. My position is that the development has not been constructed in substantial compliance with the applicable development permit or approval, as required to qualify for this exemption.

My position is based on the understanding that construction was undertaken after the permit was expired AND that work deviated from the original approval such that it will require additional local development permit review in the form of a new permit, approval, or a modification to the original approval. Please correct me if I have a misunderstanding.

Thanks so much,
Jordan

Jordan Velozo
Chief Regulatory Officer
Cape Cod Commission
508-744-1253
jordan.velozo@capecodcommission.org

From: Noreen Stockman <noreen.stockman@falmouthma.gov>
Sent: Monday, December 9, 2024 1:42 PM
To: Jordan Velozo <jordan.velozo@capecodcommission.org>
Subject: RE: [EXTERNAL] - Re: 160 Thomas B. Landers Rd, Falmouth

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