

City of Newburyport Planning Board
FORM A - APPROVAL NOT REQUIRED

The following items must be submitted to the Office of Planning and Development at least one week prior to a Planning Board meeting to be considered for the next agenda. Please submit:

- two (2) copies of this application
- two (2) 11"x17" copies of the plan
- one (1) full size copy of the plan
- the Mylar
- plans filed according to the Planning Board's Digital Submission Requirements
- an application fee of \$200 per lot line change or new lot created.

To the Planning Board,

The undersigned, believing that the accompanying plan of property in the City of Newburyport, Massachusetts does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required.

Applicant: Katchen Gerig Wittner c/o Mead, Talerman & Costa LLC

Mailing Address: 30 Green Street

Newburyport, MA 01950

Phone: 978-463-7700

Email: lisa@mtclawyers.com

Site Address: 2 E. Boylston Street and 138 State Street

Map and Lot(s): Map 35, Lot 11 & Map 35, Lot 13 A/B Zoning District R-3

Book and Page: 30086/525 & 16900/376 or Certificate of Title: _____

Surveyor: Summit Surveying Inc.

Address: 4 S. Pond Street

Newburyport, MA 01950

Phone: 978-692-7109

Owner's Name: Katchen K Gerig Rev. Tr. & Daniel B. Wittner Rev. Tr.; Susan C. Ferlazzo

Address: 2 E. Boylston St, Newburyport, MA 01950 (Gerig and Wittner).

7 Lorum St. Newburyport, MA 01950 (Ferlazzo)

City of Newburyport Planning Board
FORM A - APPROVAL NOT REQUIRED

1. Total number of new lots created and/or lot line changes: 2 lot line changes

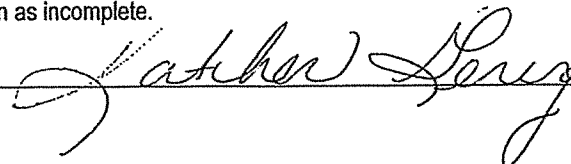
2. Please indicate the grounds on which you believe your plan not to be a subdivision:

- i. Each lot on the plan has the frontage and lot area required under the Zoning Ordinance on:
_____ a public way, or
_____ a way which the City Clerk certifies is maintained & used as a public way, or
_____ a way shown on a plan approved and endorsed by the Planning Board under the
Subdivision Control Law, recorded in Plan Book _____, Plan _____ or
_____ a way in existence before the adoption of the Subdivision Control Law by the City and
which the Board finds adequate for the way's proposed use, or
_____ a way shown on a plan of a subdivision recorded at the Registry of Deeds or the
Land Court prior to the adoption of the Subdivision Control Law.
- ii. Each Lot has been clearly marked on the plan to be either:
_____ joined to and made part of an adjacent lot, or
_____ labeled "Not a Building Lot."
- iii. Each lot on the plan contains a building, which existed prior to the adoption of the Subdivision Control Law.
- iv. The plan shows an existing parcel with no new lot division(s) and has frontage on a way described above.

3. This form and plans have been filed according to the Digital Submission Requirements and:

- have been emailed to planning@cityofnewburyport.com; or
- are included on accompanying media

Every application for an Approval Not Required endorsement shall be made on this form, which is the official form of the Planning Board. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Office of Planning and Development does not absolve the applicant from this responsibility. Failure to comply with application requirements as cited herein may result in a dismissal by the Planning Board of this application as incomplete.

Owner's Signature: 



lead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747

www.mtclawyers.com

April 16, 2020

Bonnie Sontag, Chair
Planning Board
Newburyport City Hall
60 Pleasant Street
Newburyport, MA 01950

Re: 2 E. Boylston St. and 138 State St. ANR Endorsement

Dear Chair and Members of the Planning Board:

Please be advised that we represent Katchen Gerig, who is seeking an ANR endorsement for two lots, one located on East Boylston Street and the other on State Street in Newburyport (the "properties"). Mrs. Gerig seeks to obtain the Board's endorsement to reconfigure the lot lines between the properties, all as shown on the plan prepared by Summit Engineering, Inc (the "Plan") for what is essentially a land swap transaction. Based upon the well-established law regarding ANR endorsements, the Plan is entitled to the Board's endorsement.

The properties front State Street and East Boylston Street respectively. Both properties are wholly within the R3 Residential Zoning District, which, as you know, requires 80 feet of frontage for a single family lot and 100 feet for a two-family lot. As shown on the Plan, the 2 East Boylston property, a single family lot, has over the 80 feet of frontage. While the 138 State Street property, a two-family lot, does not have the required 100 feet of frontage, please note that it was recently given a variance from the Newburyport Zoning Board of Appeals allowing this non-conformity.

ANR endorsements are governed by G.L. c. 41, §81P. Under such statute, a Planning Board's endorsement is required "unless such plan shows a subdivision." By definition, the term *subdivision* does not include the division of a parcel where "every lot within the tract so divided has frontage on a public way." G.L. c. 41, §81L.


Here, the Zoning Board of Appeals has provided the necessary variance for the remaining lot of 138 State Street. The remainder lot is marked as a non-buildable lot. Therefore, approval of the Plan is in the best interest of the public and not inconsistent with the intent and purpose of the subdivision control law. Based upon the foregoing, there can be no doubt that the Plan is entitled to the Board's endorsement.

Millis Office

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

We look forward to the Board's action on our client's proposal, In the meantime, please do not hesitate to contact me with any questions that you may have.

Sincerely,


Lisa L. Mead

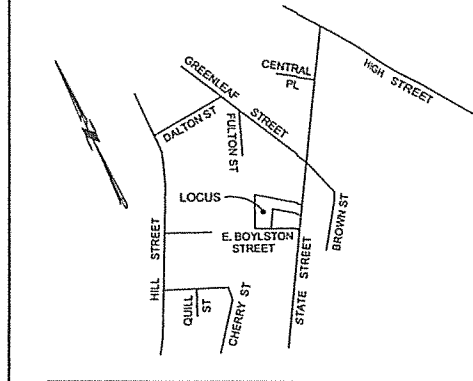
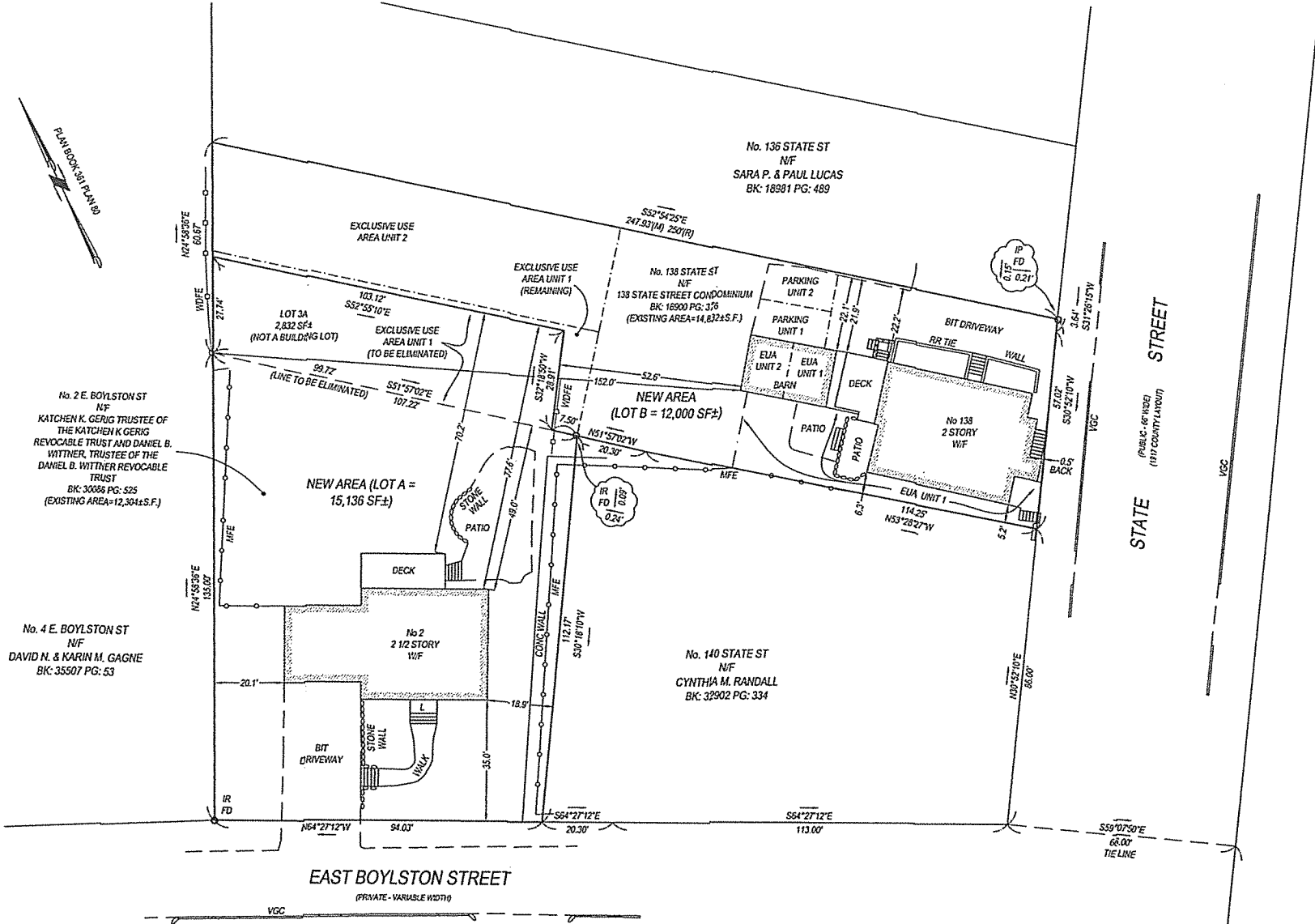
Attachments

cc: Client

RESERVED FOR REGISTRY USE

NOTES:

- 1.) THIS PLAN WAS PREPARED FROM AN INSTRUMENT SURVEY PERFORMED IN NOVEMBER OF 2019.
- 2.) SEE CONDOMINIUM PLAN RECORDED IN PLAN BOOK 349 PLAN 163 FOR EXCLUSIVE USE AREAS.
- 3.) LOT 3A, NOT A BUILDING LOT IS TO BE CONVEYED TO KATCHEN K. GERIG AND DANIEL B. WITTNER OF 2 E. BOYLSTON STREET, NEWBURYPORT, MA TO CREATE ONE LOT "A" CONTAINING ABOUT 15,136 SQUARE FEET.
- 4.) LOT B IS TO BE THE REMAINING LAND OF THE 138 STATE STREET CONDOMINIUM CONTAINING ABOUT 12,000 SQUARE FEET.
- 5.) SEE ZONING BOARD DECISION RECORDED HEREWITH.



RECORD OWNERS:
 KATCHEN K. GERIG, TRUSTEE OF THE KATCHEN K. GERIG REVOCABLE TRUST & DANIEL B. WITTNER, TRUSTEE OF THE DANIEL B. WITTNER REVOCABLE TRUST
 2 E. BOYLSTON STREET
 NEWBURYPORT, MA 01950
 DEED BOOK 30086 PAGE 525

138 STATE STREET CONDOMINIUM
 138 STATE STREET
 NEWBURYPORT, MA 01950
 DEED BOOK 16900 PAGE 376

LEGEND:

- | | |
|------|-------------------------|
| BIT | BITUMINOUS |
| BH | BULKHEAD |
| EAU | EXCLUSIVE USE AREA |
| FD | FOUND |
| IP | IRON PIPE |
| IR | IRON ROD |
| L | LANDING |
| M | MEASURED |
| MFE | METAL FENCE |
| NM | NOT MEASURED |
| P | PORCH |
| R | RECORD |
| SBBC | STONE BOUND BACK CENTER |
| RR | RAIL ROAD |
| VGC | VERTICAL GRANITE CURB |
| WDFE | WOOD FENCE |

REFERENCES:

- PLAN BOOK 361 PLAN 80
- PLAN BOOK 349 PLAN 163
- PLAN BOOK 333 PLAN 20
- PLAN BOOK 331 PLAN 70
- STATE STREET 1917 COUNTY LAYOUT

ZONING:

R3 (SINGLE FAMILY) NO. 2 EAST BOYLSTON STREET		
REQUIRED	EXISTING	PROPOSED
LOT AREA: 8,000 SF	LOT AREA: 12,304 SF	LOT AREA: 15,136 SF
FRONTAGE: 80'	FRONTAGE: 94.03'	FRONTAGE: 94.03'
FRONT OFFSET: 20'	FRONT OFFSET: 35'	FRONT OFFSET: 35'
SIDE OFFSET: 10'	SIDE OFFSET: 18.9'	SIDE OFFSET: 18.9'
REAR OFFSET: 20'	REAR OFFSET: 49.0'	REAR OFFSET: 77.6'
HEIGHT: 35'	HEIGHT: NM	HEIGHT: NM
LOT COVERAGE: 30%	LOT COVERAGE: 13.5%	LOT COVERAGE: 11.0%
OPEN SPACE: 35%	OPEN SPACE: 79.2%	OPEN SPACE: 83.1%

R3 (TWO FAMILY) NO. 138 STATE STREET		
REQUIRED	EXISTING	PROPOSED
LOT AREA: 12,000 SF	LOT AREA: 14,832 SF	LOT AREA: 12,000 SF
FRONTAGE: 100'	FRONTAGE: 60.66'	FRONTAGE: 60.66'
FRONT OFFSET: 20'	FRONT OFFSET: 0.5'	FRONT OFFSET: 0.5'
SIDE OFFSET: 10'	SIDE OFFSET: 5.2'	SIDE OFFSET: 5.2'
REAR OFFSET: 20'	REAR OFFSET: 152'	REAR OFFSET: 52.6'
HEIGHT: 35'	HEIGHT: NM	HEIGHT: NM
LOT COVERAGE: 30%	LOT COVERAGE: 12.5%	LOT COVERAGE: 15.4%
OPEN SPACE: 35%	OPEN SPACE: 77.5%	OPEN SPACE: 72.2%

APPROVAL NOT REQUIRED UNDER THE SUBDIVISION CONTROL LAW
 NEWBURYPORT PLANNING BOARD

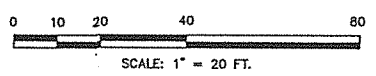
I CERTIFY THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



CHARLES J. BRENNAN, P.L.S.
 FOR: SUMMIT SURVEYING, INC.

4-7-20
 DATE

THE PLANNING BOARD'S ENDORSEMENT OF THIS PLAN AS NOT REQUIRING APPROVAL UNDER THE SUBDIVISION CONTROL LAW DOES NOT GIVE LOTS OR PARCELS ANY STANDING UNDER CITY OF NEWBURYPORT ZONING ORDINANCE.



PLAN OF LAND
 IN
NEWBURYPORT, MA
 AT 2 E. BOYLSTON STREET & 138 STATE STREET
 PREPARED FOR
DANIEL B. WITTNER & KATCHEN K. GERIG
 BY
SUMMIT SURVEYING INC.

4 S. POND STREET, NEWBURYPORT, MA 01950
 TEL. 978-692-7109 WWW.SUMMITSURVEYINGINC.COM
 NOVEMBER 11, 2019 19-0159