

**City of Newburyport Zoning Board of Appeals**  
**Application for a SPECIAL PERMIT for NON-CONFORMITIES**

Petitioner: Redco Construction Inc. c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

Phone: 978-463-7700 Email: lisa@mtclawyers.com

Property Address: 3-5 School Street

Map and Lot(s): 19 - 32 Zoning District: R2/DCOD

Book and Page(s): 38245 - 280

Owner(s) Name: 3-5 School Street CBC, LLC

Mailing Address (if different): \_\_\_\_\_

This request for a Special Permit for Non-Conformities is made under section(s):  
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> Extension or Alteration (IX.B.2) | <input checked="" type="checkbox"/> Over 500 s.f. increase (IX.B.3.c) |
| <input type="checkbox"/> Parking                                     | <input type="checkbox"/> Plum Island Overlay District (XXI-G-3)       |
| <input type="checkbox"/> Upward Extension                            | <input type="checkbox"/> FAR  |
| <input type="checkbox"/> Open Space                                  | <input type="checkbox"/> Footprint Expansion                          |
| <input type="checkbox"/> Height                                      | <input type="checkbox"/> Height Increase                              |
| <input type="checkbox"/> Lot Area                                    |   |
| <input type="checkbox"/> Use   |   |

Description of request:  
Construct addition to rear of two-family residential structure.

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

**City of Newburyport Zoning Board of Appeals**  
**Application for a SPECIAL PERMIT for NON-CONFORMITIES**

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	3,810.8 sq ft	3,810.8 sq ft	15,000 sq ft
Frontage	57.75 ft	57.75 ft	120 ft
Height*	24 ft	23.5 ft	35 ft
Lot Coverage (%)**	31.3%	42.3%	25%
Open Space (%)***	68.7%	40.7%	40%
Front Setback	-0.3 ft	-0.3 ft	25 ft
Side A Setback	9.7 ft	9.7 ft	20 ft
Side B Setback	11.7 ft	11.7 ft	20 ft
Rear Setback	28.5 ft	23.5 ft	25 ft
Parking Spaces	4	4	4
FAR****			

\*Height is measured to median roof line.

\*\*Total building footprint divided by the lot area expressed as a percentage.

\*\*\*Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

\*\*\*\*FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. 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 Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

Petitioner's and Owner's signature(s):

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# City of Newburyport Zoning Board of Appeals Application for a VARIANCE

Petitioner: Redco Construction Inc. c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

Phone: 978-463-7700 Email: lisa@mtclawyers.com

Property Address: 3-5 School Street

Map and Lot(s): 19 - 32 Zoning District: R2/DCOD

Book and Page(s): 38245 - 280

Owner(s) Name: 3-5 School Street CBC, LLC

Mailing Address (if different): \_\_\_\_\_

The petitioner is requesting a Variance from section(s):  
(Refer to the Zoning Determination form supplied by the Zoning Administrator)

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Dimensional Controls (VI)   | <input type="checkbox"/> Parking (VII)  |
| <input type="checkbox"/> Lot Area <input type="checkbox"/> Front Yard<br><input type="checkbox"/> Open Space <input type="checkbox"/> Side Yard<br><input type="checkbox"/> Lot Coverage <input checked="" type="checkbox"/> Rear Yard<br><input type="checkbox"/> Height <input type="checkbox"/> Lot Width<br><input type="checkbox"/> Frontage | <input type="checkbox"/> PIOD (XXI)<br><input type="checkbox"/> FAR<br><input type="checkbox"/> 2 ½ stories<br><input type="checkbox"/> Footprint expansion |
| <input type="checkbox"/> Modification of existing variance (please attach)  | <input type="checkbox"/> Other: _____   |

Request:  
Construct addition to rear of two-family residential structure.

All information contained within this application will become a formal part of the Zoning Board of Appeals proceedings and decision.

**City of Newburyport Zoning Board of Appeals**  
**Application for a VARIANCE**

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	3,810.8 sq ft	3,810.8 sq ft	15,000 sq ft
Frontage	57.75 ft	57.75 ft	120 ft
Height*	24 ft	23.5 ft	35 ft
Lot Coverage (%)**	31.3%	42.3%	25%
Open Space (%)***	68.7%	40.7%	40%
Front Setback	-0.3 ft	-0.3ft	25 ft
Side A Setback	9.7 ft	9.7 ft	20 ft
Side B Setback	11.7 ft	11.7 ft	20 ft
Rear Setback	28.5 ft	23.5 ft	25 ft
Parking Spaces	4	4	4
FAR****			

\*Height is measured to *median* roof line.

\*\*Total building footprint divided by the lot area expressed as a percentage.

\*\*\*Area unoccupied by building, parking areas, or driveways expressed as a percentage of lot area. Pools, patios, and decks may be included in open space.

\*\*\*\*FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. 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 Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publication, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal by the ZBA of this application as incomplete.

Petitioner's and Owner's signature(s):

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Lead, Talerman & Costa, LLC  
Attorneys at Law

30 Green Street  
Newburyport, MA 01950  
Phone 978.463.7700  
Fax 978.463.7747

www.mtclawyers.com

February 28, 2020

By Hand

Rob Ciampitti, Chair  
Zoning Board of Appeals  
City of Newburyport  
City Hall  
60 Pleasant Street  
Newburyport, Massachusetts 01950

Re: Request for Special Permit for Non-Conformities and Variance  
3-5 School Street, Newburyport, MA (the "Property")  
Assessor's Map: 19 Lot: 32

Dear Chair and Members of the Board:

Reference is made to the above-captioned matter. In that connection, this firm represents Redco Construction Inc. (the "Applicant"), the owner of the Property, relative to the construction of an addition to a two-family residence (the "Structure"). The Applicant seeks a Special Permit for Non-Conformities and a Variance for the project.

The Property is located in the R2 zoning district and Demolition Control Overlay District ("DCOD") under the Newburyport Zoning Ordinance (the "Ordinance"). The Structure was constructed in 1800 according to the Assessor's Record and circa 1750-1800 according to the District Data Sheet. The Form B and District Data Sheet indicate that the Structure was the birthplace of William Lloyd Garrison, and is known as the "William Lloyd Garrison House."

The Property is pre-existing, nonconforming for lot area, lot coverage, and frontage. The Property contains 3,810.8 square feet and the R2 district requires a minimum lot size of 15,000 square feet for a two-family use, the lot coverage is 31.3% where the maximum allowable is 25%, and the frontage is 57.75 feet where the minimum required is 120 feet. The Structure is pre-existing, nonconforming for front yard setback and both side yard setbacks. The R2 district requires a minimum front yard setback of 25 feet; the front yard setback is -0.3 feet as the southwestern corner of the Structure encroaches over the front property line. The required minimum side yard setback is 20 feet; the side yard setbacks are 9.7 feet and 11.7 feet.

The Applicant proposes to demolish a one-story addition at the rear of the Structure to construct a two-story addition. As shown on the attached demolition plan, less than 25% of the exterior walls will be removed and the proposed demolition is not subject to the DCOD. The two story addition will extend the side yard setbacks; however, the addition is stepped in on both sides resulting in side yard setbacks of 10.9 feet and 15.59 feet for the addition. As such, the Applicant will require a Special Permit for Non-Conformities. The proposed addition will add more than 500 square feet and increased the nonconforming lot coverage to 42.3%, also requiring a Special Permit for Non-Conformities. Finally, the addition will create a new encroachment into the rear yard

*Millis Office*

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

setback for a rear setback of 23.5 feet, where the minimum required is 25 feet. The Applicant will require a Variance to encroach into the rear yard setback.

Because the age of the existing one-story addition at the rear of the Structure is more than likely over 75 years old, the Applicant also requires review before the Historical Commission for a roof line change.

### **Special Permit for Non-Conformities**

Section IX-B-2.A allows the modification of a preexisting nonconforming single-family structure where the Board finds that:

- 1. There will be no addition of a new non-conformity; and**
- 2. The proposed change will not be substantially more detrimental to the neighborhood than the preexisting nonconforming structure.**

1. As aforementioned, the addition will create a new encroachment into the rear yard setback. The Applicant is therefore seeking a Variance as further detailed below. Aside from the new encroachment into the rear yard setback, the addition will only extend the side yard setbacks and increase the already nonconforming lot coverage.
2. The proposed changes will not be substantially more detrimental to the neighborhood than the preexisting nonconforming Structure. As shown on architectural plans attached hereto, the overall renovation to the Structure is a stark improvement to the existing condition. The proposed addition is to the rear of the Structure and does not change the historic street view at the front of the Property. The lot, despite its small size, can accommodate the addition.

### **Dimensional Variance**

The Applicant requires a dimensional variance pursuant to Section X-H.6.A of the Ordinance as the proposed addition will encroach into the rear yard setback. Section X-H.6.A, incorporates G. L. c. 40A, § 10, which provides that the grant of a variance by the Board requires a finding that:

owing to circumstances relating to the soil conditions, shape or topography of [the] land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of th[e O]rdinance would involve substantial hardship, financial or otherwise, to the . . . petitioner, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of th[e O]rdinance.

The topography on the Property is such that a literal enforcement of the provisions of the Ordinance would involve substantial hardship to the Applicant. There is an approximately two (2) foot slope from the front of the Property at School Street towards the rear of the Property heading towards the river. In contrast, the church property abutting the Property is level and does not having this sloped topography. The Structure is used as a two-family residence and financial cost for the Applicant to restore the Structure to the form in which it existed historically requires the Applicant to construct an addition to the rear of the Structure. Further, constructing this addition at the rear ensures that the street view of front of the historic Structure is preserved. Given the financial balance of restoring this important piece of Newburyport history while maintaining economic feasibility for the

Applicant, the proposed 1.5 foot encroachment into the rear yard setback is does not derogate from the intent or purpose of the Ordinance. Additionally, there is no substantial detriment to the public good. First, the restored Structure will be a vast improvement over the existing condition. Second, preserving the City's history furthers the public good, and the William Lloyd Garrison House is a significant piece of the City's history.

The Applicant respectfully requests that the Board find that the proposed changes are not substantially more detrimental to the neighborhood than the pre-existing, nonconforming Structure and grant a Special Permit for Non-Conformities. The Applicant also respectfully requests that the Board grant a Variance based on the substantial hardship to the Applicant if the Ordinance is strictly applied, given the topography on the Property that is not of the Applicant's making.

Respectfully submitted  
Redco Construction Inc.  
By its Attorney



Lisa L. Mead

Attachment  
cc: client

CITY OF NEWBURYPORT, MA  
ZONING DETERMINATION

APR# 2020-023

Name: Redco Construction c/o Lisa Mead MTC LCC

Address: 3-5 School Street

Zoning District(s): R2/DCOD

Request: Demolition of rear portion of existing non conforming 2 family structure on nonconforming lot. Construct a new 2 story addition to rear and new dormer at rear of existing attic. Proposal adds greater than 500sf of added living area extends non conforming lot coverage and lateral and upward extension of nonconforming side yard setbacks. The proposal creates a new non conforming rear yard setback. There is currently less than 25% exterior wall demo, board requested design changes may impact this and trigger DCOD.

ZONING BOARD REVIEW REQUIRED

Variance

- Dimensional Controls (VI)
  - Lot Area
  - Lot Frontage
  - Lot Coverage
  - Parking (VII)
  - Modification
  - Open Space
  - Height
  - Lot Width
  - Front Yard
  - Side Yard
  - Rear Yard

Sign Variance

- Signs (VIII)
  - Type
  - Lighting
  - Size
  - Location

Other

\_\_\_\_\_

Special Permit

- Table of Use Regulations (V.D) #: \_\_\_\_\_
- Spacing (VI.D)
- In-Law Apartment (XIIA)
- Bonus for Multifamily Developments (XVI)
- Personal Wireless Communication Services (XX)
- Demolition Control Overlay District (XXVIII)\*
- Wind Energy Conversion Facilities (XXVI)
- Other \_\_\_\_\_

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
  - Parking
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - Use
  - Rear Yard
  - Lot Coverage
  - Side Yard
  - Lot Frontage
  - Front Yard
- Over 500 sf. increase (IX.B.3.c)
- Plum Island Overlay District (XXI-G-3)
  - FAR
  - Lot Coverage
  - Height
  - Setbacks
  - Open Space

PLANNING BOARD REVIEW REQUIRED

Special Permit

- Table of Use Regulations (V-D) # \_\_\_\_\_
- One residential structure per lot (VI.C)
- Open Space Residential Development (XIV)
- Water Resource Protection District (XIX)
- Federal Street Overlay District (XXII)
- Courts and Lanes (XXIII)
- Waterfront West Overlay District (XXIV)
- Towle Complex Redev. Overlay District (XXV)
- Downtown Overlay District (XXVII)\*
- Other \_\_\_\_\_

Special Permit for Non-Conformities

- Extension or Alteration (IX.B.2)
  - Parking
  - Upward Extension
  - Open Space
  - Height
  - Lot Area
  - Use
  - Rear Yard
  - Lot Coverage
  - Side Yard
  - Lot Frontage
  - Front Yard
- Over 500 sf. increase (IX.B.3.c)

Smart Growth District (XXIX)

- Plan Approval

Site Plan Review (XV)

- Major
- Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay
- \*Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

appears to trigger substantial improvement

  
Newburyport Zoning Administrator

02/26/2020  
Date



### 3-5 SCHOOL ST

**Location** 3-5 SCHOOL ST

**MBLU** 19/ 32/ / /

**Owner** MCKINNON HOLLY B

**Assessment** \$474,500

**PID** 809

**Building Count** 1

#### Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$230,500	\$244,000	\$474,500

#### Owner of Record

**Owner** MCKINNON HOLLY B

**Sale Price** \$0

**Co-Owner** SEAN T T/E

**Certificate**

**Address** 3-5 SCHOOL ST

**Book & Page** 34158/0576

NEWBURYPORT, MA 01950

**Sale Date** 06/24/2015

**Instrument** 1A

#### Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
MCKINNON HOLLY B	\$0		34158/0576	1A	06/24/2015
BEAL CONSTANCE N	\$55,000		07156/0257	1A	07/08/1983
LATTIME SHIRLEY MAY	\$0		6136/ 194		03/28/1975

#### Building Information

**Year Built:** 1800  
**Living Area:** 2,332

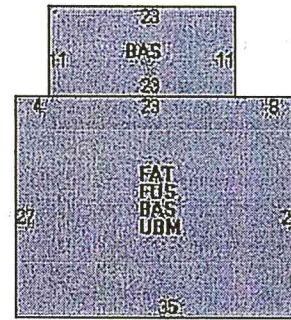
Building Attributes	
Field	Description
Style	Family Duplex
Model	Residential
Stories:	2 Stories
Occupancy	2
Exterior Wall 1	Wood Shingle
Exterior Wall 2	Vinyl Siding
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	4 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	11 Rooms
Bath Style:	Average
Kitchen Style:	Average

**Building Photo**



(<http://images.vgsi.com/photos/NewburyportMAPhotos//\01\00\19\68.jpg>)

**Building Layout**



([http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/809\\_864.jpg](http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/809_864.jpg))

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,198	1,198
FUS	Upper Story, Finished	945	945
FAT	Attic	945	189
UBM	Basement, Unfinished	945	0
		4,033	2,332

**Extra Features**

Extra Features	Legend
No Data for Extra Features	

**Land Use**

**Use Code** 1040  
**Description** TWO FAMILY

**Land Line Valuation**

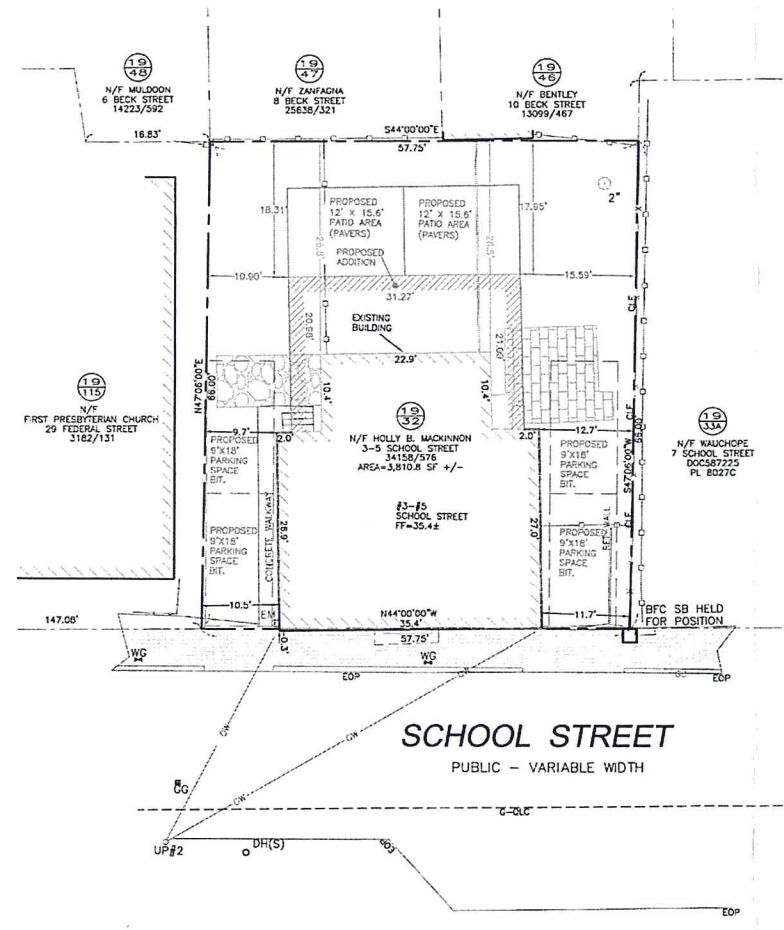
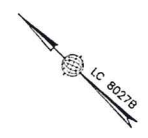
**Size (Acres)** 0.09  
**Depth** 0  
**Assessed Value** \$244,000

**Outbuildings**

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
PAT1	PATIO-AVG			112 S.F.	\$500	1

**Valuation History**

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$223,400	\$232,400	\$455,800



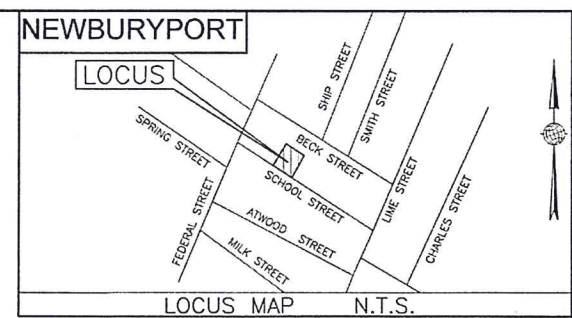
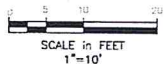
**SCHOOL STREET**  
PUBLIC - VARIABLE WIDTH

**ZONING:**

RESIDENTIAL 2 (R2) USE CODE 102 (TWO FAMILY)  
DEMOLITION CONTROL OVERLAY DISTRICT (DCOD)

REQUIRED:	EXISTING:	PROPOSED:
LOT AREA=15,000 sf	3810.8 SF±	3810.8 SF± N.C.
FRONTAGE=120'	57.75' N.C.	57.75' N.C.
MIN. FRONT SETBACK=25'	-0.30' N.C.	-0.30' N.C.
MIN. SIDE SETBACK=20'	(L)9.7' / (R)11.7'	(L)9.7' / (R)11.7'
MIN. REAR SETBACK=25'	28.5'	17.95'
BUILDING HEIGHT=35' MAX	24'±	23.5'±
LOT COVERAGE=25% (BLDGS ONLY)	31.3%	42.3%
OPEN SPACE=40%	68.7%	40.7%

\*NOTE: NON DELIMITED GRAVEL PARKING AREAS WERE EXCLUDED FROM OPEN SPACE COMPUTATIONS FOR THIS TABLE



**NOTES:**

1. FIELD SURVEY PERFORMED: JANUARY 15, 2020.
2. THIS PLAN IS PREPARED FOR OUR CLIENT USE ONLY FOR THE SPECIFIC PURPOSE OF OBTAINING PERMITS AND LOCAL APPROVALS, AND IS NOT TO BE USED OR RELED UPON AS A CONSTRUCTION DOCUMENT OR ANY OTHER USE BY OTHERS WITHOUT THE WRITTEN CONSENT OF HANCOCK ASSOCIATES.
3. THE ENTIRETY OF THE PROPERTY LIES IN ZONE "X" AS DEPICTED ON FEMA MAP 25009C0136G WITH AN EFFECTIVE DATE OF JULY 16, 2014
4. OWNERSHIP OF ABUTTING LANDS ACCORDING TO CITY OF NEWBURYPORT ASSESSOR'S DEPARTMENT.

**OWNER/APPLICANT:**

HOLLY MCKINNON  
DEED BOOK: 34158 PAGE 576  
ASSESSOR'S MAP: 19 LOT 32

**REFERENCES:**

1. ESSEX COUNTY REGISTRY OF DEEDS  
BK 34158 PG 576 (DEED)
- LANDCOURT PLAN 8027C
- LANDCOURT PLAN 8027B

I HEREBY CERTIFY THAT:

THIS PLAN IS BASED ON AN ON-THE-GROUND SURVEY AND PRESENTS THE FACTS AS FOUND AT THE TIME OF THE SURVEY.

I FURTHER CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIP AND THE LINES OF THE STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR THE NEW WAYS ARE SHOWN AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN.

*[Signature]*  
EDWARD DIXON  
No. 34364  
PROFESSIONAL LAND SURVEYOR  
DATE: JAN 21 2020

<p><b>PROPOSED PLOT PLAN</b> <b>3-5 SCHOOL STREET</b> IN NEWBURYPORT, MASSACHUSETTS ESSEX COUNTY</p>	RESEARCH: EDX
	FIELD: CHA/AMM
<p>PREPARED FOR: <b>REDCO CONSTRUCTION</b></p>	CALCULATION: CHA
	DRAFTING: CHA
<p>PREPARED BY: <b>HANCOCK ASSOCIATES</b> Civil Engineers Land Surveyors Wetland Scientists ONE HARRIS STREET SUITE 3 NEWBURYPORT, MA 01950 TEL: 978-465-9992 www.hancockassociates.com</p>	CHECK: EDX
	PROJ. MANAGER: EDX
<p>DATE: JANUARY 15, 2020</p> <p>JOB NO. 23265</p> <p>CRD FILE 23265CPP.CRD</p> <p>SHEET NO. 1 OF 1</p>	







