



TOWN OF BOLTON
BOARD OF APPEALS

Filed with the Town Clerk on:

Town Hall, 663 Main Street, Bolton MA 01740
Phone 978-779-3308 Fax 978-779-5461

TOWN CLERK

APPLICATION FOR HEARING

PART I. Background Information (Provided by Applicant to the Town Clerk):

Applicant/Petitioner:	Houde Realty Trust
Address of applicant:	470 & 476 Main Street, Bolton, MA 01740
Applicant is:	Δ -Owner
Property address:	470 Main Street, Bolton, MA 01740
Assessor Map/Parcel Number of property	Map 4D 2 Parcel 29
Deed reference(s):	<u>Book 46112 Page 196</u>
Owner name (if person other than applicant)	Same
Owner address:	476 Main Street, Bolton, MA 01740
Owner telephone number:	978-779-5033
Application & all other materials and fee for:	Δ -Variance, \$200 + \$6 per abutter on certified abutters list
Description of problem for	

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF BOLTON

May 18, 2015

TO THE BOARD OF APPEALS

The undersigned hereby petition the Board of Appeals to vary the terms of the Zoning By-Laws of the Town of Bolton at premises: 470 Main Street, Bolton, MA 01740, in the following respect:

To grant front yard and side yard setback Variances to enable the Petitioner, Houde Realty Trust, to construct a building for business and service establishments at 470 Main Street, Bolton, MA 01740, as shown on the Site Plan and the Schematic Building Drawings filed herewith, or any limitation, extension, change, alteration or modification of use, or method of use as may at hearing appear necessary or proper in the premises.

Reasons for Variance

Your Petitioner, Houde Realty Trust, under a Declaration of Trust, dated June 6, 1980, recorded with Worcester District Registry of Deeds at Book 8522 Page 196, of which David P. Houde and Jane E. Houde, are the sole Trustees, is the owner two certain parcels of land with the buildings thereon situated at 470 and 476 Main Street, Bolton, MA 01740. For title of the Trust to 470 Main Street see deed at Book 46112 Page 196, for 476 Main Street, see deed recorded with Worcester District Registry of Deeds at Book 8522 Page 206. Copies of both Deeds are filed herewith. The subject parcel is in a Business District, and two Overlay Districts: Mixed Use Village District Overlay and Wireless Communication Overlay, and is shown on Assessors Map 4D as Parcel 29.

The subject lot contains 1.5 acres or 63,340 square feet (1.5 acres are required, see Section 250-13 Dimensional Regulations B), and fronts a distance of 200 feet along Main Street (200 feet are required see the same section). The Business District requires front yard setback of 150 feet, the front yard setback as shown on the Site Plans westerly boundary is 51.4 feet; and a side yard setback of 50 feet, and side yard setback as shown on the Site Plan is 25.0 feet on the westerly boundary. A copy of the proposed Site Plan is filed herewith. A presentation relative to the Site Plan will be made by Brandon Ducharme, of Ducharme & Dillis, Civil Design Group, Inc., of 1092 Main Street, Bolton, MA 01740.

Relief is sought by Variance from the provisions of Section 250-13 Dimensional Regulations B, as to both the front yard setback and the side yard setback. Your Petitioner seeks to construct a building for business and service establishments. A presentation relative to the proposed building will be made by Michelle Tuck RA, of Tuck + Tuck Architects, 29 Old Sugar Road, Bolton, MA 01740.

In order to grant the Variance the Board must find:

1. That owing to circumstances relating to the soil conditions, shape, or topography of such land or structures that uniquely affect such land or structures, but that do not affect generally the zoning district in which it is located; and

If the building was set back 150 feet from the roadway. The front of the building would begin approximately at the head the nine parking spaces shown in the rear parking area. This movement of the proposed building to the rear of the Lot would locate construction of the building substantially deeper into the Wetland Buffer Zone, rather than as the Site Plan proposes the less disruptive construction of the parking area in the wetland Buffer zone.

The proposed lesser set back also provides for improved traffic flow between the proposed building and the existing building at 476 Main Street.

2. That a literal enforcement of the provisions of the Bolton Bylaws would involve substantial hardship, financial or otherwise, to the applicant; and

Moving Construction back to the 150 foot setback would be more costly to the Petitioner, as it moves construction activity further into the buffer zone. It would place the new building further back from its neighboring structures, decreasing the all important visibility to the Main Street traffic so desired by prospective tenants in reaching a decision to make a rental commitment.

3. That desirable relief may be granted without substantial detriment to the public good; and

The setback of the proposed new building is 50.4 foot, the setback of your Petitioners existing building at 476 Main Street is 49.3 feet, and the setback of the gas station at 460 Main Street is 50.1 feet. The proposed setback for the new building effectively equalizes the setbacks of the all three buildings.

4. That desirable relief may be granted without nullifying or substantially derogating from the intent or purpose of the Bolton Bylaws.

Your Petitioner has no interest in proceeding under the Mixed Use Village Overlay District. Their experience and expertise over four decades in business has been in commercial not in residential development. However it is worthy to note that the Planning Board under that Special Permit process Section 250-23.2 J. (3), would have the authority to “approve decreased front yard or side yard setbacks to improve site design, ... or allow for consistency with the setbacks of abutting properties to allow new buildings

to relate to existing adjacent structures". The proposed Site Plan is consistent with these objectives.

Wherefore, your Petitioner respectfully requests that the Zoning Board of Appeals grant both the front yard setback and the side yard setback Variances to enable your Petitioner to construct a building for business and service establishments at 470 Main Street, Bolton, MA 01740, as shown on the Site Plan, or any limitation, extension, change, alteration or modification of use, or method of use as may at hearing appear as necessary or proper in the premises.

PETITIONER:
Houde Realty Trust

A handwritten signature in black ink, appearing to read 'P. Giannetti', is written over a horizontal line.

By its Attorney

Paul V. Giannetti
7 Felton Street
Hudson, MA 01749
Tel. 978-562-4737
Fax 978-568-8910
E-mail paul@giannetilaw.com

We, Hardy H. Smith and Thelma L. Smith
of Bolton, Worcester

County, Massachusetts,

being ~~unmarried~~, for consideration paid \$ 285,000.00 Two hundred eighty-five thousand
dollars

grant to David P. Houde and Jane E. Houde, Trustees of Houde Realty Trust
under a Declaration of Trust dated June 6, 1980 and recorded Worcester
District Registry of Deeds, ~~Book 6184~~ *15-84*

of 700 Main St., Hudson, MA 01749

with quitclaim covenants

~~the book~~

(Description and encumbrances, if any)

The land with the building thereon, on the Southerly side of main Street, Bolton,
Massachusetts, shown as Lot 1 on a plan entitled "Land in Bolton, Mass. surveyed
for Hardy H. & Thelma L. Smith, Scale: 1" = 40', November, 1984. Plan by Charles
A. Perkins Co., Inc., Civil Engineers & Surveyors, P.O. Box 234, Clinton, MA
01510" and more particularly bounded and described as follows:

PLAN BOOK 529 PLAN 43

Beginning at the Northwesterly corner of the premises at Main Street (Rt. 117)
and land now or formerly of Roger K. and Shirley N. Kane as shown on said plan,
and thence running Southerly along said Kane property, a distance of 588.53 feet,
thence turning and running in a Southwesterly direction still along said Kane
property a distance of 81.48 feet,

Thence turning and running in a Northeasterly direction along said Kane property
a distance of 238.52 feet to land of the Grantors,

Thence turning and running in a Northeasterly direction along land of the Grantors
a distance of 44.46 feet,

Thence turning and running in a Northeasterly direction still along land of the
Grantors for a distance of 192.30 feet,

Thence turning and running in a Northeasterly direction still along land of the
Grantors for a distance of 208.50 feet,

Thence turning and running still in a Northeasterly direction along land of the Grantors
for a distance of 85.00 feet,

Thence turning and running still in a Northeasterly direction along land of the
Grantors for a distance of 100.00 feet,

Thence turning and running in a Northwesterly direction along land of the Grantors
for a distance of 37.85 feet to Main Street,

Thence turning and running along the Southerly side of Main Street in a Northwesterly
direction for a distance of 217.59 feet to the point of beginning.

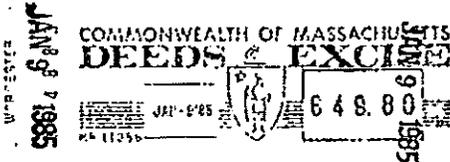
Lot 1 containing 2.64 acres more or less.

Also intending to convey hereunder is the right and easement to pass and repass,
by both foot and by motor car, over and upon that portion of an existing driveway
as presently constructed on the Grantors' premises, as noted on said plan, to be
used as driveways are used in the Town of Bolton.

Said plan to be recorded herewith.

Being a portion of the premises conveyed to the Grantors by a deed dated May 2, 1977
and recorded in the Worcester Registry of Deeds Book 6184, Page 37.

476 Main St., Bolton, MA



Witness their hand and seal this 8th day of January 19 85

..... Hardy H. Smith
..... Hardy H. Smith
..... Thelma L. Smith
..... Thelma L. Smith

The Commonwealth of Massachusetts

Worcester

ss.

January 8

19 85

Then personally appeared the above named Hardy H. Smith and Thelma L. Smith

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

before me


.....
Michael Hazard Notary Public

My Commission expires 1/18 19 91

Recorded JAN 9 1985 at 11:00 AM



Bk: 46112 Pg: 196
Page: 1 of 2 08/02/2010 01:27 PM WD

MASSACHUSETTS EXCISE TAX
Worcester District ROD #20 001
Date: 08/02/2010 01:27 PM
Ctrl# 096971 05882 Doc# 00081756
Fee: \$2,822.00 Cons: \$575,000.00

EXECUTOR'S DEED

I, David B. Smith, Executor of the Estate of Hardy Handford Smith

By power conferred by the Worcester Probate and Family Court Department
Docket Number WO10P0814EA and every other power,

In Consideration of Five Hundred Seventy-Five Thousand and no/100 (\$575,000.00)-----
-----Dollars

Grant to David P. Houde and Jane E. Houde, Trustees of the Houde Realty
Trust i/d/t dated June 6, 1980 recorded with Worcester District Reg.
of deeds in Book 8522, Page 196
of 470 Main Street, Bolton, MA

With Quitclaim Covenants

The land in Bolton, Worcester County, Massachusetts, situated on the southerly side of
Boston Road and more particularly described as Lot A2 on plan of land entitled "Land in
Bolton, owned by Ralph D. Smith and Mabel C. Smith, Harland E. Tuttle, Surveyor,
Scale 100' = 1" bounded and described as follows:

BEGINNING at a point on the southerly side of Boston Road at the northwesterly corner
thereof;

THENCE S. 11° 39' 20" W., by Lot A1 on said plan 588.53 feet to a point;

THENCE S. 49° 59' 10" E., still by said Lot A1 81.48 feet to a point;

THENCE N. 78° 45' 30" E., still by said Lot A1 238.62 feet to a point at land now or
formerly of Roger K. Kane et ux;

THENCE N. 26° 48' E., still by said Kane land 148.47 feet to a point;

THENCE N. 44° 50' W., still by said Kane land 81.33 feet to a D.H. in rock;

THENCE N. 24° 32' E., still by said Kane land 67.65 feet to a D.H. in rock;

THENCE N. 65° 47' 30" W., still by said Kane land 100.6 feet to a D.H.;

THENCE N. 31° 18' E., still by said Kane land 154.13 feet to Boston Road;

THENCE by said Boston Road by a curve to the right having a radius of 5600.00 feet,
342.58 feet to a W.C.B.;

Property: 470 Main Street, Bolton, MA

2

2 WB

THENCE N. 66° 24' 33" W., continuing along said Boston Road 75.41 feet to the point of beginning.
CONTAINING 4.22 acres of land according to said plan recorded in Plan Book 253, Plan 38.
BEING the same premises conveyed to Hardy H. Smith and Thelma L. Smith by deed of Mabel C. Smith dated May 2, 1977 and recorded with the Worcester District Registry of Deeds in Book 6184, Page 37.

Witness my hand and seal this 27th day of July 2010

Witness

David B. Smith
David B. Smith, Executor

COMMONWEALTH OF MASSACHUSETTS

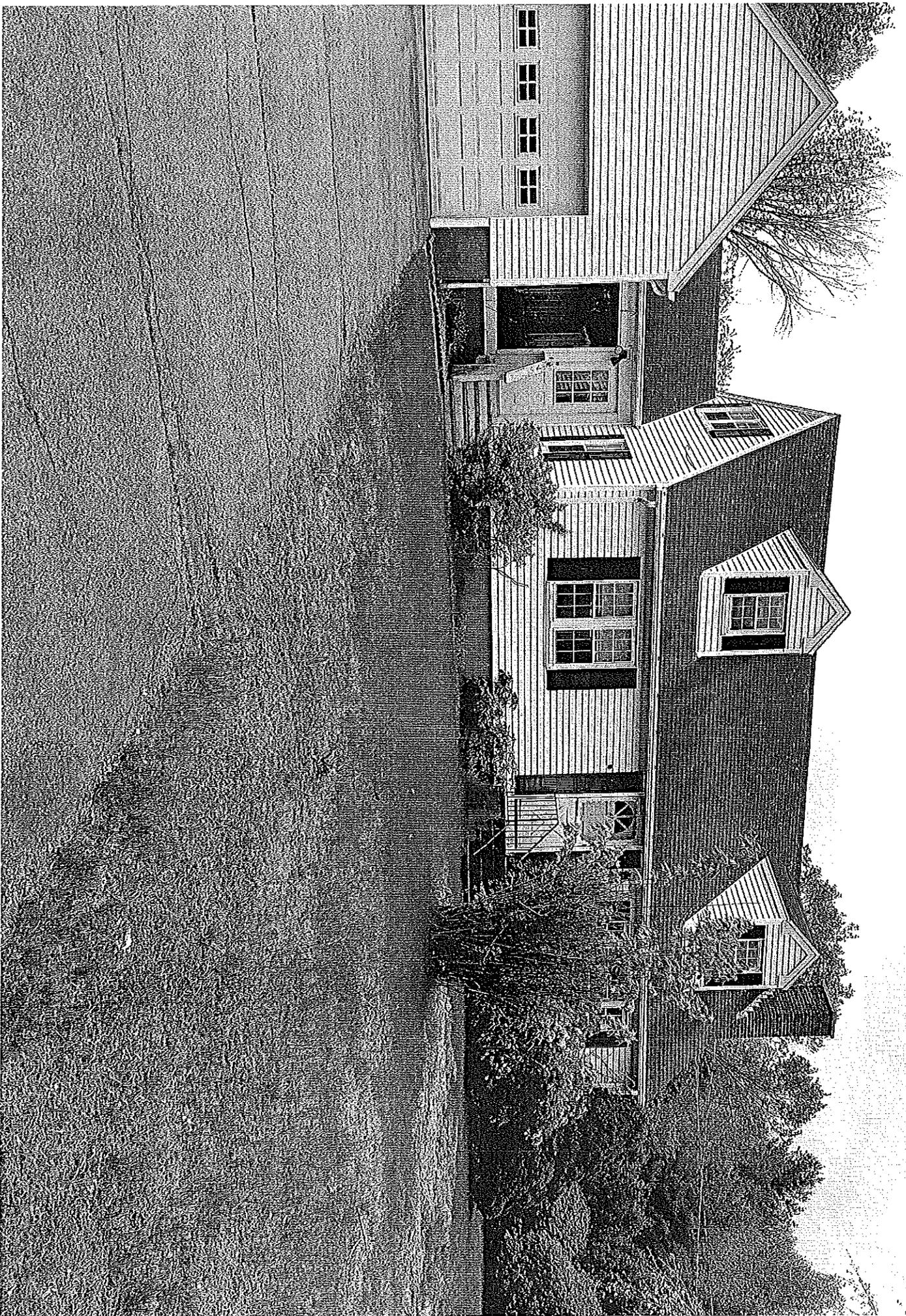
WORCESTER, SS.

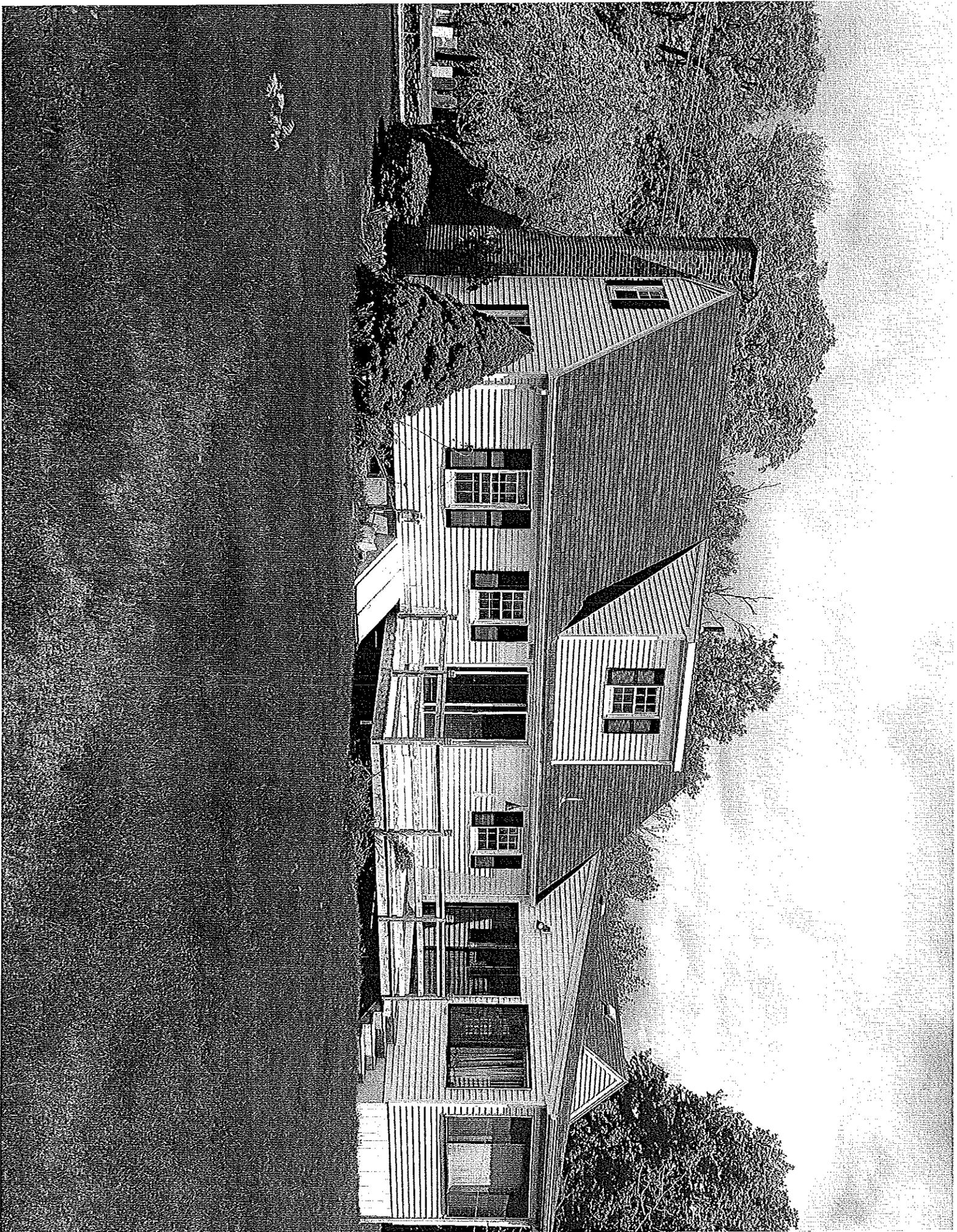
, 2010

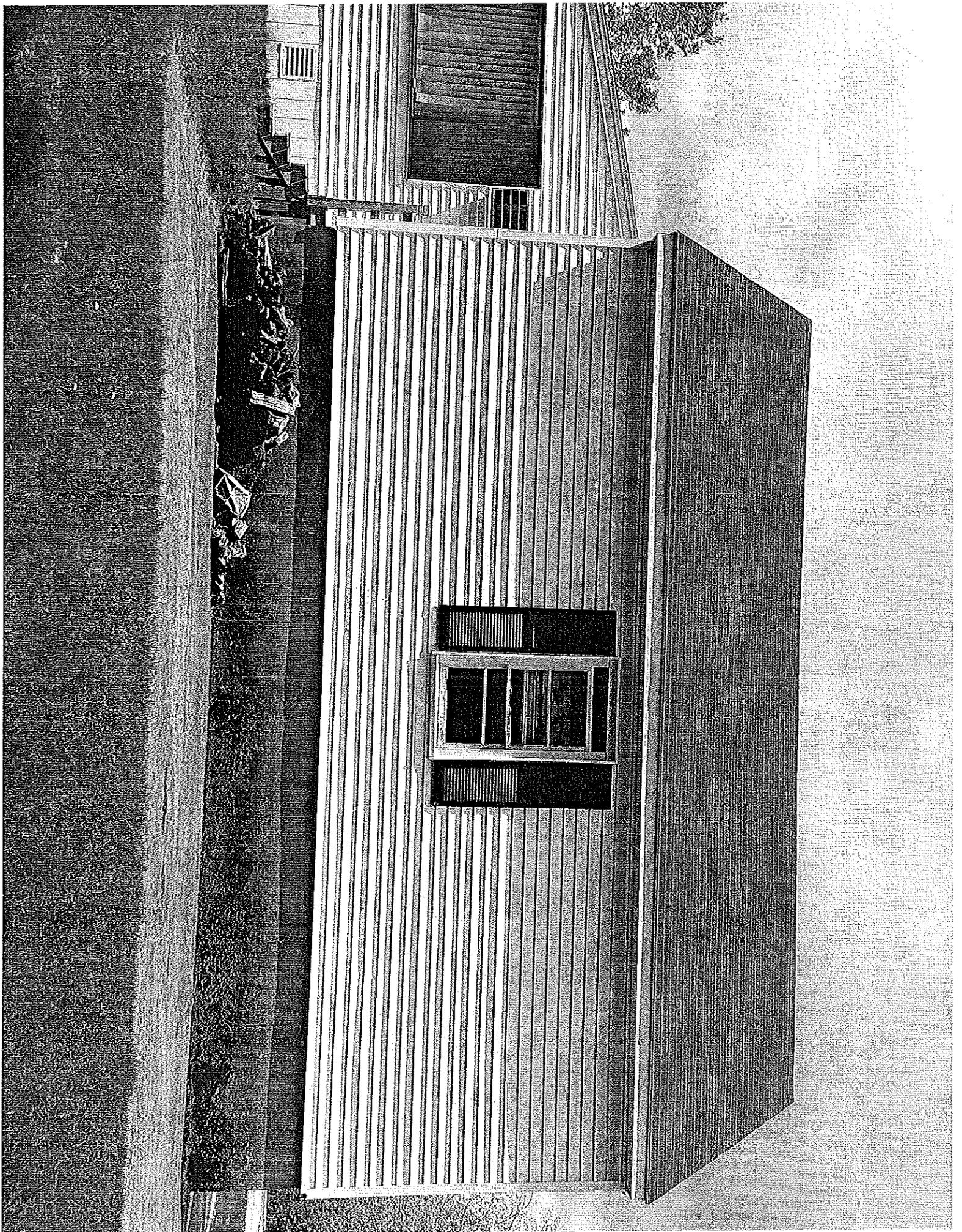
On this 27th day of July, 2010, before me, the undersigned notary public, personally appeared David B. Smith, proved to me through satisfactory evidence of identification, which was a Massachusetts Drivers License, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Gerald E. Shugrue
Gerald E. Shugrue, Notary Public

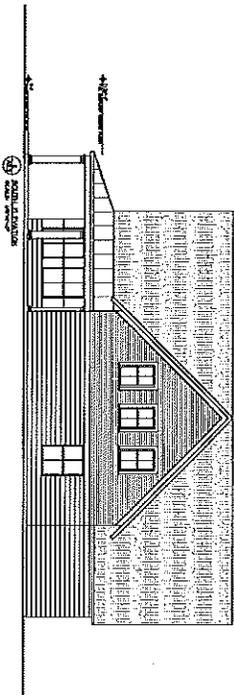
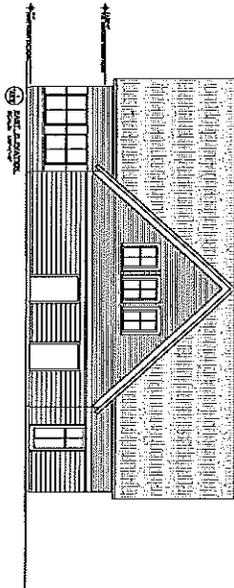
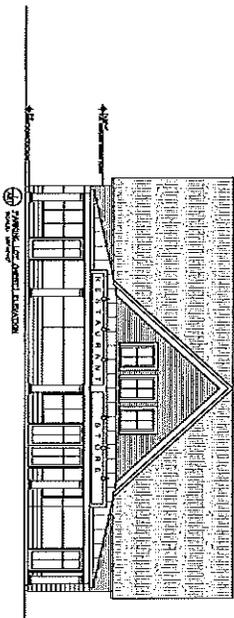
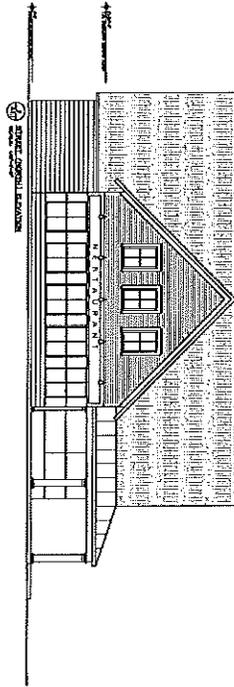
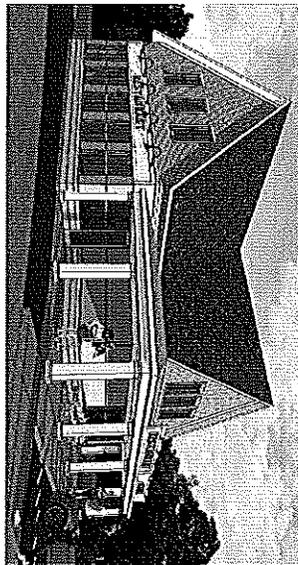
My Commission Expires: December 14, 2012











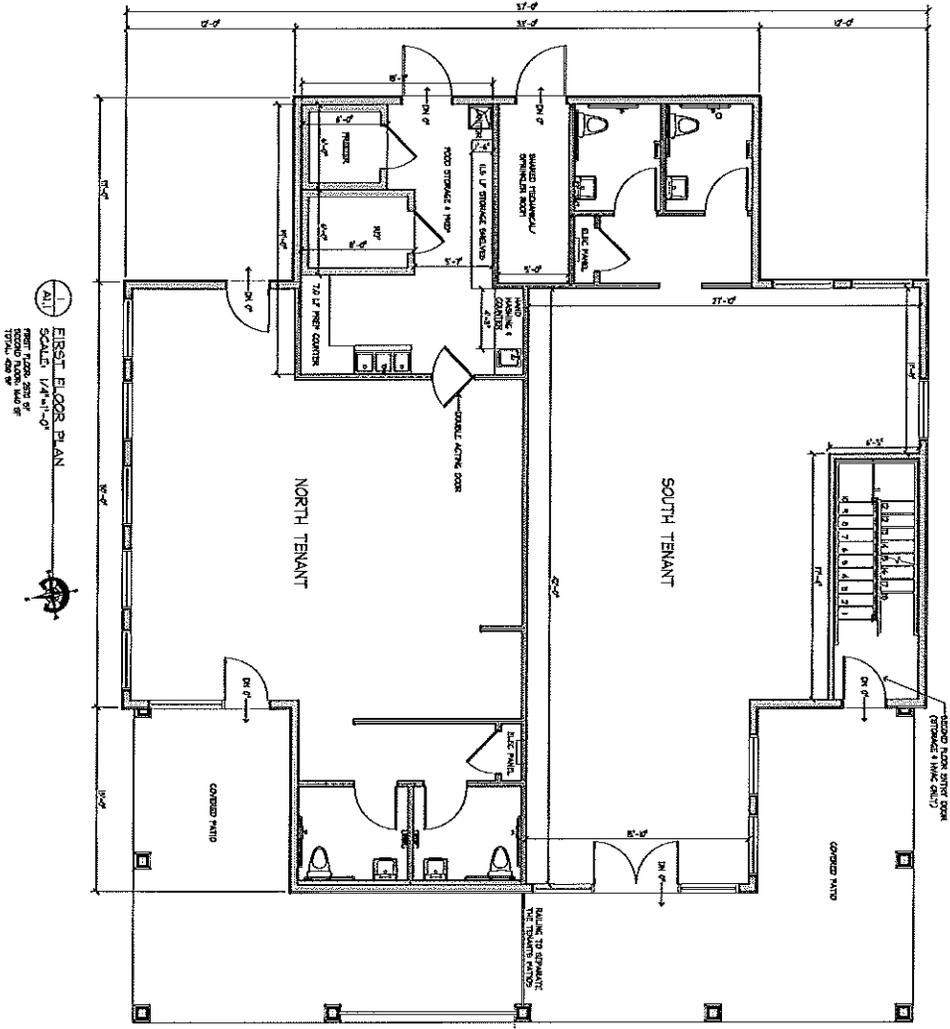
ATTUCK & TUCK
ARCHITECTS
100 MAIN STREET, SUITE 200
BOLTON, MASSACHUSETTS
01507
TEL: 978.688.1100
WWW.ATTUCKANDTUCK.COM

Project:
NEW BUILDING
470 MAIN STREET
BOLTON, MA

Sheet Title:
EXTERIOR ELEVATIONS

DATE	BY	REVISION

Sheet Number:
A2.1



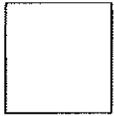
(A1.1) **FIRST FLOOR PLAN**
 SCALE: 1/4"=1'-0"
 PRINT FILED: 2010 BY
 TLUK ARCHITECTS

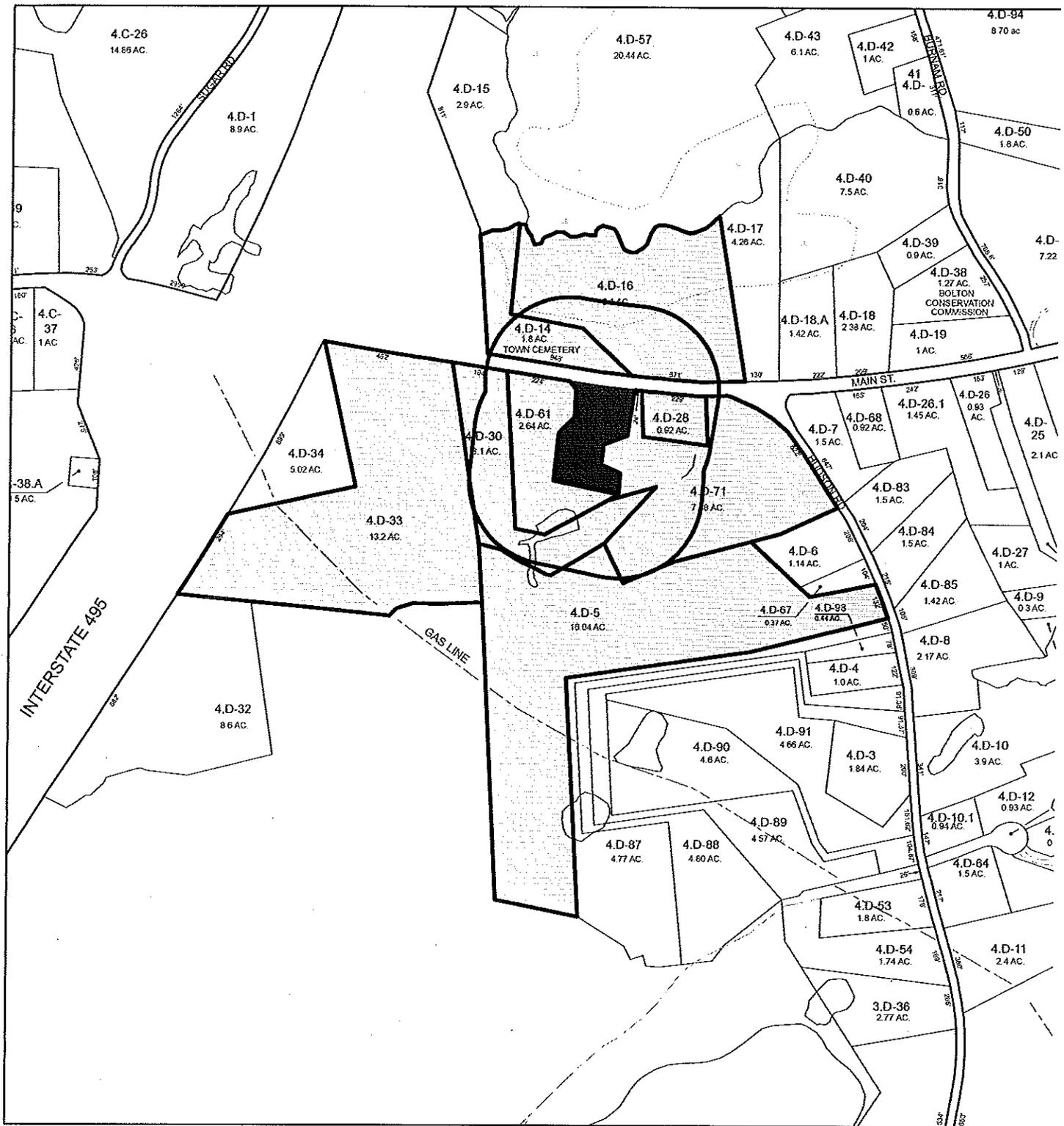
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NO.	DATE	DESCRIPTION

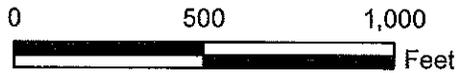
Sheet Title:
FIRST FLOOR PLAN

Project:
NEW BUILDING
 470 MAIN STREET
 BOLTON, MA

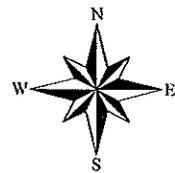




**Abutters List - 300 Ft / Map 4D-29/
Bolton**



5/13/2015



Certified: Cynthia Bradley

KNOX TRAIL COUNCIL INC - BSA
490 UNION AVE
FRAMINGHAM, MA 01701

TOWN OF BOLTON
PAN CEMETERY
P O BOX 278
BOLTON, MA 01740

KANE SHIRLEY M TR
FIRST BOLTON REALTY TR
5 KANE INDUSTRIAL DR
HUDSON, MA 01749

FIRST BOLTON GAS LLC
5 KANE INDUSTRIAL DR
HUDSON, MA 01749

FIRST BOLTON LAND LLC
5 KANE INDUSTRIAL DR
HUDSON, MA 01749

FIRST BOLTON LAND LLC
5 KANE INDUSTRIAL DR
HUDSON, MA 01749

HOUDE REALTY TR DAVID P
JANE HOUDE
476 MAIN ST
BOLTON, MA 01740

FIRST BOLTON LAND LLC
5 KANE INDUSTRIAL DR
HUDSON, MA 01749

Abutters List Report

Town of Bolton, MA

May 13, 2015

Subject Properties:

004.D-0029.0	HOUDE DAVID P & JANE E, TR
004.D-0000-0029.0	HOUDE REALTY TR
470 MAIN ST	470 MAIN ST
	BOLTON, MA 01740

Parcel Number: 004.D-0005.0	Mailing Address: KNOX TRAIL COUNCIL INC - BSA
Cama Number: 004.D-0000-0005.0	490 UNION AVE
Property Address: 0 HUDSON RD PAR-F-G-I	FRAMINGHAM, MA 01701

Parcel Number: 004.D-0014.0	Mailing Address: TOWN OF BOLTON
Cama Number: 004.D-0000-0014.0	PAN CEMETERY
Property Address: 477 MAIN ST	P O BOX 278
	BOLTON, MA 01740

Parcel Number: 004.D-0016.0	Mailing Address: KANE SHIRLEY M TR
Cama Number: 004.D-0000-0016.0	FIRST BOLTON REALTY TR
Property Address: 0 MAIN ST	5 KANE INDUSTRIAL DR
	HUDSON, MA 01749

Parcel Number: 004.D-0028.0	Mailing Address: FIRST BOLTON GAS LLC
Cama Number: 004.D-0000-0028.0	5 KANE INDUSTRIAL DR
Property Address: 460 MAIN ST	HUDSON, MA 01749

Parcel Number: 004.D-0030.0	Mailing Address: FIRST BOLTON LAND LLC
Cama Number: 004.D-0000-0030.0	5 KANE INDUSTRIAL DR
Property Address: 0 MAIN ST	HUDSON, MA 01749

Parcel Number: 004.D-0033.0	Mailing Address: FIRST BOLTON LAND LLC
Cama Number: 004.D-0000-0033.0	5 KANE INDUSTRIAL DR
Property Address: 0 MAIN ST	HUDSON, MA 01749

Parcel Number: 004.D-0061.0	Mailing Address: HOUDE REALTY TR DAVID P
Cama Number: 004.D-0000-0061.0	JANE HOUDE
Property Address: 476 MAIN ST	476 MAIN ST
	BOLTON, MA 01740

Parcel Number: 004.D-0071.0	Mailing Address: FIRST BOLTON LAND LLC
Cama Number: 004.D-0000-0071.0	5 KANE INDUSTRIAL DR
Property Address: 0 MAIN ST	HUDSON, MA 01749



TOWN OF BOLTON
ASSESSORS OFFICE
TOWN HALL
663 MAIN STREET
BOLTON, MASSACHUSETTS 01740
PHONE (978) 779-5556 FAX (978) 779-5461

Date of Application 5/13/2015

REQUEST FOR LIST OF ABUTTERS

Effective August 24, 2004, anyone requesting a list of abutters must give at least three (3) working days notice. This notice will allow the Assessors Office sufficient time necessary to prepare the list of Abutters.

Effective July 1, 2004, the fee schedule is \$15 per certified abutters list.

**Please note that these fees apply to preparation of new list or verification or reverification of an existing list.*

Please indicate with a check

Immediate Abutters (Board of Selectmen)

Board of Appeals, Planning Board, Site Plan review - within 300 feet

Conservation Commission within 100 feet or distance = _____ feet

Planning Board for sub division - 500 feet

Abutter to Abutter within distance of _____ feet

Map 4D Parcel(s) 29

HOWDE REALTY TRUST
 Applicant (please print)

470 MAIN ST
 Location of Property

Signature of Applicant
PAUL V. GIANNETTI, ATTORNEY FOR
7 FELTON STREET (978) 562-4737 (978) 568-8916
 Mailing Address of Applicant Telephone Number FAX Number

ITAPSON, MA 01749

PLEASE NOTE: THIS ABUTTERS LIST IS VALID FOR SIX MONTHS

E-MAIL paul@giannettilaw.com

