

PHILBIN & O'NEIL, LLC
Counselors at Law
43 High Street
Clinton, MA 01510

David A. Philbin
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Daniel A. Notaro
June 2, 2014

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Facsimile: 978-368-8411

Bolton Zoning Board of Appeals
c/o Bolton Town Clerk
P.O. Box 278
Bolton, MA 01740

**Re: Premises: 562 Main Street, Bolton, MA
Application for Special Permit**

Dear Town Clerk:

Please find enclosed Application for Special Permit to alter and extend a nonconforming structure for the Premises at 562 Main Street. A separate application for dimensional variances is being filed simultaneously.

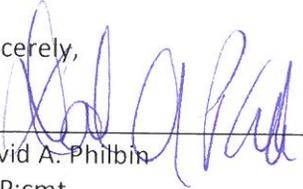
Request is made for a simultaneous hearing as soon as possible on both this application and the one for the dimensional variances.

Included with the Application please find the following:

1. Filing Fee for \$242.00;
2. Nine (9) Copies of Application;
3. Eight (8) Copies of premises and structures (2 Sets); and
4. Eight (8) Copies of certified abutting copies.
5. The eight certified plans submitted with the variance are incorporated by reference as part of this application to avoid redundancy.

Thank you for your attention.

Sincerely,



David A. Philbin

DAP:cmt

Enclosures: stated

which relief is sought:	Special Permit to Alter and Extend Non-Conforming Structure. See Attached Brief.
Applicable section(s) of Zoning Bylaws or other reference for consideration by Board of Appeals:	2.1.3.3 - See Attached Brief
Justification for request: (attach additional information if necessary)	See Attached Brief
<p>The undersigned certifies that he/she has read and examined this application and the Bolton Zoning Board of Appeals Rules and Regulations, and that the proposed project is accurately represented in the statements made in this application.</p>	
<p>I hereby request a hearing before the Board of Appeals with reference to the above application.</p>	
<p><u><i>Chris King, Jr.</i></u> Property Owner's Signature (REQUIRED)</p>	<p><u>May 29th 2014</u> Date</p>
<p><u><i>David A. Phibbin</i></u> Applicant's Signature (if different from owner)</p>	<p><u>6/2/14</u> Date</p>

This form, completed by the applicant, must accompany the pertinent application materials (see sections 4, 5, or 6 of the Zoning Board of Appeals Rules and Regulations) to comprise a complete application.

This application will be reviewed by the Board of Appeals. An application found to be incomplete upon receipt by the Board of Appeals may be returned to the applicant for completion and re-filing. The date of any re-filing shall be the date of the application.

**ZONING BOARD OF APPEALS
TOWN of BOLTON**

In re: Application Special Permit for 562 MAIN ST, BOLTON, MA

Applicant: Wachusett Realty LLC

Application and Brief

To the Honorable Bolton Zoning Board of Appeals:

The Applicant/Petitioner, Wachusett Realty LLC is a Massachusetts limited liability company and parent of Clinton Savings Bank a Massachusetts savings bank with a principal office at 200 Church St. Clinton, MA. The Applicant hereby submits this Brief in support of its application for a special permit concerning the alteration of a nonconforming structure, a single family residence, located on the Premises at 562 Main St. Bolton, MA, (The Premises). The current owner of the Premises is R. Lee Bracey, Jr. via a deed recorded at Worcester District Deeds Book 5114 Page 579 (Exhibit A). The Applicant has simultaneously filed a separate application for relief from the Board of Appeals seeking a number of dimensional variances due to the lot size and set back requirements in the district. Upon receipt of favorable action by the Board of Appeals, the Applicant intends to seek a special permit from the Planning Board to allow it to conduct its business at the 562 Main St property.

HISTORY AND BACKGROUND

The Premises consist of a single family residence approximately 90 years old and is situated upon .85 acres of land parcel on the southerly side of Main Street, (the Great Road) in Bolton. The current owner has resided on the Premises for in excess of forty years. The Premises are located in a limited business district. The present home is a nonconforming structure and is in violation of many of the dimensional requirements set forth for the limited business district, including lot size, lot street frontage, front and side yard setback requirements and width of the lot. The use of the home as a residence is a nonconforming use in the limited business district.

NATURE AND PURPOSE OF THE PETITION

The Applicant is seeking a special permit to alter and extend A nonconforming structure located on the Premises pursuant to Section 2.1.3.3 of the Bolton bylaw. The Applicant would like to alter the structure by replacing it with a proposed structure shown on the **attached Plan (Exhibit B)**. The proposed structure would be used as a branch Bank for the Applicant's subsidiary, Clinton Savings Bank. In order to

do such construction, the Applicant needs the Approval of the Board of Appeals. The contemplated use for a branch bank is a use which is allowed in the limited business district upon application to and issuance of a special permit from the Planning Board acting as the permitting authority. The Applicant intends to apply for such approval from the Planning Board after it receives approval from this Board of this special permit request and the related variances the permit allowing it to alter, renovate, and extend the current structure on the Premises.

The current home has about 1360 square feet of interior space. The Applicant intends to use the existing footprint of the home with an altered and extended building upon completion containing approximately 2000 square feet for an increase of no more than 50% and less than 680 square feet of additional space.

CRITERIA FOR SPECIAL PERMIT

The criteria for the grant of a Special Permit to alter a nonconforming structure pursuant to Section 2.1.3.3 of the Bolton Zoning Bylaw is that the alteration should not be substantially more detrimental to the neighborhood than the existing nonconforming structures or uses. Applicant submits that the proposed change will be in harmony with the general intent and purpose of the zoning bylaw and the district in which the Premises are located. To summarize section 2.1.3.3 of the Bylaw, generally any increase of no more than 100 per cent of the floor area for a structure existing prior to April of 1972 or 50 % of the ground area in use shall be considered as not substantially more detrimental to the neighborhood than the prior nonconforming structure. The existing structure has about 1360 square feet of floor space. The proposed structure would have no more than 1982 square feet which amounts to less than a fifty per cent increase in floor space.

If a special permits issue from this Board and the Planning Board then the Town will have a conforming use rather than a nonconforming use upon this lot in the limited business district. The use of this property as residence is difficult at best and less desirable for many reasons. The current home is surrounded by business uses both across the street and next door. Should the current owner be forced to sell this property as a residence, he is likely to suffer a great financial loss. It would be difficult at best to obtain a fair price to continue to use the existing structure as a home when the building is surrounded by business properties and is situated on a very busy road. Even the Town in its wisdom voted to zone the area in a manner that residential use was not a permitted use.

Furthermore there is a history of the Bolton ZBA approving special permits and zoning relief similar to those requested herein. Reference is made to the nonconforming structures and dimensional relief granted to the adjacent property (the Animal Clinic) and to the property at 579 Main St which also contained a nonconforming structure and use. Reference is further made to the current Post Office Building as well as the real estate office at 1084 Main St. each of those properties were granted special permits to alter nonconforming structures and variances for relief from several dimensional requirements of the limited business district.

There will be no negative impact to the zoning district as a result of the proposed use. The Applicant already has a branch across the street. The relocation to the 562 Main will not likely result in any significant increase in traffic and may actually produce better traffic flow as fewer vehicles will be exiting from the Premises where Applicant currently does business on the north side of Main St.

There will be no changes required for access to the Premises but interior traffic flow will be controlled by the Applicant with use of one way traffic and off street parking. No offsite improvements are deemed required.

There will be no substantial detriment to the neighborhood by the enhancement of the building and its transformation from a residence to a bank.

The proposed use of the Premises for a branch bank is consistent with the uses contemplated and set out under the limited business district zoning by law.

PROPOSED FINDINGS AS TO THE SPECIAL PERMIT

1. The neighborhood is zoned limited business;
2. The existing residential structure has existed as nonconforming structure for many years and prior to the adoption of zoning;
3. The properties adjacent to and across the street are currently used for business use.
4. Use of the premises for a branch bank will be consistent with that of the abutting properties;
5. The existing structure has 1360 square feet of space. Expansion of the existing structure to 1982 square feet of interior space will be less than 100 per cent of the existing floor space of the current structure and therefore such addition and extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure;
6. The proposed increase in square footage being less than fifty per cent of the existing square footage of the current building is not substantially more detrimental to the neighborhood.
7. The proposed improvements to the Premises will have no negative impact on the environment.
8. Applicant currently operates a branch bank directly across the Street from 52 main St. and currently has a drive up window at the existing facility.
9. There would be no significant increase in vehicular traffic on Main Street as result of Applicant's use of 562 Main St for banking purposes as many of its customers

will simply be changing the location on Main St as to where they conduct business with the Applicant.

10. The proposed improvements will be aesthetically pleasing from the Street.
11. The proposed improvements to the property will have no negative fiscal impact but should instead result in an increase in tax revenue for the Town.

In light of the above, Applicant respectfully requests that the Zoning Board grant:

1. A special permit to allow the Applicant to alter, renovate, and extend the nonconforming structure located on the Premises at 562 Main St Bolton, MA to include a building containing no more than 1982 square feet consistent with the plans on file with the Board as part of the Application and in compliance with any variances granted by this Board as applicable to the Premises at 562 Main St. Bolton..
2. Such other relief as the Board may deem proper and appropriate.

Wachusett Realty, LLC,
By its attorney



David A. Philbin
Philbin & O'Neil, LLC
43 High Street
Clinton, MA 01510
978-365-4587

I, Howard F. Atwood

of Bolton, Worcester County, Massachusetts,

being unmarried, for consideration paid, and in full consideration of twenty-three thousand and four hundred dollars (\$23,400.00) grant to R. Lee Bracy Jr. and Walthea M. Bracy, husband and wife, to hold as tenants by the entirety, both of 83 Pleasant Street, of Marlborough, Middlesex County, Massachusetts, with quitclaim covenants

the land in said Bolton on the southerly side of the County Road leading from Bolton center to Boston bounded and described as follows, viz;

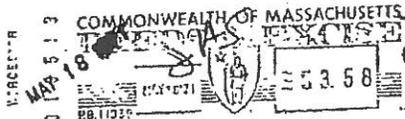
~~Beginning at the southerly corner of the lot at said County Road at land now or formerly of one John W. Atwood;~~

Beginning at an iron post at the northeasterly corner of the lot at said County Road at land now or formerly of one John W. Atwood; thence running by said road westerly 129 3/10ths feet to an iron post at land now or formerly of one Paul R. Holman; thence running south by said Holman land three hundred (300) feet more or less to an iron post at other land now or formerly of said Holman; thence running easterly by land of said Holman one hundred twenty-nine (129) feet to an iron post at the southwest corner of said land now or formerly of said John W. Atwood; thence running northerly by said land now or formerly of said John W. Atwood three hundred two (302) feet more or less to the bound first mentioned. Containing one hundred forty-three (143) rods more or less.

The above described parcel is shown as Lot C on "Partial copy of plan of land owned by Howard Atwood situated in Bolton, Massachusetts, dated November 1917 by Welsh & Parker C.E. which is recorded with Worcester District Deeds Plan Book 97, Plan 5."

Saving and excepting so much thereof as was taken for the relocation of said road.

Being the same premises described in a deed by Ruth I. Atwood administratrix of the estate of Robert F. Atwood by her deed dated September 20th, 1963 and recorded with Worcester District Registry of Deeds Book 4405, Page 199.



husband of said grantee.
wife of

~~I, the undersigned, do hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the District Registry of Deeds for the County of Worcester, Massachusetts.~~

Witness my hand and seal this 17th day of May 1971

Howard F. Atwood

The Commonwealth of Massachusetts

Worcester

ss.

May 17,

19 71

5114

579

B. 14265
P. 222

Dis of tax
Lun
B 12327
P 394

5114

580

Then personally appeared the above named **Howard F. Atwood**

and acknowledged the foregoing instrument to be his free act and deed, before me

Henry W. Pickford
Henry W. Pickford Notary Public - Middlesex County
My Commission Expires August 21, 1975

Recorded May 18, 1971 at 1h. 20m. P. M.

■ END OF INSTRUMENT ■

Discharge
B13144
P. 293

REAL ESTATE MORTGAGE

We, R. Lee Bracy, Jr. and Walthea M. Bracy, husband and wife,
as tenants by the entirety, both of

ss: Marlborough, Middlesex County, Massachusetts

for consideration paid, grant to

HUDSON SAVINGS BANK,

a banking corporation duly organized under the laws of the Commonwealth of Massachusetts and having an usual place of business in Hudson, Middlesex County, Massachusetts, (hereinafter with its successors and assigns referred to as Mortgagee);

with MORTGAGE COVENANTS to secure the payment of

-----NINETEEN THOUSAND, NINE HUNDRED and 00/100 (19,900.00) ----- Dollars
with interest thereon payable in monthly installments, as provided in note of even date, and the observance and performance of all the covenants and agreements of this mortgage and of said note;

the land with all the buildings and structures now or hereafter standing or placed thereon, situated in Bolton, Worcester County, Massachusetts on the southerly side of the County Road leading from Bolton center to Boston bounded and described as follows, viz;

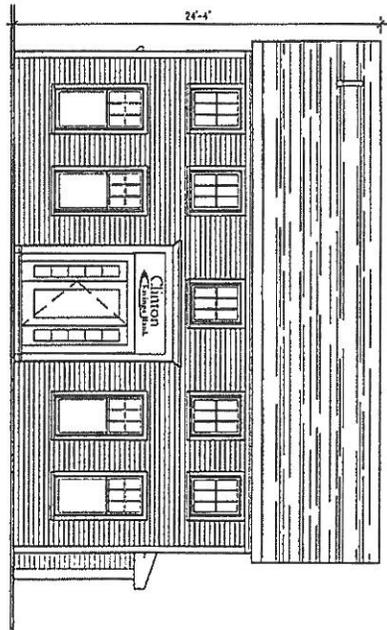
Beginning at an iron post at the northeasterly corner of the lot at said County Road at land now or formerly of one John W. Atwood; thence running by said road westerly 129 3/10ths feet to an iron post at land now or formerly of one Paul R. Holman; thence running south by said Holman land three hundred (300) feet more or less to an iron post at other land now or formerly of said Holman; thence running easterly by land of said Holman one hundred twenty-nine (129) feet to an iron post at the southwest corner of said land now or formerly of said John W. Atwood; thence running northerly by said land now or formerly of said John W. Atwood three hundred two (302) feet more or less to the bound first mentioned. Containing one hundred forty-three (143) rods more or less.

The above described parcel is shown as Lot C on "Partial copy of plan of land owned by Howard Atwood situated in Bolton, Massachusetts, dated November 1917 by Walsh & Parker C.E. which is recorded with Worcester District Deeds Plan Book 97, Plan 5."

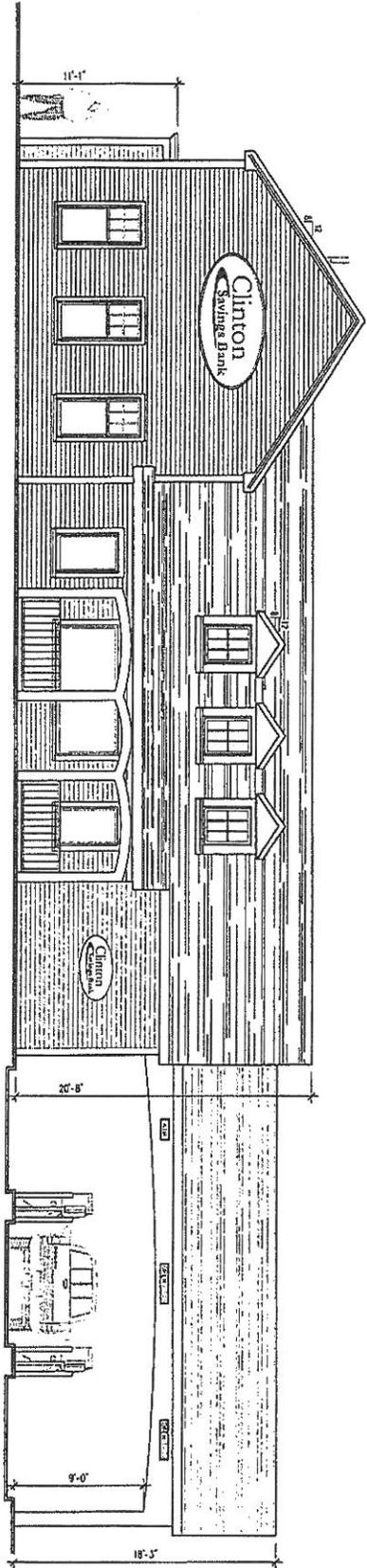
Saving and excepting so much thereof as was taken for the relocation of said road.

For title see deed of Howard F. Atwood to us to be recorded herewith.

Exhibit B



1 Schematic Front Elevations
 SK2.2 SCALE: 1/8" = 1'-0"

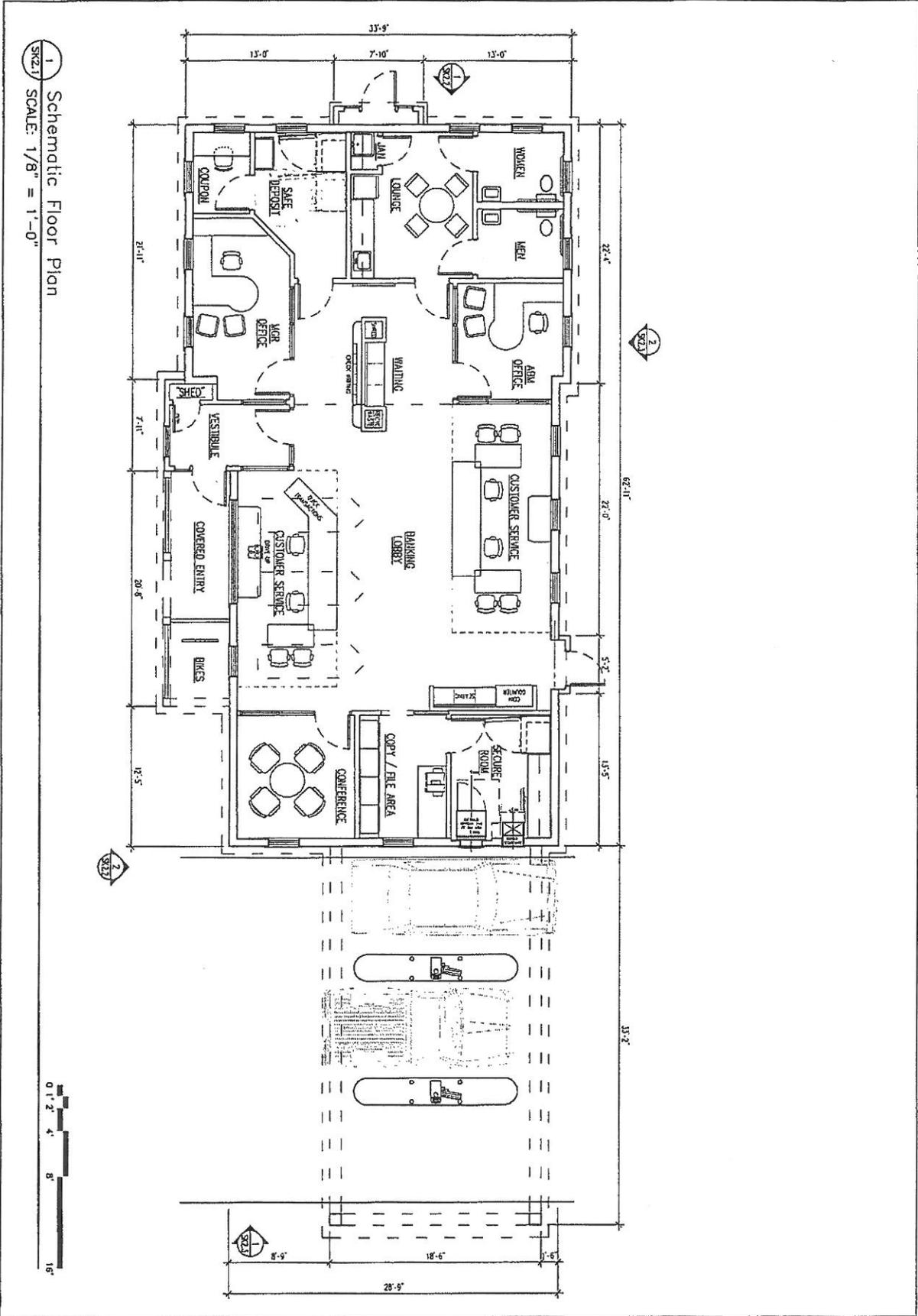


2 Schematic Right Side Elevation
 SK2.2 SCALE: 1/8" = 1'-0"



SHEET NUMBER SK2.2	REVISION C SCHEMATIC EXTERIOR ELEVATIONS	DATE: 18 APR 14 SCALE: 1/8" = 1'-0" DRAWN: CM	562 Main Street Bolton, MA 01740
		APPROACH ARCHITECTS 36 Bromfield St. Suite #40+ Boston, MA 02108 TEL (617) 556-2627 FAX (617) 556-486+	

Exhibit B



1 Schematic Floor Plan
 SK2.1 SCALE: 1/8" = 1'-0"



SHEET NUMBER SK2.1	SCHEMATIC FLOOR PLAN REVISION C	Clinton Savings Bank 562 Main Street Bolton, MA 01740
		APPROACH ARCHITECTS 36 Bramfield St. Suite #404 Boston, MA 02108 TEL (617) 558-2627 FAX (617) 558-4884

Exhibit C



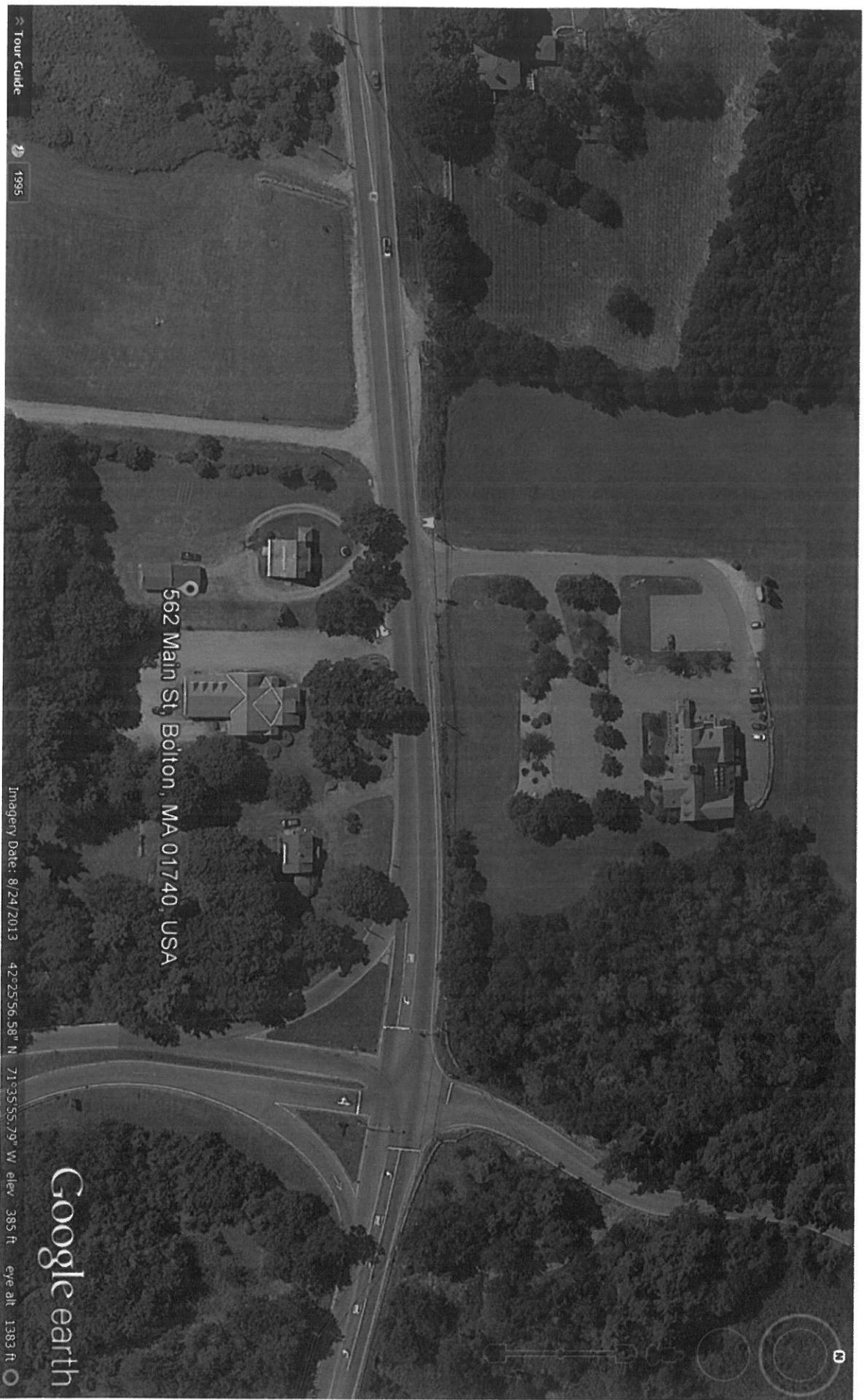
Report a problem
Tour Guide

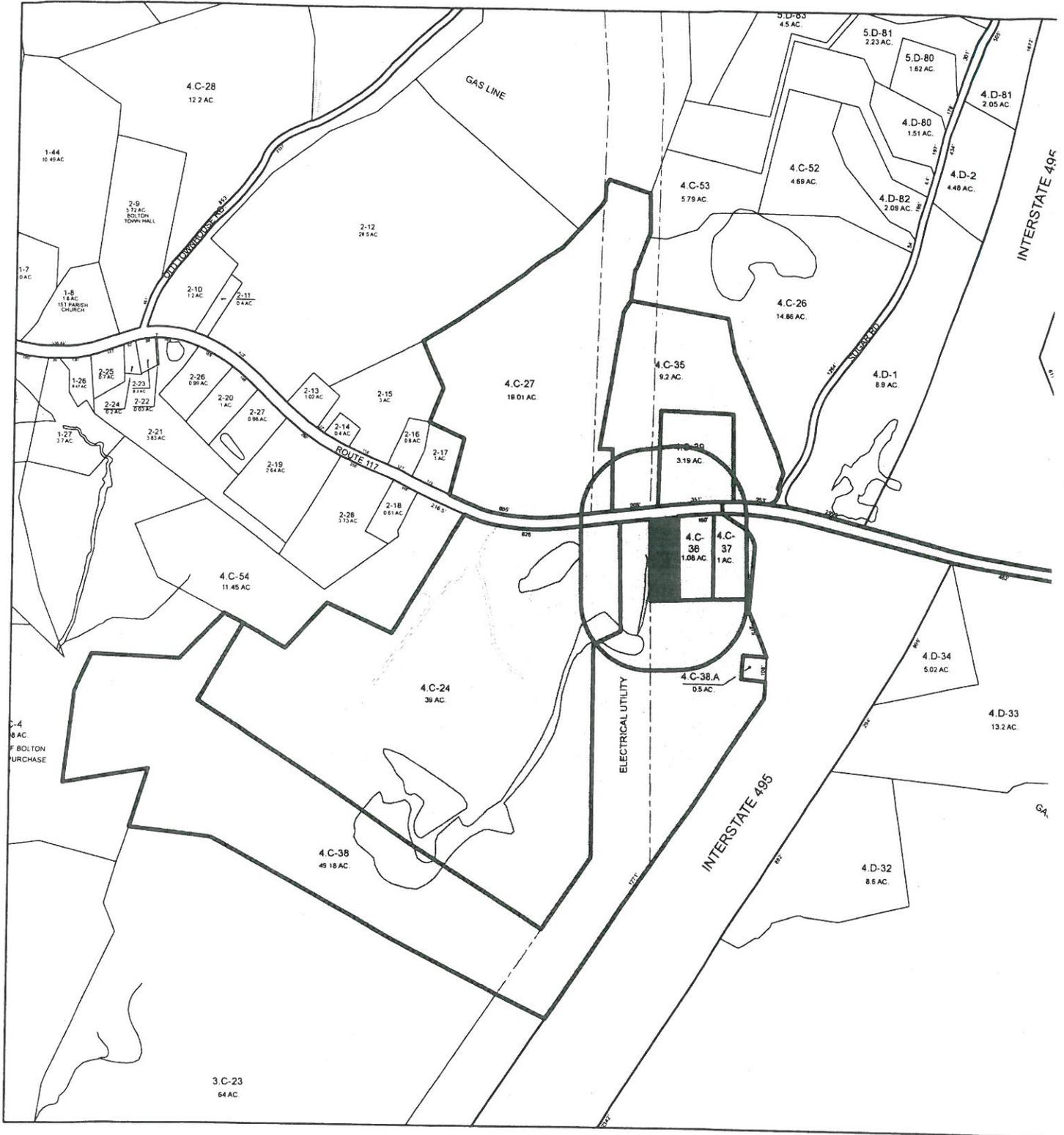
© 2014 Google
© 2014 Google

Imagery Date: 11/2011 42°25'50.16" N 71°35'44.95" W elev 471 ft eye alt 347 ft

Google earth

Exhibit D





Abutters List - 300 Ft / Map 4C-25 / 562 Main Street



5/27/2014



Certified: Cynthia Bradley
Certified: Cynthia Bradley

BOLTON OFFICE PARK LLC
1150 WEST CHESTNUT STR, STE 3
BROCKTON, MA 02301

BOLTON PROPERTY MANAGEMENT
579 MAIN ST
BOLTON, MA 01740

FREIDUS FREDERIC J TR
563 MAIN STREET RTY TR
563 MAIN STREET
BOLTON, MA 01740

CAVINESS ALAN R TR
FIVE FIFTY SIX GREAT RD RTY TR
556 MAIN ST
BOLTON, MA 01740

GAY GLEN ESTATE OF
SANDRA HIETALA
P O BOX 264
BOLTON, MA 01740

TOWN OF BOLTON
FLATLEY FIELD & CELLONE
P O BOX 278
BOLTON, MA 01740

SWAND LLC
563 MAIN ST
BOLTON, MA 01740

Abutters List Report

Town of Bolton, MA

May 27, 2014

Subject Properties:

004.C-0025.0

BRACY R LEE JR
WALTHEA M BRACY
P O BOX 189
BOLTON, MA 01740

004.C-0000-0025.0
562 MAIN ST

Parcel Number: 004.C-0024.0
Cama Number: 004.C-0000-0024.0
Property Address: 580 MAIN ST 2

Mailing Address: BOLTON OFFICE PARK LLC
1150 WEST CHESTNUT STR, STE 3
BROCKTON, MA 02301

Parcel Number: 004.C-0027.0
Cama Number: 004.C-0000-0027.0
Property Address: 579 MAIN ST

Mailing Address: BOLTON PROPERTY MANAGEMENT
579 MAIN ST
BOLTON, MA 01740

Parcel Number: 004.C-0035.0
Cama Number: 004.C-0000-0035.0
Property Address: 0 MAIN ST

Mailing Address: FREIDUS FREDERIC J TR
563 MAIN STREET RTY TR
563 MAIN STREET
BOLTON, MA 01740

Parcel Number: 004.C-0036.0
Cama Number: 004.C-0000-0036.0
Property Address: 556 MAIN ST

Mailing Address: CAVINESS ALAN R TR
FIVE FIFTY SIX GREAT RD RTY TR
556 MAIN ST
BOLTON, MA 01740

Parcel Number: 004.C-0037.0
Cama Number: 004.C-0000-0037.0
Property Address: 550 MAIN ST

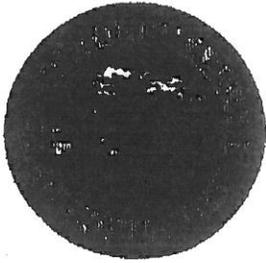
Mailing Address: GAY GLEN ESTATE OF
SANDRA HIETALA
P O BOX 264
BOLTON, MA 01740

Parcel Number: 004.C-0038.0
Cama Number: 004.C-0000-0038.0
Property Address: 0 MAIN ST

Mailing Address: TOWN OF BOLTON
FLATLEY FIELD & CELLONE
P O BOX 278
BOLTON, MA 01740

Parcel Number: 004.C-0039.0
Cama Number: 004.C-0000-0039.0
Property Address: 563 MAIN ST

Mailing Address: SWAND LLC
563 MAIN ST
BOLTON, MA 01740



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

Date of Application 5/21/14

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

<input type="checkbox"/>	Immediate Abutters (Board of Selectmen)	
<input checked="" type="checkbox"/>	Board of Appeals, Planning Board, Site Plan review	within 300 feet
<input type="checkbox"/>	Conservation Commission within 100 feet or distance =	_____ feet
<input type="checkbox"/>	Planning Board for sub division - 500 feet	
<input type="checkbox"/>	Abutter to Abutter within distance of	_____ feet

FOR BOARD OF HEALTH

Map 4.C Parcel(s) 25

ROBERT OLIVA
DAVID E. ROSS ASSOCIATES
Applicant (please print)

562 MAIN STREET
Location of Property

David E. Ross
Signature of Applicant

PO BOX 368
AYER, MA 01432
Mailing Address of Applicant

978) 772-6232 978) 772-6258
Telephone Number FAX Number

PLEASE NOTE: THIS ABUTTERS LIST IS VALID FOR SIX MONTHS