

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

David A. Philbin  
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Daniel A. Notaro

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Facsimile: 978-368-8411

June 2, 2014

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 Variance and request for Design Review Board Action**

To Town Clerk and the Board of Appeals:

Please find enclosed an Application for Dimensional Variances for the Premises at 562 Main Street. Simultaneously, the Applicant has filed a separate application for a special permit for the same property.

Request is made for a simultaneous hearing on both applications as soon as possible.

The Applicant is aware that it need permits and approvals from both the Board of Appeals (ZBA) and the Planning Board and that pursuant to the Town Code at some stage an application for a review the proposed plan must be submitted to the **Design Review Board (DRB)**. It is my understanding that the DRB only acts when its review process is requested by one of those Boards. To save time in the overall permitting process, the Applicant requests that the ZBA request a review at this time by the DRB. The Applicant is ready to file the DRB application and is hopeful that a DRB report could be made to the ZBA and later to Planning Board.

Included with this Application please find the following:

1. Filing Fee for \$242.00;
2. Nine (9) Copies of Application with supporting memorandum;
3. Eight (8) Copies of the required Certified Plans;
4. Eight (8) Copies of colored photos of the Premises with existing structures (2 Sets); and
5. Eight (8) Copies of abutters list certified by Assessors.

Thank you for your attention.

Sincerely,

  
\_\_\_\_\_  
David A. Philbin

DAP:cmt

Enclosures stated



TOWN OF BOLTON  
BOARD OF APPEALS

Filed with the Town Clerk on:

Town Hall, 663 Main Street, Bolton MA 01740  
Phone 978-779-3808 Fax 978-779-5461

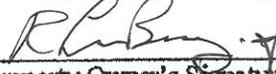
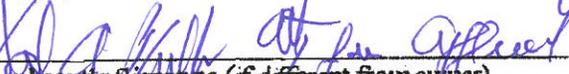
2014 JUN -4 PM 2:21

Pamela H. Powell  
TOWN CLERK

APPLICATION FOR HEARING

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

Applicant/Petitioner:	Wachusett Realty, LLC
Address of applicant:	200 Church St., Clinton, MA 01510
Applicant is:	-Owner      -Tenant -Licensee    -Prospective Buyer
Property address:	562 Main St., Bolton, MA 01740
Assessor Map/Parcel Number of property	Parcel ID - Map 004C Lot 0025
Deed reference(s):	Book <u>5114</u> Page <u>579</u>
Owner name (if person other than applicant)	R. Lee Bracy, Jr.
Owner address:	562 Main Street, Bolton, MA 01740
Owner telephone number:	Attorney David A. Philbin: 978-365-4587
Application & all other materials and fee for:	-Variance, \$200 + \$6 per abutter on certified abutters list -Special Permit, \$200 + \$6 per abutter on certified abutters list -Appeal of Decision, \$150 -Comprehensive Permit Administrative Fee - \$1,000.00 Consultant Review Fee - \$5,000 plus \$100/unit -Amend Existing Decision (\$200 + \$6 per abutter for special permits and variances; \$550 administrative fee for comprehensive permits if change(s) are deemed substantial. If necessary, additional consultant review fee determined by ZBA) -Waiver from Subdivision Rules and Regulations - \$50.00 per waiver request
Description of problem for	

<b>which relief is sought:</b>	Applicant seeks variances for lot size, front and side yard set backs, width of lot, lot frontage
<b>Applicable section(s) of Zoning Bylaws or other reference for consideration by Board of Appeals:</b>	Dimensional Schedule 2.3.5.2 See attached Brief
<b>Justification for request: (attach additional information if necessary)</b>	See attached Brief
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.	
I hereby request a hearing before the Board of Appeals with reference to the above application.	
 Property Owner's Signature (REQUIRED)	MAY 29 <sup>th</sup> 2014 Date
Property Owner's Signature (REQUIRED)	Date
 Applicant's Signature (if different from owner) DAVID A. PHILIPPO	6/2/14 Date

**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**

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**In re: Application For Variances for 562 MAIN ST, BOLTON, MA**

**Applicant: Wachusett Realty LLC**

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**APPLICATION AND BRIEF FOR VARIANCES  
FOR DIMENSIONAL RELIEF:**

*To the Honorable Bolton Zoning Board of Appeals:*

The Applicant/Petitioner, Wachusett Realty LLC is a Massachusetts limited liability company and the parent company 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 variances 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).

**HISTORY AND BACKGROUND**

The Premises consist of a single family residence approximately 90 years old situated upon .85 acres of land parcel on the southerly side of Main Street, (the Great Road) in Bolton. The Clinton Savings Bank has maintained a branch banking facility for more than twenty years at a location within a building located across the street from the Premises. The Applicant is hopeful of relocating to the Premises as it intends to improve, expand, and modernize its branch operations by building a new facility to be located on the Premises.

The current owner has resided on the Premises for in excess of forty years. The Premises are located in a **business district limited**. The Applicant has simultaneously filed with the Board of Appeals an application for a special permit to alter a nonconforming structure. The present home is a nonconforming structure and is not in conformance with several 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 also a nonconforming use. If and when the Board of Appeals acts favorably upon this application for variances and the referenced special permit for alteration and extension of the nonconforming structure use, the Applicant intends to seek a special permit from the Planning Board allowing it to conduct its business at 562 Main St.

**NATURE AND PURPOSE OF THE PETITION**

To carry out its plan to build a new branch bank, the Applicant needs zoning relief (a variance) from certain of the dimensional requirements of the limited business district. The Applicant does not intend to make the proposed structure be any more nonconforming, it does need variances from Section 250-13 of the Zoning Bylaw as follows:

	Current	Required
<b>A. Lot Size</b>	<b>.85 acres</b>	<b>1.5 acres</b>
<b>B. Street Frontage</b>	<b>129.42</b>	<b>200 feet</b>
<b>C. Lot width @100 feet -129.03</b>		<b>150 feet</b>
<b>D. Front Set Back</b>	<b>43</b>	<b>150 feet</b>
<b>E. Side Set Back</b>	<b>35</b>	<b>50</b>

The House and lot at 562 Main St predate zoning by more than fifty years. With the adoption of the present dimensional requirements in the limited business district, the lot became nonconforming as to lot size, as to street frontage, and as to the width of the lot at one hundred feet from the street. The house violates the front and side yard setback requirements. It is virtually impossible on this lot for an owner to conform to any structural set back dimensions required in the limited business district. Obviously the lot size cannot be altered. The Applicant is willing to make use of the location of the existing footprint of the building but the current size and condition of the building are inadequate to meet the needs of the Applicant. The Applicant seeks to expand the building from its **current size of 1360 square feet to one not to exceed 1982 square feet.**

**The proposed structure will be situated no closer than forty three (43) feet from the street and thirty five feet (35) from the side property lines similar to the current structure but the building will extend beyond its current location toward the back of the property as shown on the attached plan (Exhibit B) with the same setbacks for the extension of the building as well.**

**CRITERIA AND FULLFILLEMNT OF RQURIEMENTS  
AND FINDINGS FOR REQUESTED VARIANCES**

- 1. That there are circumstances that exist relating to the soil conditions, shape, or topography of the land or structures that uniquely affect such land or structures but that do not affect generally the zoning district in which such land or structure is located;**

The Applicant submits that the lot size and preexisting nature of the structure on the Premises are unique to it. It is impossible for this lot and any structure on it to conform to the present zoning requirements for the District. The Town by adopting those requirements made it impossible to construct any structure on the property to comply with zoning without the issuance of variances. It also has realistically zoned out the residential use of the premises by the uses of the properties that surround the Premises. The lot is about one half the minimum size required. The setback requirements are impossible to meet.

**2. Literal enforcement of the provisions of the bylaw would involve substantial hardship financial or otherwise to the Applicant;**

The use of this property as residence is difficult at best and less desirable for many reasons. The current owner's nonconforming residence is surrounded by business ventures across the street and directly abutting it. The Bolton Board of Appeals in the past has granted relief similar to that requested herein to the abutting property owner to the east as well as at the west end of Main Street near the current local post office location. Mr. Bracey would suffer great financial loss if he could only sell his home to a buyer intending to use the Premises for housing. Use of the property for housing has been zoned out. The Applicant is looking to relocate and expand its twenty year old branch bank on property in the Main Street environment where it has been for these past twenty years. Use of the Premises with the required special permits and variances will allow the Bank to expand and modernize its operation which will be good for it and for the Town. To find a conforming lot, pay for it and build one building on it and comply with zoning in the limited business district is financially impracticable. The Town has further recognized the dimensional dilemma currently posed by the zoning requirements in the limited business district which resulted in the adoption by the Town at the recent Town Meeting of a new overlay district in the Main St area. However, the overlay will not solve the zoning problem for 562 Main St with its nonconforming structure and undersized lot of .89 acres and which lot is also very narrow and nonconforming in setback width. To require the Applicant to use the existing structure would involve a financial hardship, be bad for business and prevent the current owner from selling to a nonresidential buyer. Any potential business buyer of this property would likely have hardship if no changes were made to the structure.

**3. The desired relief may be granted without substantial detriment to the public good.**

The allowance of the requested relief will result in no threat of harm to the public good. The Applicant has operated a branch in Bolton for more than twenty years at a location directly across the street from the Property. The proposed use is precisely what is called for in the zoning district. It is a clean operation with no offsite improvements required. The building will be tastefully designed to be consistent and fit within the historical nature of Main St. Applicant expects to make application to, work with and receive the approval of the building design from the

Design Review Committee of Bolton during its permitting processes through the Town... The proposed structure will not be located any closer to the street or sideline boundaries than the existing dwelling. The new and improved building will result in higher tax revenue to the Town.

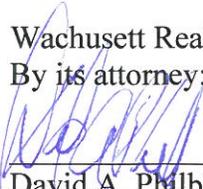
**4. The desired relief may be granted without nullifying or substantially derogating from the intent and purpose of the Bolton Zoning Bylaws.**

The proposed structure will be aesthetically pleasing. The construction will be consistent with the Main Street architectural character. The requested relief if granted by this Board will be historically consistent with the Bolton Zoning Board's past approvals of variances and special permits within the past twenty years for the adjoining Premises, the Premises across the street at 679 Main St., the so called Bolton Post Office Building, and the property at 1084 Main St, all of which properties had nonconforming structures for which variances were granted to allowed changes to old nonconforming buildings on nonconforming lots that did not conform to the setback, frontage and lot size requirements within the limited business zone.

**Therefore, the Applicant requests that the Board of Appeals grant its request for variances to allow for an altered and extended building upon the Premises at 562 Main Street per the Plans submitted to the Board as part of this Application process that will allow for the same set back dimensions and lot size presently in effect but not in conformity with current zoning requirements:**

<b>Lot Size</b>	<b>.85 acres</b>
<b>Street Frontage</b>	<b>129.42</b>
<b>Lot width @100 feet</b>	<b>129.03</b>
<b>Front Set Back</b>	<b>no less than 43 feet</b>
<b>Side Set Back</b>	<b>no less than 35 feet</b>

Wachusett Realty, LLC,  
By its attorney:



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David A. Philbin  
Philbin & O'Neil, LLC  
43 High Street  
Clinton, MA 01510  
9783654587

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) grants to R. Lee Bracy Jr. and Waltha 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

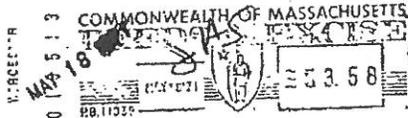
the land in said Bolton on the southerly side of the County Road leading from Bolton center to Boston bounded and described as follows, viz:

Beginning at 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.



5114

579

B-14265  
P. 222

Receipt  
for  
B 19327  
P 394

~~Notary Public~~  
~~Worcester~~

~~These premises are hereby granted, sold, conveyed, aliened, assigned, transferred, and confirmed to the above named grantees, their heirs, assigns, and assigns forever.~~

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

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

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

~~being known to us~~ 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;

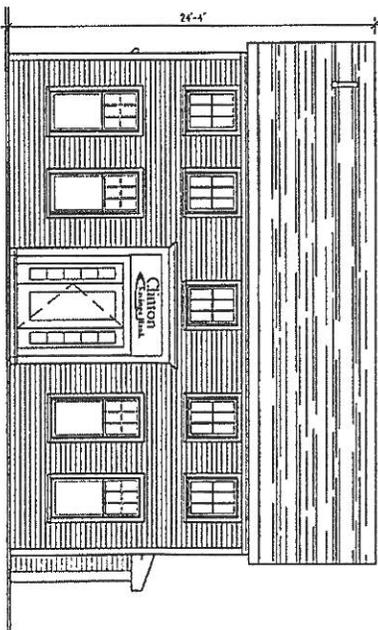
Beginning at an iron post at the northeasterly corner of the lot at said County Road at land now or formerly of one John W. Atwood; thence running by said road westerly 129 3/10ths feet to an iron post at land now or formerly of one Paul R. Holman; thence running south by said Holman land three hundred (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 Welsh & Parker C.E. which is recorded with Worcester District Deeds Plan Book 97, Plan 5."

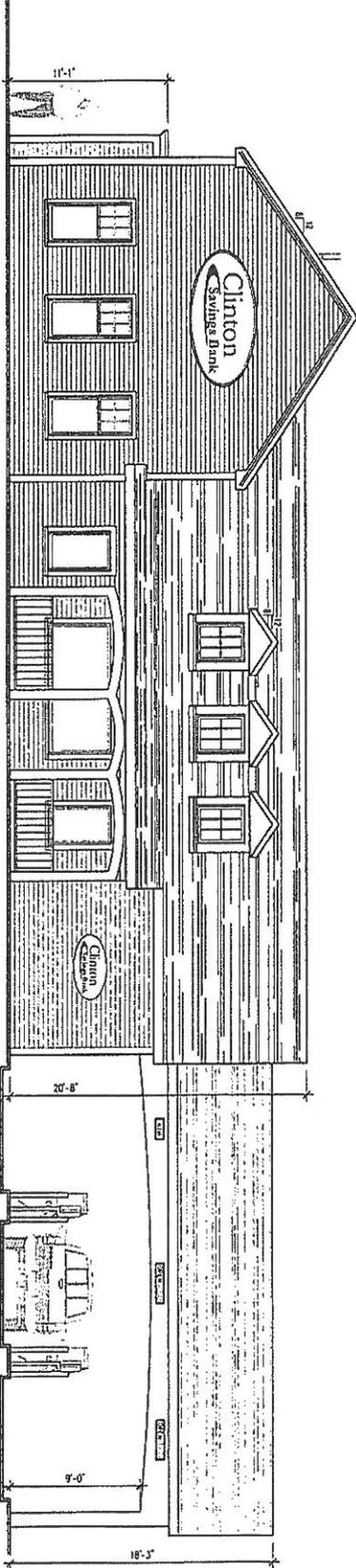
Saving and excepting so much thereof as was taken for the relocation of said road.

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

# Exhibit B



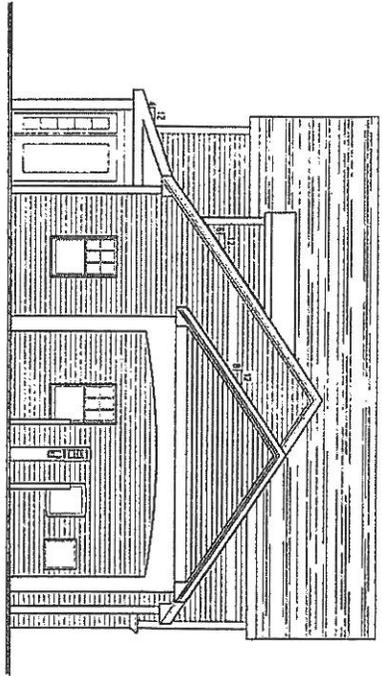
1 Schematic Front Elevations  
 SK2.2 SCALE: 1/8" = 1'-0"



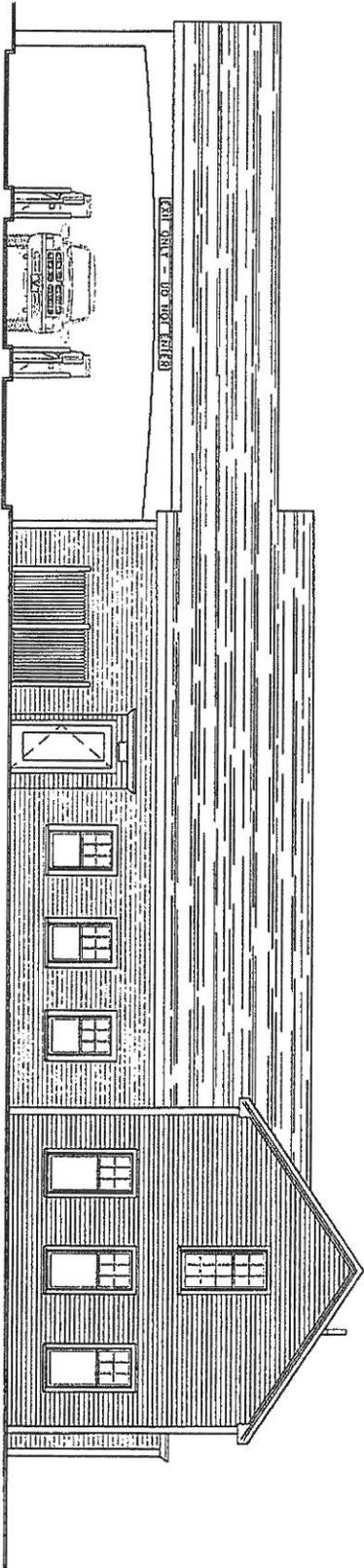
2 Schematic Right Side Elevation  
 SK2.2 SCALE: 1/8" = 1'-0"

SHEET NUMBER <b>SK2.2</b>	REVISION C SCHEMATIC EXTERIOR ELEVATIONS	DATE: 18 MAR 14 SCALE: 1/8" = 1'-0" DRAWN: CMK	<b>Clinton Savings Bank</b> 562 Main Street Bolton, MA 01740 <b>APPROACH ARCHITECTS</b> 36 Bromfield St. Suite #404 Boston, MA 02108 TEL (617) 558-2627 FAX (617) 556-4884

# Exhibit B



1 Schematic Rear Elevation  
 SK2.3 SCALE: 1/8" = 1'-0"



2 Schematic Left Side Elevation  
 SK2.3 SCALE: 1/8" = 1'-0"

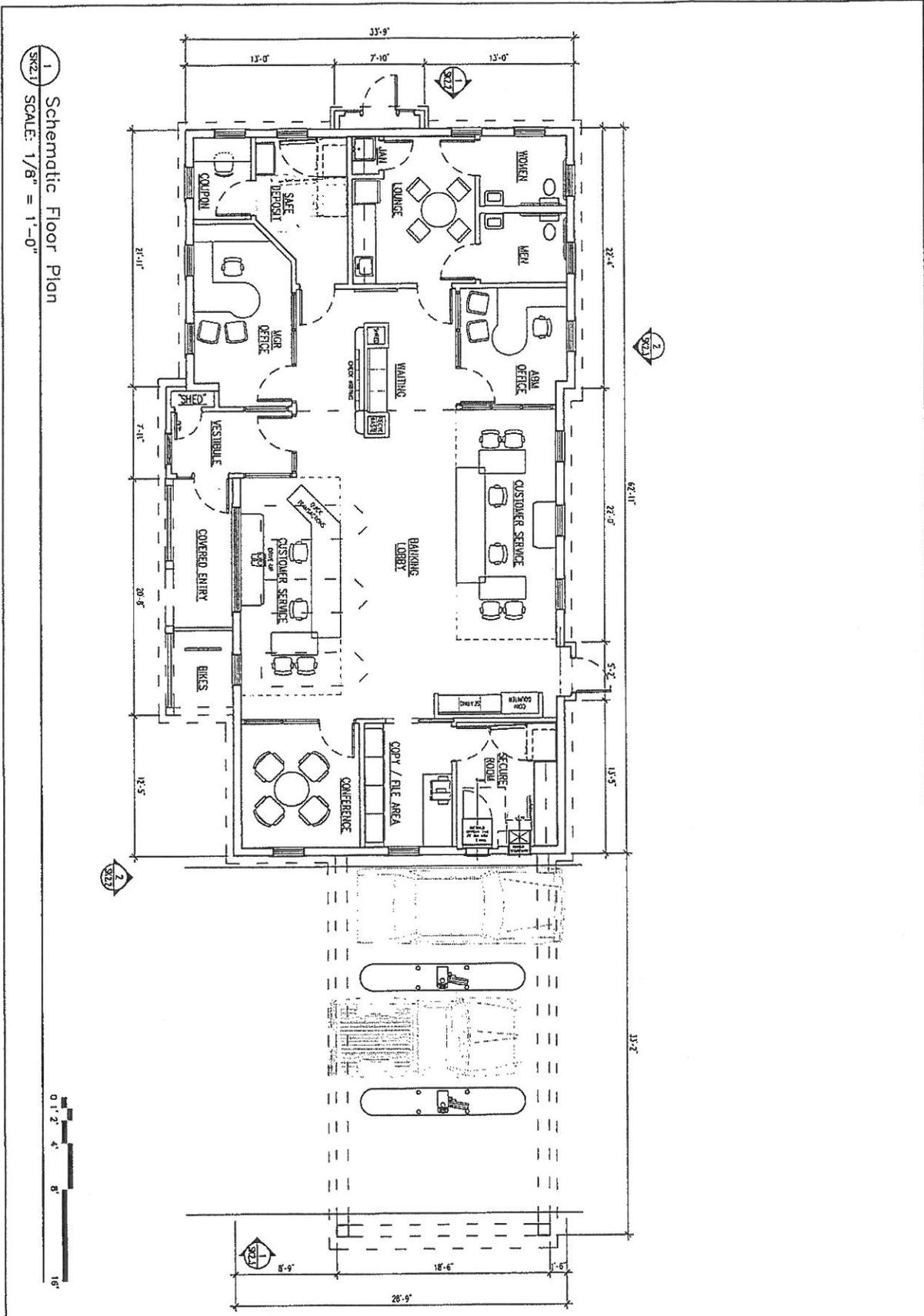


SK2.3

DATE: 18 MAY 14  
 SCALE: 1/8" = 1'-0"  
 DRAWN: CMC  
 Schematic  
 Exterior  
 Elevations  
 Revision C

**Clinton** Savings Bank 562 Main Street  
 Bolton, MA 01740  
**APPROACH ARCHITECTS**  
 36 Bramfield St. Suite #404 Boston, MA 02108  
 TEL (617) 556-2627 FAX (617) 556-4884

# Exhibit B



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

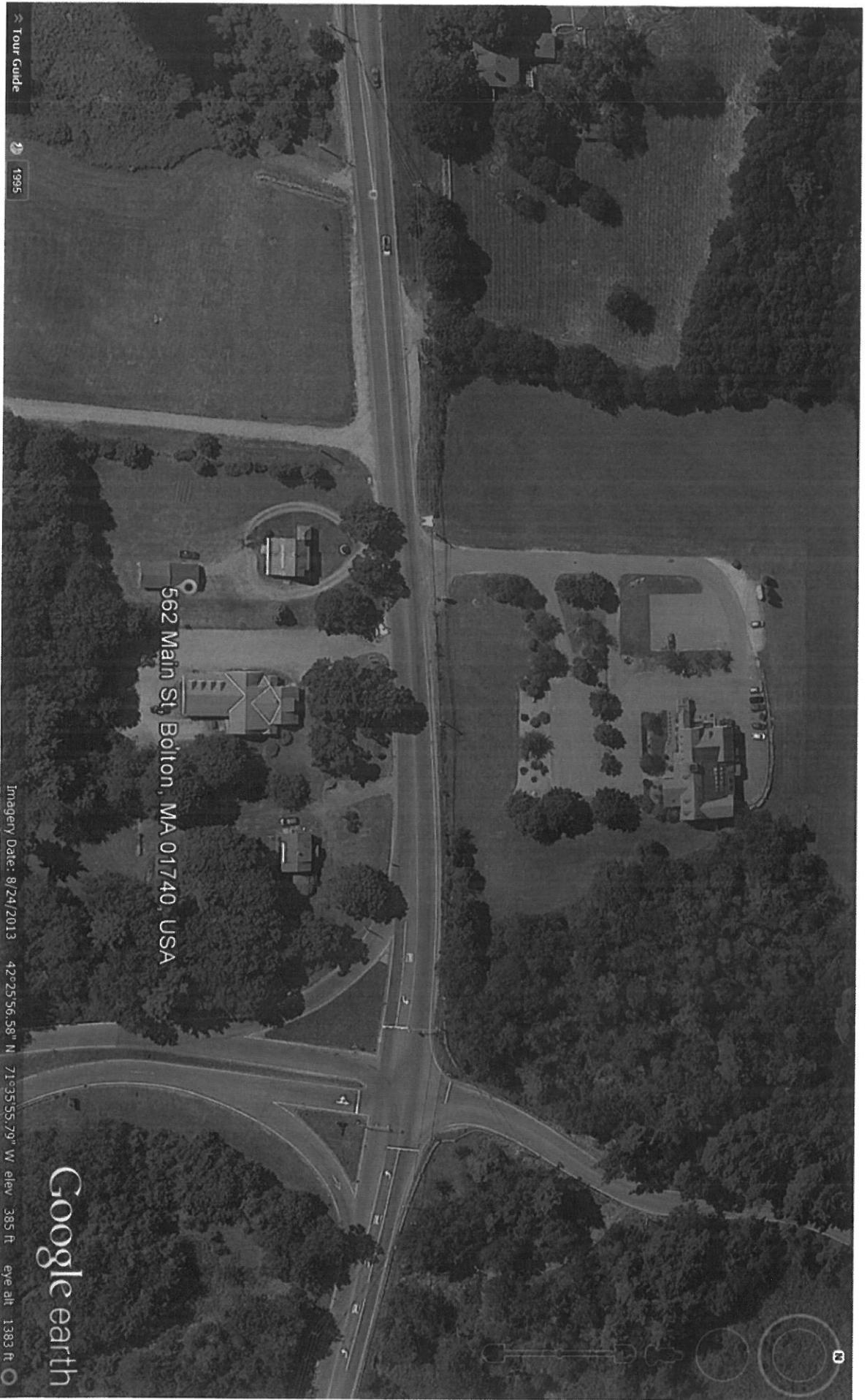


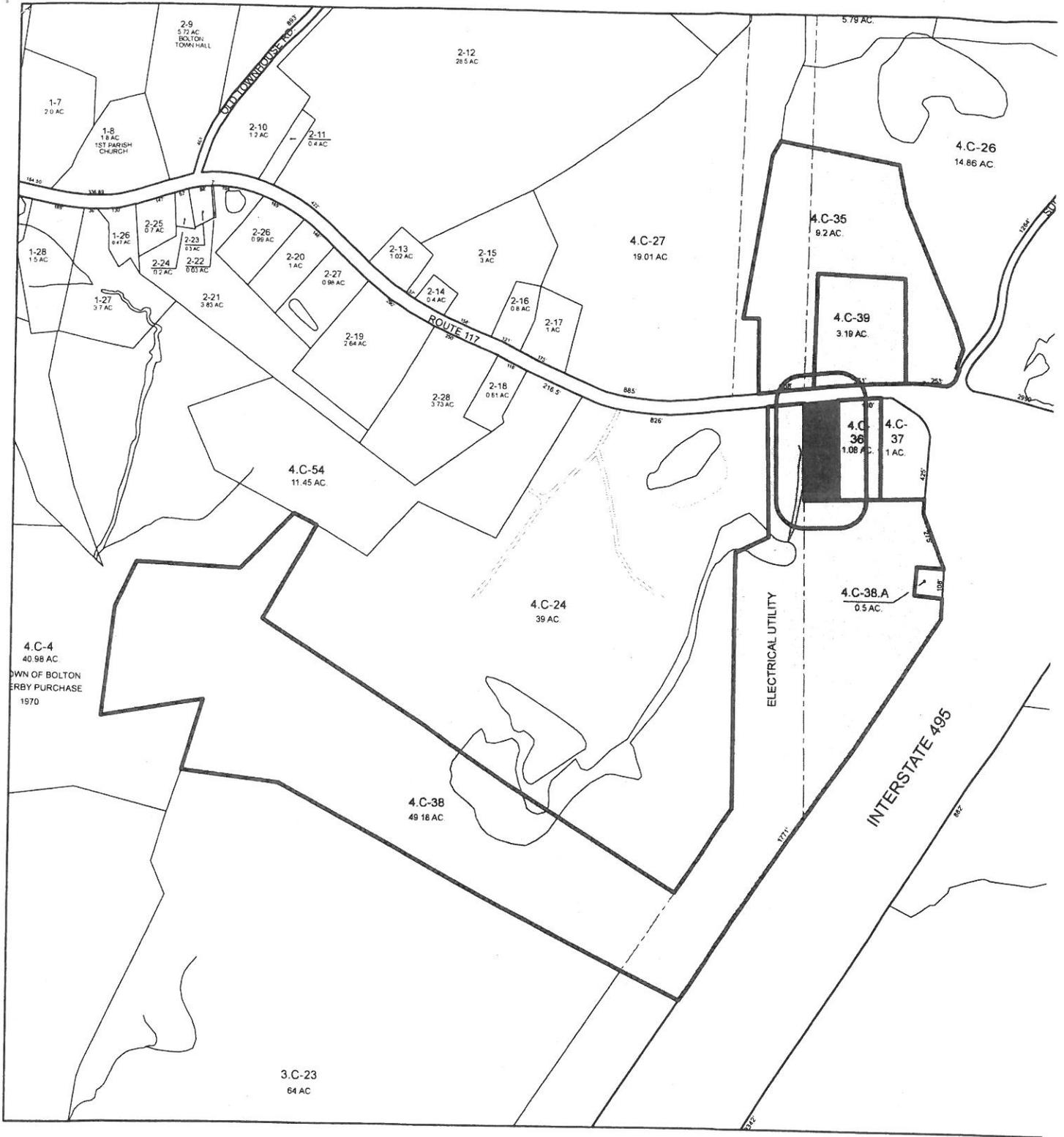
SK2.1 SHEET NUMBER	SCHEMATIC FLOOR PLAN REVISION C	<b>Clinton Savings Bank</b> 562 Main Street Bolton, MA 01740
	DATE: 18 MAR 14 SCALE: 1/8" = 1'-0" DRAWN: CMC	<b>APPROACH ARCHITECTS</b> 36 Bromfield St, Suite #404 Boston, MA 02108 TEL (617) 556-2627 FAX (617) 556-4884

# Exhibit C

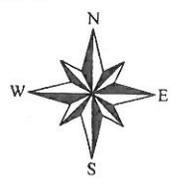
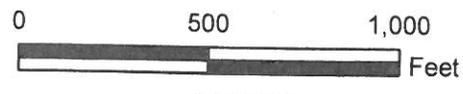


# Exhibit D





**Abutters List - 100 Ft / Map 4C-25 / 562 Main Street**



5/27/2014

*Certified: Cynthia Bradley*  
*Certified: Cynthia Bradley*

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

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  
WALTHERA M BRACY  
P O BOX 189  
BOLTON, MA 01740

004.C-0000-0025.0  
562 MAIN ST

Parcel Number: 004.C-0035.0

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

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

Parcel Number: 004.C-0036.0

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

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

Parcel Number: 004.C-0038.0

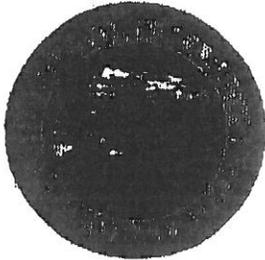
Mailing Address: TOWN OF BOLTON  
FLATLEY FIELD & CELLONE  
P O BOX 278  
BOLTON, MA 01740

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

Parcel Number: 004.C-0039.0

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

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



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

Date of Application 5/21/14

**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

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 4.C Parcel(s) 25

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

562 MAIN STREET  
Location of Property

*Robert Oliva*  
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