



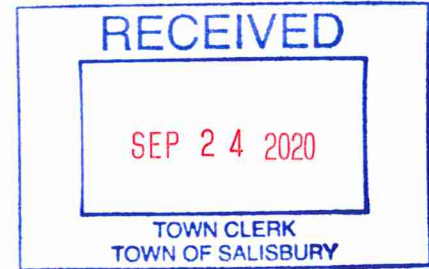
Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

September 22, 2020

By Hand
Don Egan, Chair
Zoning Board of Appeals
Town of Salisbury
Town Hall
5 Beach Road
Salisbury, Massachusetts 01952



Re: Subdivision Plan Application
12-14 First Street, Salisbury, MA (the "Property")¹

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter. In that connection, this firm represents Mark Audette, (the "Petitioner"). Currently the Property has a two family home (14 First Street Map 7-18A), and a mixed use structure with a residential unit above the marina and a separate cottage (14 First Street Map 7-18B). The Property has been a condominium since 2004 but has been used as it is today since at least 1974, which predates the adoption of zoning in Salisbury.

The Petitioner does not propose to undertake any construction nor does he propose to change any of the uses on the Property nor will he be constructing a road. Merely, the Petitioner is proposing to divide the property into two new lots. The Petitioner now is submitting a Definitive Subdivision Plan (the "Plan") for your approval. See Plan included with this application.

The new lots will consist of 12 First Street (a/k/a 14 First Street Unit A), with the one house structure thereon being used for two family housing; and 14 First Street (a/k/a 14 First Street Unit B) which will contain the rest of the structures currently on the Property including the marina building with residence and cottage and will continue its uses as a marina and multi-family housing.

As you are aware, creating new lots as shown on the Plan submitted with this application will result in the existing lot and structures thereon losing their non-conforming status. Therefore, the Petitioner has already obtained Variances pursuant to Section 300-34 of the Salisbury Zoning Bylaws (the "Bylaw") because the proposed lots do not conform with various dimensional requirements under the Bylaw. See the Zoning Board of Appeals Decisions attached to this application.

More specifically, the proposed lot at 14 First Street Unit A has the following non-conformities and has received dimensional variances for them. Namely:

¹ Please note the Town classifies the Property as 14 First Street Unit A and 14 First Street Unit B. For clarity, these addresses are used throughout.

The mailing addresses are 12 First Street for Unit A and 14 First Street for Unit B respectively.

Millis Office

730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

- Being located in the R-2 District, the proposed lot's size is 11,504 sq. ft. where an acre is required (of course there is little to no lots on Rings Island on First Street which are an acre).²
- The proposed lot has 110.2 feet of frontage where 150 feet are required.
- The proposed lot has a 29.1 foot front yard setback where 40 feet are required. This is unchanged from the existing setback.
- The proposed lot has one side set back of 7.4 feet where 20 feet are required.
- The other side setback of the proposed lot is 17.75 feet where 20 are required.

The property of 14 First Street Unit B has the following non-conformities:

- The proposed lot has 46.07 feet of frontage where 150 feet are required.
- The proposed lot has one side setback of 8 feet where 20 feet are required.
- The main building on this lot is higher than the 35 Feet maximum building height.

List of Waivers from Definitive Plan Requirements

While the Plan is being submitted under the Definitive Subdivision Plan application and requirements, it is much closer to an Approval Not Required ("ANR Plan") in substance. As mentioned, the Petitioner proposes no construction or changes to the Property other than dividing it into two new parcels and the Petitioner is not proposing any changes to First Street. New lot lines are merely being drawn through the existing lot to separate 14A First Street from the existing lot. Many requirements of the Salisbury Planning Board Regulations (the "Regulations") regarding Definitive Subdivision Plans are not applicable. Importantly, both lots abut First Street, a public way. Therefore, the Petitioner asks for a number of waivers from these Regulations as follows:

1. The Petitioner formally asks for a waiver or reduction of the Application fee. Section II of the Regulations provides that "The Planning Board may waive or reduce an Application Fee, if, in the opinion of the Board, unusual circumstances exist regarding the application." Under the Regulations, the fee for an ANR application is \$100 plus \$100 per new lot line. For an application for a Definitive Subdivision Plan (without a preliminary), the fee is \$1,500 plus \$625 per lot. As stated above and shown throughout this cover letter, this Plan is much closer in substance to an ANR Plan than a traditional Subdivision Plan. No new construction or development is being proposed. Many of the Regulations that would require the Town to undertake additional expenses in its review of the Plan are being asked to be waived and are not needed in this situation. Overall, it is a very unusual situation because what is in essence an ANR Plan, minus some zoning dimensional conformities, is going through the much more extensive subdivision review process.
2. Under Section 6.4.1 of the Regulations, a definitive plan shall be prepared by a Professional Civil Engineer and Land Surveyor with each preparing a separate sheet. Here, no Professional Civil Engineer's services are needed as no new construction or physical changes to the Property are occurring. None of the existing conditions are changing and a Civil Engineer's services are not needed. Therefore, Petitioner requests a waiver of the portion of this requirement needing a Professional Civil Engineer's plan.
3. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 12 regarding location of permanent monuments as there are none on site and no new monuments being proposed.

² Note that per the attached Plan, the existing lot size of 14 First Street Unit A used for tax purposes is 12,116 sq. ft, far below the one acre minimum.

4. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 13 because again there is no new construction or development being proposed and the location, names and the present widths and grades of public private ways bounding, approaching, or within reasonable proximity of the subdivision, with existing water, electrical, cable, gas, telephone, fire hydrants, and drainage facilities are not being affected.
5. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 16 because there are no proposed storm drains, water mains, utilities, and appurtenances, nor are the existing ones being affected by this subdivision.
6. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirements 17-18 for Profile Plans of proposed streets. There are no new streets being proposed and these requirements are not applicable.
7. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 20 to show existing and proposed topography because there are no changes to the existing topography of the lot being proposed and no new construction proposed.
8. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 21 for soil evaluations and percolation tests because there are no proposed changes that will affect the current impacts of the site.
9. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 22 because there will be no changes on the Property that would affect stormwater runoff or drainage. In fact, no physical changes are being proposed.
10. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 24 for stormwater management system design. Again, this is a simple division of a developed lot and has no planned construction or changes to existing conditions. No stormwater calculations are needed.
11. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 25 for a maximum build out plan. ~~To reiterate, there is no proposed construction on the Property. The purpose of the plan is simply to divide the lot and a build out plan is not applicable.~~
12. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 26 regarding a proposed roadway centerline and additional details because there are no new proposed roads associated with this subdivision.
13. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 27 because there is no proposed construction or changes to the property that would require a calculation of the new loss of soil materials.
14. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 28 because there is no proposed construction therefore no construction details and specifications need to be shown.
15. Under Section 6.4.4 of the Regulations, the Petitioner requests a waiver of Requirement 29 because as stated above, there is no construction being proposed and therefore no Construction Management Plan is required.
16. Under Section 6.4.5 of the Regulations, the Petitioner requests a waiver of Requirement 1, because the Petitioner or owners of the land to be subdivided do not own or control the land adjacent to or across the street from what is shown on the proposed plan.
17. Under Section 6.4.5 of the Regulations, the Petitioner requests a waiver of Requirement 2. No Construction Plan is needed here because no new construction is being proposed. Please also waive the more specific requirements of Section 6.4.6 for Construction Plans as necessary because they do not apply here if no Construction Plan is needed.
18. Under Section 6.4.5 of the Regulations, the Petitioner requests a waiver of Requirement 3. No Traffic Analysis is needed here because no new construction is being proposed nor are any of the existing uses going to change as a result of the subdivision. There will be no impact to the existing traffic conditions.

Please also waive the more specific requirements of Section 6.4.7 for a Traffic Analysis as necessary because they do not apply here if no Traffic Analysis is needed.

19. Under Section 6.4.5 of the Regulations, the Petitioner requests a waiver of Requirement 4 because there are no proposed septic systems in this subdivision.
20. Under Section 6.4.8 of the Regulations, the Petitioner requests a waiver of the Board potentially requiring a site development plan because no new development is being proposed on the Property.
21. MVPC PLAN SIGNOFF. Under the "Form C" application "Attachment 3", a requirement is that the Petitioner submits the Plan to the MVPC and they sign off that the plan is in compliance with all digital submission requirements. Previously, the plans used for the Variance Application which show the exact same changes to the boundary received the sign off from the MVPC. Essentially, MVPC is already in receipt of and approved a Plan showing the same changes as the current Plan. They will be able to show the boundary line changes in their Maps based on materials already provided to them that they have approved. As proof of this, the Petitioner has provided the MVPC sign off for the Variance Plan and the Plan is included with the Variance Decision also provided.
22. New Street/Ways Name Sign Off Sheet. Under the "Form C" application "Attachment 4", a requirement is the Applicant fill out the "New Street/Ways Name Sign Off Sheet". This is not applicable to the Applicant as no new streets are being proposed by this subdivision. Therefore, the Petitioner requests a waiver that a completed version of this Attachment does not need to be included and the relevant sign offs listed on the sheet are not needed.

While the above list of requested waivers attempts to provide all of the waivers required from the Regulations in order to approve the Plan, the Petitioner further requests that any other waivers needed are granted through the implication of the Board approving the Plan. Massachusetts Courts have approved such grants of waivers. *See Rosa v. Billerica Planning Board*, 2013 WL 3776958 (acknowledging Planning Boards have the authority to allow subdivision of properties without formal requests for waivers where the request would require "a very, very long list" of waivers and it is implied the application and plan is actually asking for all required waivers). This also fits under MGL c. 41, Section 81R which provides that Planning Boards "may in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations." The intent and purpose of the subdivision control law has been stated by courts to be "provide suitable ways for access furnished with appropriate municipal utilities, and to secure sanitary conditions." *Collings v. Planning Board of Stow*, 79 Mass.App.Ct. 447, 454 (2011), quoting *Sealund Sisters, Inc. v. Planning Bd. of Weymouth*, 50 Mass.App.Ct. 346, 351 (2000).

With this in mind, we reiterate the Petitioner is simply asking the Board to approve a plan dividing an existing lot on an existing public way with existing utilities. The Petitioner's proposed subdivision clearly provides suitable ways for access furnished with appropriate municipal utilities, and secures sanitary conditions without needing to provide all that is required under the Regulations. Other than creating new boundaries within the existing lot, nothing is changing to the Property as it exists today. There is no proposed construction or changes to the uses of the Property. Physically, nothing is changing. As shown by the extensive list of waivers being requested from the Subdivision Regulation's requirements, the situation created by the proposed Subdivision is not applicable to most of the things the Board typically examines when considering a proposed subdivision. The only reason this is in front of the Board as a Subdivision Plan and not an ANR Plan is because it creates lots which have previously received relief from the dimensional requirements of the bylaw.

Respectfully submitted
Mark Audette,
By his attorney

A handwritten signature in blue ink, appearing to read "L. L. Mead", followed by a circled "B.W.G.".

Lisa L. Mead

Attachment
cc: Client



Form C

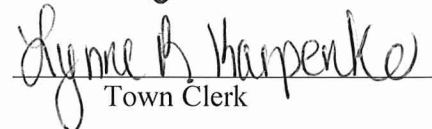
SALISBURY PLANNING BOARD DEFINITIVE SUBDIVISION FILING CHECKLIST

Applications will not be stamped in at the Town Clerk's office for the Planning Board, until the Planning Department determines that the following items are included with the application:

1. Application must be filled out completely and correctly. (Map and Parcel must be included and can be found in the Assessors Office). **Attachment 1**
2. Definitive Subdivision application & review fees. Checks payable to the Town of Salisbury.
3. Plan drawn in accordance with the requirements listed in Salisbury's Subdivision Control Regulations Section 6 (7 COPIES).
4. Abutters List Request form must be completed at the Assessor's Office (\$15-checks payable to the Town of Salisbury).
5. Treasurer's Office signature to insure all Taxes are paid up to date on the property in question and any applicable betterments are paid in full. **Attachment 2**
6. Copy of Registered Deed
7. Digital Data Submission Requirements – completed sign off form by MVPC. **Attachment 3**
8. New Streets/Ways Name sign off sheet. **Attachment 4**
9. A completed Form C Submittal Checklist. **Attachment 5**

IMPROPER OR INCOMPLETE FILINGS WILL RESULT IN A DELAY IN DECISION, TOWN CLERK WILL SIGN AND STAMP AFTER PLANNING DEPARTMENT SIGNS OFF.


Planning Department


Town Clerk

***** Notes to Applicant *****

Applicants shall bear the cost of advertising the legal notices in the Newburyport Daily News, and will be directly billed by that publication.

Board of Health will approve or disapprove plans within 45 Days of submission. Planning Board decision is contingent upon Board of Health approval. Planning Board has up to 135 Days from submission to make a decision.

All conditions must be met and required changes made to the plan, then submitted to the Planning Board for review, before a building permit will be signed

Attachment 1

**SALISBURY PLANNING BOARD
FORM C
APPLICATION FOR APPROVAL OF DEFINITIVE PLAN**

Date September 18, 2020 Map 7 Lot 18A-18B
Mark Audette, C/O Lisa Mead, Mead, Talerman & Costa
Applicant's Name: _____
30 Green Street, Newburyport, MA 01950
Applicant's Address: _____
(Local address needed for hearing notice)
Telephone # & Fax #: T: 978-463-7700 F: 978-463-7747
E-mail Address: lisa@mtclawyers.com
Owner of Property: 12 First Street: Conrad Audette and Gena Bevilacqua
14 First Street: 3 Orange Street, LLC
Owner's Address: 12 First Street, Salisbury, MA 01952 and 14 First Street, Salisbury, MA 01952
Definitive Subdivision Plan 12-14 First Street
Plan Entitled: Salisbury, Massachusetts Dated 9/17/20
Zoning District: R-2

Lot Size: 12 First Street: 12,116 s.f. 14 First Street: 45,484 s.f.
Description of Proposed Work: See memo accompanying this application.

Other Permits Required and Status of Applications: Received Variance for proposed
subdivision's dimensional non-conformities.

Waivers Requested: See memo accompanying this application.

The undersigned, being the applicant as defined under Chapter 41, Section 81-L, hereby applies for the approval of said DEFINITIVE plan by the Salisbury Planning Board for property located at 12 and 14 First Street, Salisbury MA. In furtherance thereof hereby agrees to abide with the Rules and Regulations of said Board. The undersigned hereby further covenants and agrees with the Town of Salisbury, upon the approval of said DEFINITIVE plan by the Board:

1. to install utilities in accordance with the rules and regulations of the Planning Board, the water Department, the Highway Superintendent, the Board of Health, and all general as well as zoning bylaws of Salisbury, as are applicable to the installation of utilities within the limits of ways and streets;
2. to complete and construct the streets or ways shown thereon in accordance with Section 5 of the Rules and Regulations of the Planning Board and the approved DEFINITIVE plan, profiles and cross sections of the same. Said plan, profiles, cross sections and construction specifications are specifically, by reference, incorporated herein and made a part of this application. This application and the covenants and agreements herein shall be binding upon all heirs, executors, administrators, successors, grantees of the whole or part of said land, and assigns of the undersigned; and
3. to complete the aforesaid installations and construction within two years from the date hereof.



Signature of Applicant

Received: _____
Town Clerk

Attachment 2

DEFINITIVE SUBDIVISION APPLICATION
TAX AND BETTERMENT PAYMENT CERTIFICATION

Date 9/18/20

Map 7 Parcel 18A/B

Also P-1235 Parcel 7-18B-3 Orange St. LLC; Parcel P-1235;
Owner's Name: Parcel 7-18A - Gina Bevilacqua + Conrad Andette Kings Island
Manna LLC

Property Address: 14 First St., Salisbury MA

I, Jessie Cronin certify that all taxes and applicable betterment's have been paid in full for
the property located at Map 7 Parcel 18A/B. The next billing date is 2-1-2021
+ P-1235 11/2/20

Signature: Jessie Cronin CC
Treasurer or Treasurer's Clerk

Date: 9-18-20

7-18A 2/1/21
7-18B - 11/2/20
P-1235

Attachment 3

The applicant shall submit two copies of the Definitive Plan in a digital format to the Merrimack Valley Planning Commission. Before any application for a Form C Definitive Subdivision is accepted, the form below must be completed by MVPC. Failure to submit form will cause the application to be incomplete

Municipal Mapping –Digital Data Submission Requirements

The following requirements apply to the submission of SANR or subdivision plans as well as for plans and as-built drawings for infrastructure projects (water/sewer installation or repair, road work, and other capital improvements).

1. All plans and specifications must be submitted on electronic media (3.5" floppy or CD_ROM using an IBM-PC or compatible file format). Acceptable file formats include: AutoCAD *.dwg, AutoCAD *.dxf, ArcView *.shp, ArcInfo *.E00. The files must be identical to the printed plan and contain all information included on the written plan. Upon project completion a digital submission of the "as-built" plan is required for final release of the performance bond associated with any project.
2. All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83 and vertical datum of NGVD88. All lot lines and easements depicted on the electronic submittal will conform to survey accuracy. Where possible all bearings and distances should be adjusted for true north OR the applicant shall provide a listing of the number of degrees, minutes, and seconds of deviation between true north and magnetic north. If necessary data will be accepted in NAD27 using the aforementioned specifications.
3. Each feature type must be organized in the CAD or GIS data structure as a separate layer. For example, there must be separate CAD layers for buildings, roads, road centerlines, surface water, wetlands, etc. Having all these features in a single CAD layer or GIS file will not be accepted.
4. CAD data may be tiled on paper, PDF or other form of digital output as individual sheets for improved readability, but plans should be derived from a single master drawing. All data will be topologically clean, meaning that polygons are closed (no overshoots or undershoots) and lines connect at nodes. Features that naturally connect such as driveways to roads must connect seamlessly. All text in AutoCAD files will appear on top of other features and will be in separate annotation layer. Features under text should not be erased or 'broken' in order to make the text clearer.
5. Documentation of the data format must be provided with a description of the CAD layers and list of the types of features placed in each layer. Submission of multiple files must also include a list of the files and their purpose.
6. Attributes or databases that are included in mapping files must have a definition of the meaning of each field as well as a definition of any values used in each field. Features that contain an elevation component (z-value) must have that elevation value within the attribute data.
7. The data submitted must include documentation on the method used to gather the data, the name of the person(s) responsible for preparing the data, contact information, an estimation of the horizontal and vertical accuracy, and the date of data capture. All media shall be free from any and all defects and viruses, and labeled as to their contents.

DIGITAL DATE SUBMISSION SIGN-OFF

Note to applicant: Please allow 10 days for MVPC review and response.

Applicant: _____ Phone #: _____

Plan Engineer: _____ Phone#: _____

Engineer Project Number: _____

- 1) Date submitted to MVPC?
- 2) Street address of submitted plan?
- 3) Map and lot of submitted plan if available?
- 4) Type of lot adjustment (new lot, subdivision, lot line correction, lot combination, easement, other – describe)
- 5) Projection used by engineering firm (state plane 1927, state plane 1983, or WGS 84)?
- 6) File name, file format and version of software (if applicable)?
- 7) Additional comments or instructions (if necessary)?

*See prior approval
of plan w/ same
dimensions*

To be filled out by Merrimack Valley Planning Commission:

- 8) Presence of latitude/longitude feature on paper plan (Y/N)?
- 9) Adjusted for true north or declination depicted on paper plan (Y/N)?
- 10) Arcs closed to create parcel polygons (Y/N)?
- 11) Are all features independent (Y/N)?
- 12) Is there documentation of each layer (Y/N/Partial)?
- 13) Has the accuracy been estimated?

MVPC has reviewed the digital data submitted and finds it acceptable and complete:

(signature)

(date)

Digital Submission Guideline
Consistency Review

Applicant: MARK ADDETTE
Engineer Project Number:

To be completed by the Applicant:

- 1) Date submitted? 1-14-20
- 2) Is plan approved? NO
- 3) Street address of submitted plan?
12-14 FIRST ST. SALISBURY MA
- 4) Map and lot of submitted plan if available?
MAP 7 LOTS 18A & 18B
- 5) Type of lot adjustment (new lot, subdivision, lot line correction, lot combination, easement, other – describe)
LOT LINE RE-LOCATION
- 6) Name of engineering firm or survey company providing plan?
WAYPOINT SURVEYING SERVICES
- 7) File name, file format and version of software (if applicable)?
AUTO CAD 2007 FIRST ST. 12/14
- 8) Additional comments or instructions (if necessary)?

To be filled out by Merrimack Valley Planning Commission:

- 9) Presence of latitude/longitude feature on paper plan (Y/N)? NO
- 10) Arcs closed to create parcel polygons (Y/N)? PARTIAL
- 11) Are all features independent (Y/N)? YES
- 12) Is there documentation of each layer (Y/N/Partial)? PARTIAL
- 13) Has the accuracy been estimated? NO

CONFORMS TO STANDARD
[Signature] 1/24/2020

NEW STREETS/WAYS NAME SIGN OFF SHEET PLANNING BOARD

N/A -

No new streets

APPLICANT: _____ MAP/LOT: _____ PHONE: _____

PROPOSED STREET NAME: _____

PROPOSED ALTERNATE STREET NAME: _____

BELOW THIS LINE FOR OFFICE USE ONLY

Please circulate in the following order:

1. POLICE DEPARTMENT

APPROVAL OF STREET NAME: _____

POLICE CHIEF

DATE: _____

2. FIRE DEPARTMENT

APPROVAL OF STREET NAME: _____

FIRE DEPARTMENT

DATE: _____

3. DEPARTMENT OF PUBLIC WORKS

APPROVAL OF STREET NAME: _____

DON LEVESQUE

DATE: _____

4. ASSESSOR'S OFFICE- MUST SUPPLY A COPY OF THE PLAN

** Please allow 10 days for Assessor's Office review**

APPROVAL OF STREET NAME: _____

CHERYL GORNIEWICZ

PRELIMINARY ISSUANCE OF STREET NUMBERS: _____ (See Attached)

DATE: _____

FINAL ISSUANCE OF STREET NUMBERS: _____ (See Attached)

(Final issuance of Map/Lot and street numbers after Planning Board approval and recording at the Registry of Deeds)

DATE: _____

OWNER(S):

BY SIGNING THIS DOCUMENT, THE OWNER UNDERSTANDS, ACCEPTS, AND AGREES TO COMPLY WITH THE FOLLOWING STATEMENTS:

1. The Developer or Applicant before the Planning Board is responsible for the cost and installation of a street sign. Specifications for street signs may be obtained from the Director of Public Works, Don Levesque. The average cost of a sign and installation is between \$150-\$200. Signs are available from:

Stay Safe Traffic Products
c/o Catherine
38 Lowell Road
Westford, MA 01886
866-692-2114

Sign A Rama USA
141 Elm Street
Salisbury, MA 01952
978-462-1804

2. Any division resulting in additional lots will be identified and taxed in the subsequent fiscal year as separate lots, after Planning Board approval and recording at the Registry of Deeds.

3. The Police Department requires a street number to be placed on the house or mailbox, for emergency 911 purposes, at the time of occupancy. Failure to comply will result in a fine.

Owner

Owner

Date

Date

Attachment 5

FORM C PLAN SUBMITTAL CHECKLIST

Before any Form C Definitive Subdivision application can be filed at the town clerk's office, the following departments must receive the specified information and sign below that the information has been received. Departments have 14 days within which they may approve, disapprove, or comment on the proposed plan.

Board of Health

(1 Set of Plans & application) Received By: Kate White Date: 9/22/20

Fire Department

(1 Set of Plans & application) Received By: F.D. Mailor Date: 9/22/20

Department of Public Works

(3 Sets of Plans & application) Received By: Leigh-An Dufour Date: 9/22/20

Building Department

(1 Set of Plans & application) Received By: Kate White Date: 9/22/20

Conservation Commission

(1 Set of Plans & application) Received By: John M. M. Date: 9/22/20

Police Department

(1 Set of Plans & application) Received By: Scarlett Smith Date: 9/22/20

Assessor's Department

(1 Set of Plans & application) Received By: Elaine Howard Date: 9/22/20

Economic Development

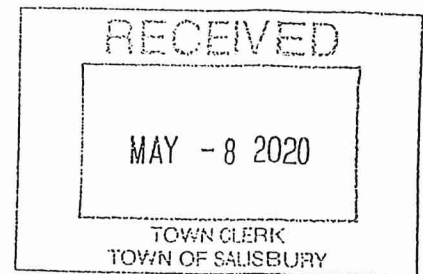
(1 Set of Plans & application) Received By: Sue John Date: 9/22/20

Planning Department

(1 Set of Plans & application) Received By: Sue John Date: 9/22/20



TOWN OF SALISBURY
Zoning Board of Appeals Hearing
Colchester Room @ Town Hall, 5 Beach Rd



DECISION

Date: 04/28/2020 Application #: 20-10

Petitioner: Conrad Audette & Gena Bevilacqua Address: 14 First Street Unit 1

Property Owner: Conrad Audette & Gena Bevilacqua Map: 7 Lot: 18A

Relief Requested: Variance

Relief Description :

Variance approved for relief from dimensional requirements for proposed division of premises and adjacent premises.

Post Date 1: 03/10/2020 Post Date 2: 03/17/2020 Initial Hearing Date : 03/24/2020

By virtue of its authority under M.G.L. Ch. 40A and the Salisbury Zoning Bylaw, the Board of Appeals,
of the Town of Salisbury MA, so voted on a seconded motion to Grant,
the requested Petition for Relief; by a vote of 5 to 0.

So certified by;

Susan M. Pawlisheck 5/5/20
Susan Pawlisheck, Chairperson Date

APPEAL NOTICE

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem MA. The cost of the recording shall be borne by the Petitioner. A registered copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and one (1) year for a Variance.

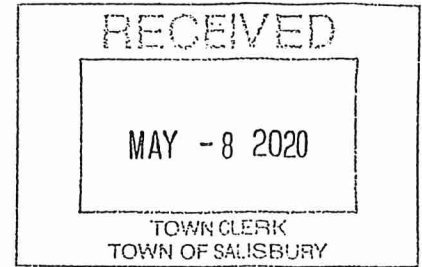
I the Petitioner, acknowledge receipt of the certified decision and agree to record this decision as noted above.

Cc: ☐ Town Clerk, ☐ File, ☒ Applicant



TOWN OF SALISBURY
Zoning Board of Appeals Hearing
Colchester Room @ Town Hall, 5 Beach Rd

DECISION



Date: 04/28/2020 Application #: 20-11

Petitioner: Mark Audette Address: 14 First Street Unit 2

Property Owner: 3 Orange Street LLC Map: 7 Lot: 18B

Relief Requested: Variance

Relief Description :

Variance approved for relief from dimensional requirements for proposed division of premises and adjacent premises.

Post Date 1: 03/10/2020 Post Date 2: 03/17/2020 Initial Hearing Date : 03/24/2020

By virtue of its authority under M.G.L. Ch. 40A and the Salisbury Zoning Bylaw, the Board of Appeals, of the Town of Salisbury MA, so voted on a seconded motion to Grant,
the requested Petition for Relief; by a vote of 5 to 0.

So certified by;

Susan M. Pawlisheck 5/15/20
Susan Pawlisheck, Chairperson Date

APPEAL NOTICE

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem MA. The cost of the recording shall be borne by the Petitioner. A registered copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and one (1) year for a Variance.

Date
I the Petitioner, acknowledge receipt of the certified decision and agree to record this decision as noted above.

Cc: ☐ Town Clerk, ☐ File, ☒ Applicant

4
121



Unit Deed

Randy M. Hitchcock and Hope Hitchcock, for consideration of One Million Nine Hundred Fifty Thousand and 00/100 (\$1,950,000.00) paid, grant to 3 Orange Street, LLC, a Massachusetts Limited Liability Company with a mailing address of P.O. Box 1480, Newburyport, MA ("Grantee"), with QUITCLAIM COVENANTS, the unit ("Unit") known as Unit 2 in the Condominium known as 12-14 First Street Condominium, Salisbury, Massachusetts ("Building"), a condominium ("Condominium") established by the Grantor pursuant to Massachusetts General Laws, Chapter 183A, by master Deed dated December 1, 2004, recorded with Essex South District Registry of Deeds herewith ("Master Deed"), which Unit is shown on the floor plans ("Plans") of the Building recorded simultaneously with the Master Deed, and is shown on the copy of a portion of the Plans attached hereto and made a part hereof, to which is affixed the verified statement of a registered architect in the form required by Section 9 of Chapter 183A.

The Unit is conveyed together with:

1. An undivided interest of 70% in the common areas and facilities ("Common Elements") of the Condominium described in the Master Deed, attributable to the Unit.
2. The exclusive right to use the limited common areas shown as LCA #2 and the exclusive use areas shown as E.U.A. Unit 2 on said plan.
3. The Department of the Army Permit dated February 16, 1981 and recorded with Essex South District Registry of Deeds at Book 6832, Page 263.
4. An easement for the continuance of all encroachments by the Unit on any adjoining units or Common Elements existing as a result of construction of the Building, or which may come into existence hereafter as a result of settling or shifting of the Building, or as a result of repair or restoration of the Building or of the Unit after damage or destruction by fire or other casualty, or after a taking in condemnation or eminent domain proceedings, or by reason of an alteration or repair to the Common Elements made by or with the consent of the Trustees.
5. An easement in common with the owners of other units to use any pipes, wires, ducts, flues, cables, conduits, public utility lines, and other Common Elements located in any of the other units or elsewhere in the Condominium and serving the Unit.
6. Rights and easements in common with other Unit Owners as described in the Master Deed.

Said Unit is conveyed subject to:

- (1) Easements in favor of adjoining units and in favor of the Common Elements for the continuance of all encroachments of such adjoining units or Common Elements on the Unit, now

result of settling or shifting of the Building, or as a result of repair or restoration of the Building or of any adjoining unit or of the Common Elements after damage or destruction by fire or other casualty, or after a taking in condemnation or eminent domain proceedings, or by reason of an alteration or repair to the Common Elements made by or with the consent of the Trustees.

(2) An easement in favor of the other units to use the pipes, wires, ducts, flues, conduits, cables, public utility lines, and other Common Elements located in the Unit or elsewhere in the Condominium and serving such other units.

(3) An easement for the benefit of the current owners of Unit 1 to access the river ramp to launch their boat as provided in the Master Deed. This easement shall not run with the land and shall terminate automatically upon the sale or transfer of said Unit 1.

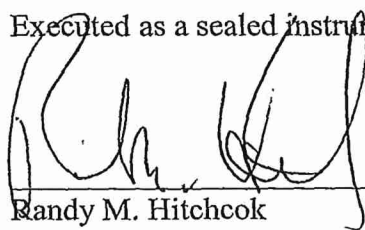
(4) An easement for a view of the river as provided in the Master Deed across that portion of Unit 2 shown as "View Easement Area" on said condominium site plan recorded herewith. This easement shall not run with the land and shall terminate automatically upon the sale or transfer of said Unit 1.

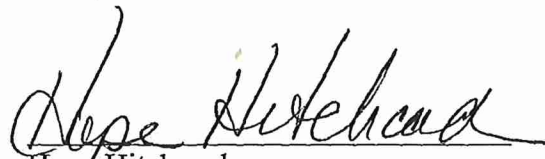
(5) The provisions of this Unit Deed, the Master Deed, the Declaration of Trust, and the Plans, as the same may be amended from time to time by instrument recorded in Essex South District Registry of Deeds, which provisions, together with any amendments thereto, shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, his family, servants, and visitors, as though such provisions were recited and stipulated at length herein.

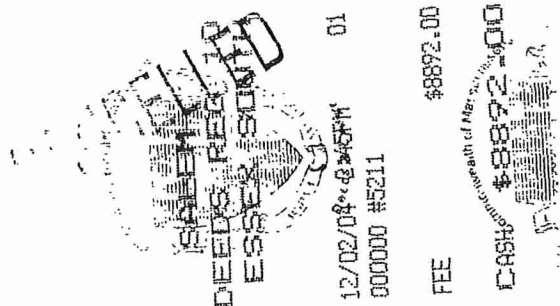
(6) All easements, agreements, restrictions and conditions of record, insofar as the same are now in force and applicable.

The Unit is intended for use as a marina and such other purposes as may be allowed in the Town of Salisbury, including residential use.

Executed as a sealed instrument, this 1st day of December, 2004.



Randy M. Hitchcock


Hope Hitchcock



COMMONWEALTH OF MASSACHUSETTS

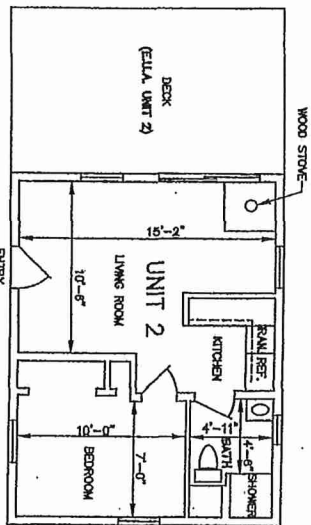
On this 1st day of December, 2004, before me, the undersigned notary public, personally appeared Randy M. Hitchcock and Hope Hitchcock proved to me through satisfactory evidence of identification, which were drivers licenses to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.



James T. Connelly
Notary Public
My Commission Expires: 8/12/05

AREA SUMMARY		
LOCATION	UNIT #1	UNIT #2
BASEMENT	1,458 S.F.	-
FIRST FLOOR	1,656 S.F.	297 S.F.
SECOND FLOOR	563 S.F.	-
THIRD FLOOR	-	-
TOTAL	3,697 S.F.	297 S.F.

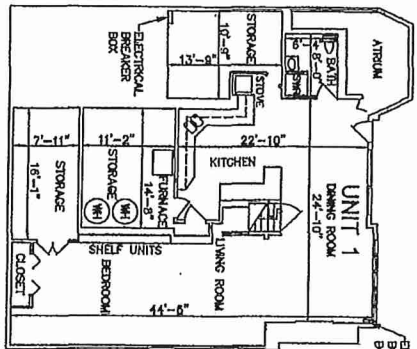
E.L.A. - EXCLUSIVE USE AREA



E.L. = 15.58	SECOND FLOOR
E.L. = 7.75	FIRST FLOOR
E.L. = 0.0	BASEMENT

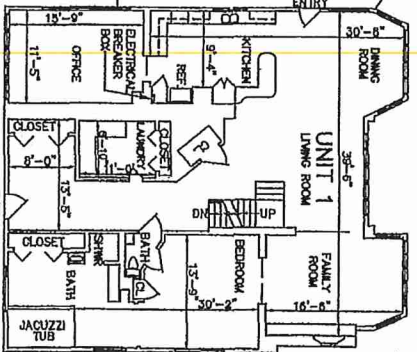
FIRST FLOOR

1/4"=1'-0"



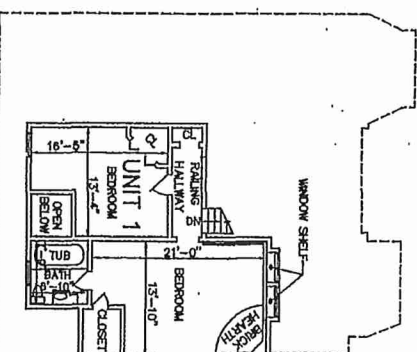
BASEMENT

1/8"=1'-0"



FIRST FLOOR

1/8"=1'-0"



SECOND FLOOR

1/8"=1'-0"

I HEREBY CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.

I HEREBY CERTIFY THAT THE WITHIN PLANS FULLY AND ACCURATELY DEPICT THE LAYOUT, LOCATION, UNIT NUMBER AND DIMENSIONS OF THE UNIT AS BUILT.

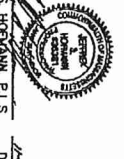
I HEREBY CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS THE BUILDING, LOCATED ON THE PREMISES OF 12-14 FIRST STREET CONDOMINIUM, UNITS 1 AND 2, THE STREET, AND ALL COMMON AREAS TO WHICH THE UNIT OWNERS HAVE ACCESS AS PROVIDED FOR IN THE MASTER DEED.



11-28-04



11-28-04



11-28-04

UNIT DEED

The Whale, LLC, a Massachusetts Limited Liability Company, Conrad J. Audette, Manager and Mark L. Audette, Manager ("Grantor") with a mailing address of P.O. Box 1480, Newburyport, MA 01950 for nominal consideration grant to Conrad J. Audette and Gena Bevilacqua ("Grantees") with a mailing address of 12 First Street, Salisbury, MA 01952 as Tenancy by the Entirety with QUITCLAIM COVENANTS, the unit ("Unit") known as Unit 1 in the Condominium ("Condominium") established pursuant to Massachusetts General Laws, Chapter 183A, by Master Deed on December 1, 2004, recorded with the Essex South District Registry of Deeds in Book No. 23704, Page 258 ("Master Deed"), which unit is shown on the floor plans ("Plans") recorded simultaneously with the Master Deed, and is shown on the copy of a portion of the Plans attached to the first unit deed and made a part thereof, to which is affixed the verified statement of a registered architect in the form required by Section 9 of Chapter 183A.

The Unit is conveyed together with:

1. An undivided interest in 30% in the common areas and facilities ("Common Elements") of the Condominium described in the Master Deed, attributable to the Unit;
2. The exclusive right to use the limited common areas shown as LCA#1 and the exclusive use areas shown as E.U.A.#1 on said plan;
3. An easement for the continuance of all encroachments by the Unit on any adjoining units or Common Elements existing or which may come into existence as a result of any construction or shifting, or as a result of the repair or restoration of the Unit after any damage or destruction by fire or other casualty to the Common Elements, or after a taking in condemnation or eminent domain proceedings, or by reason of any alterations or repairs made to the Common Elements made by or with the consent of the Trustees;
4. An easement in common with the owners of any other units to use any pipes, wires, ducts, flus, cables, conduits, public utility lines, and any other Common Elements located in any other units or elsewhere in the Condominium and serving the Unit;
5. Rights and easements in common with other Unit Owners as described in the Master Deed.

Said Unit is conveyed subject to:

- (1) Easements in favor of adjoining units and in favor of the Common Elements for the continuance of all encroachments of such adjoining units of Common Elements for the continuance of all encroachments of such adjoining units or Common Elements of the units, as a result of any construction or shifting, or as

the result of the repair or restoration of any unit after any damage or destruction by fire or other casualty to the Common Elements, or after a taking in condemnation or eminent domain proceedings, or by any reason of any alterations or repairs made to the Common Elements made by or with the consent of the Trustees;

(2) An easement in favor of the other units to use any pipes, wires, ducts, flus, cables, conduits, public utility lines, and other Common Elements located in the Unit or elsewhere in the Condominium and serving such other Units;

(3) The provisions of this Unit Deed, the Master Deed, the Declaration of Trust, and the Plans, as the same may be amended from time to time by instrument recorded at the Essex South Registry of Deeds, which provisions, together with any amendments thereto, shall constitute covenants running with the land and shall bind any person having at any time any interest or estate in the Unit, his family, servants and visitors, as though such provisions were recited and stipulated at length herein;

(4) All easements and agreements, restrictions and conditions of record, insofar as the same are currently in force and applicable.


The Unit is currently in use as a residence and may be used for any other purposes allowed by the Town of Salisbury.

Meaning and intending to convey that which was conveyed to the Grantors by deed dated October 23, 2014 and recorded in the Essex South Registry of Deed in Book 33624, Page 219.

Executed as a sealed instrument this 16th day of January, 2020.



Conrad J. Audette, Manager, The Whale, LLC



Mark L. Audette, Manager, The Whale, LLC

COMMONWEALTH OF MASSACHUSETTS

Essex, ss,

On this 16th day of January, 2020, before me, the undersigned notary public, personally appeared Mark L. Audette and Conrad J. Audette, as Managers of The Whale, LLC, proved to me through satisfactory evidence of identification, which was a driver's license issued by the Commonwealth of Massachusetts, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.



PRISCILLA F. ARNOTT
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 3, 2020



Priscilla F. Arnott, Notary Public

My Commission expires: July 3, 2020