

City of Newburyport Zoning Board of Appeals Application for a VARIANCE

Petitioner: Steven Lewis c/o Lisa Mead, Mead, Talerman & Costa, LLC

Mailing Address: 30 Green Street

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

Property Address: 332 Merrimac Street and 7 Savory Street

Map and Lot(s): 65-18 and 65-20 Zoning District: WMD

Book and Page(s): 36140/482

Owner(s) Name: Steven J. Lewis and Jennifer Lewis

Mailing Address (if different): 11 Windward Drive, Newburyport MA 01950

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 checked="" type="checkbox"/> Lot Area
<input type="checkbox"/> Open Space
<input type="checkbox"/> Lot Coverage
<input type="checkbox"/> Height
<input checked="" type="checkbox"/> Frontage | <input checked="" type="checkbox"/> Front Yard
<input checked="" type="checkbox"/> Side Yard
<input type="checkbox"/> Rear Yard
<input type="checkbox"/> Lot Width |
| | <input type="checkbox"/> PIOD (XXI)
<input type="checkbox"/> FAR
<input type="checkbox"/> 2 ½ stories
<input type="checkbox"/> Footprint expansion |

- Modification of existing variance (please attach) Other: _____

Request:
Divide property to create two separate lots as previously existing prior to merger.

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	10,695	6,066 / 4,629	10,000
Frontage	55	55	90
Height*	N/A	N/A	25
Lot Coverage (%)**	19	19 / 0	25
Open Space (%)***	73.9	73.9 / 100	40
Front Setback	6.2	6.2	25
Side A Setback	7.3	7.3	10
Side B Setback	13.4	13.4	10
Rear Setback	74.5	74.5	25
Parking Spaces	2	2	2
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):

Steven J. Lewis - CEO Newburyport Properties LLC



Mead, Talerman & Costa, LLC
Attorneys at Law

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Newburyport, MA 01950
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Fax 978.463.7747
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Millis Office
730 Main Street, Suite 1F
Millis, MA 02054
Phone 508.376.8400

October 3, 2019

By Hand

Renee Bourdeau, Chair
Zoning Board of Appeals
City of Newburyport
City Hall
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: Application for a Variance
332 Merrimac Street and 7 Savory Street, Newburyport, MA (the "Property")

Dear Chair and Members of the Board;

Reference is made to the above-captioned matter. In that connection, I represent Steven Lewis (the "Petitioner"), the owner of the Property. The Property is located in the Waterfront Marine Dependent ("WMD") zoning district of the Newburyport Zoning Ordinance (the "Ordinance") and contains 10,695 square feet. The Petitioner wishes to divide the Property along its lot lines to reflect the lot lines as existing in the Assessor's Records. The Property historically consisted of two separate lots, 332 Merrimac Street and 7 Savory Street, that merged in or around 1978. A discussion of each proposed lot and the required relief is presented below.

332 Merrimac Street

The lot created at 332 Merrimac Street will require a dimensional variance for both frontage and lot size. The WMD requires a minimum lot size of 10,000 square feet and minimum frontage of 90 feet; the proposed 332 Merrimac Street will have 6,066 square feet of area with a frontage of 55 feet.

Further, 332 Merrimac Street is improved with a single-family home that is preexisting nonconforming for front and side yard setback. The front setback is 6.2 feet, where 25 feet are required, and the left side yard setback is 7.2 feet, where 10 feet is required. Therefore, the Petitioner will also require a dimensional variance for front and side yard setback.

7 Savory Street

The recreation of 7 Savory Street will require a dimensional variance for lot area and frontage. The proposed dimensions are 55 feet of frontage and 4,629 square feet of area. The Petitioner does not seek to construct a residence on the 7 Savory lot

and is open to a restriction on the lot that no residence be constructed.

Dimensional Variance

The Petitioner requires a dimensional variance pursuant to Section X-H.6.A of the Ordinance as the two lots after division of the Property will not conform to the Ordinance’s requirements for lot area, frontage, front, and side 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 required findings, including an analysis of what constitutes a hardship, and are addressed below.

Hardship related to the land: As noted above, unique “soil conditions, shape or topography of the land” warrant the grant of a variance. The Property in its current form contains an odd shape. Generally the other properties in the neighborhood are more uniform, thus making the Applicant’s land unique. In fact the division creates two lots that a geometrically similar to other lots in the area.

A Strict application of the provisions of the ordinance will deprive the applicant of reasonable use of the lot and structure: Here, the lots until in more recent times were always two lots. The Merrimac Street lot will remain unchanged from its historic form. The rear lot could be used by a neighbor or by the Applicant for something other than more space for the Merrimac Street property. Ostensibly if the rear lot remained as part of the Merrimac Street parcel it could be used for more parking or other outbuildings. Separating the lot allows for use or sale to an abutter or use by the Applicant, which if the land were not separated, could not happen.

The unique conditions and circumstances are not the result of actions of the applicant: The two lots comprising the Property merged in 1978, long before the Petitioner came to own the Property in 2017 and are thus not a result of any actions on the part of the Petitioner.

The Board can grant relief without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Ordinance: Here, no new housing will be created. The original Merrimac Street property will remain and the small lot of Savory Street restored. There is no detriment to the ordinance, as but for separating the lots to their original size and not adding any housing units will continue. Further, many of the lots in the area to the east are of similar size.

The granting of the variance will not be a substantial detriment to the public good. The Petitioner is seeking the return the Property to the form it historically existed as two separate lots, and as still reflected in the Assessor’s records. Further, as mentioned above, the Petitioner does not seek to construct a residence on the proposed vacant lot at 7 Savory Street and has expressed openness to a restriction stating such. Therefore, the Board can grant a variance without causing any detriment to the neighborhood.

As a result, having demonstrated that the Board can grant the requested relief to allow the Petitioner to divide the Property into two separate lots as they existing before merger, the Petitioner respectfully requests that the Board grant a Dimensional Variance for 332 Merrimac Street and 7 Savory Street.

Respectfully submitted

Steven Lewis

By his attorney

Handwritten signature of Lisa L. Mead, consisting of stylized initials 'LLM' followed by 'BY' and 'LLM' written vertically.

Lisa L. Mead

Attachment

cc: Client

CITY OF NEWBURYPORT, MA
ZONING DETERMINATION

APR# 2019-065

Name: Steven Lewis/Lisa Mead, Mead Talerman & Costa LLC

Address: 332 Merrimac Street (Map 65 lot 18 and 65 lot 20) Zoning District(s): WMD

Request: Split existing nonconforming property creating 2 non conforming properties. Proposed restriction on proposed un-built parcel.

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

Newburyport Zoning Administrator

9/26/2019
Date

332 MERRIMAC ST

Location 332 MERRIMAC ST

MBLU 65/ 18/ / /

Owner LEWIS STEVEN J & JENNIFER T/E

Assessment \$470,000

PID 4319

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$247,400	\$222,600	\$470,000

Owner of Record

Owner LEWIS STEVEN J & JENNIFER T/E
Co-Owner
Address 11 WINDWARD DR
 NEWBURYPORT, MA 01950

Sale Price \$505,000
Certificate
Book & Page 36140/0482
Sale Date 08/30/2017
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
LEWIS STEVEN J & JENNIFER T/E	\$505,000		36140/0482	00	08/30/2017
LARNARD RAYMOND J JR	\$0		23964/0204	1F	02/16/2005
LARNARD RUTH F	\$0		15177/0592	1A	10/23/1998
LARNARD RAYMOND J SR	\$0		98P2109AD1	1H	10/15/1998
LARNARD, JOSEPH B.	\$1		12735/0389	1A	09/07/1994

Building Information

Year Built: 1900
Living Area: 1,644

Building Attributes	
Field	Description
Style	Conventional
Model	Residential
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Aluminum Sidng
Exterior Wall 2	
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	Hardwood
Heat Fuel	Gas
Heat Type:	Forced Air-Duc
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	0
Total Xtra Fixtrs:	
Total Rooms:	7 Rooms
Bath Style:	Average
Kitchen Style:	Average

Building Photo

Building Photo (<http://images.vgsi.com/photos/NewburyportMAPhotos//\01\01\01\63.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPhotos//Sketches/4319_4481.jpg)

Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	976	976
FUS	Upper Story, Finished	668	668
FEP	Porch, Enclosed	65	0
UAT	Attic	588	0
UBM	Basement, Unfinished	901	0
WDK	Deck, Wood	224	0
		3,422	1,644

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 1010
Description SINGLE FAM

Land Line Valuation

Size (Acres) 0.14
Depth 0
Assessed Value \$222,600

Outbuildings	<u>Legend</u>
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$236,200	\$212,000	\$448,200

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7 SAVORY ST

Location 7 SAVORY ST

MBLU 65/ 20/ / /

Owner LARNARD RAYMOND J JR

Assessment \$77,700

PID 4321

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2019	\$0	\$77,700	\$77,700

Owner of Record

Owner LARNARD RAYMOND J JR
Co-Owner
Address 6 HARRIS ST
 NEWBURYPORT, MA 01950

Sale Price \$0
Certificate
Book & Page 23964/0204
Sale Date 02/16/2005
Instrument 1F

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
LARNARD RAYMOND J JR	\$0		23964/0204	1F	02/16/2005
LARNARD RUTH F	\$0		15177/0592	1A	10/23/1998
LARNARD RUTH F 1/2 INT	\$0		98P2109AD1	1A	10/15/1998
LARNARD JOSEPH B	\$0		12735/0389	1A	09/07/1994
RYAN EVELYN M	\$0		4921/ 36		

Building Information

Year Built:

Living Area: 0

Building Attributes	
Field	Description
Style	Vacant Land
Model	
Stories:	
Occupancy	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure:	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Flr 1	
Interior Flr 2	
Heat Fuel	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bthrms:	
Total Half Baths:	
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	
Kitchen Style:	

Building Photo



(http://images.vgsi.com/photos/NewburyportMAPPhotos//default.jpg)

Building Layout

(http://images.vgsi.com/photos/NewburyportMAPPhotos//Sketches/4321_4483.jpg)

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

Extra Features

Extra Features	Legend
No Data for Extra Features	

Land

Land Use

Use Code 1310
Description RES ACLNPO

Land Line Valuation

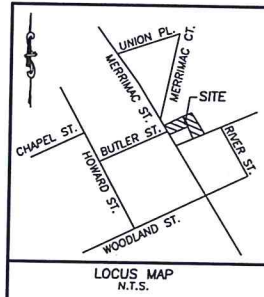
Size (Acres) 0.11
Depth 0
Assessed Value \$77,700

Outbuildings	<u>Legend</u>
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$0	\$74,000	\$74,000

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ZONING TABLE
ADDRESS - ASSESSORS MAP 85 LOT 18
ZONING DISTRICT: WMD SINGLE FAMILY

	REQUIRED	EXISTING	PROPOSED
LOT AREA:	10,000 SF	6,066 SF	6,066 SF
LOT FRONTAGE:	90 FT	55.0 FT	55.0 FT
FRONT SETBACK:	25 FT	6.2 FT	**
SIDE SETBACK:	10 FT	7.3 FT, 13.4 FT	**
REAR SETBACK:	25 FT	75.4 FT	**
LOT COVERAGE:	25%	19.0%	**
OPEN SPACE:	40%	73.9%	**
BLDG HEIGHT:	25 FT	**	**

ZONING TABLE
ADDRESS - ASSESSORS MAP 85 LOT 20
ZONING DISTRICT: WMD SINGLE FAMILY

	REQUIRED	EXISTING	PROPOSED
LOT AREA:	10,000 SF	4,629 SF	4,629 SF
LOT FRONTAGE:	90 FT	55 FT	55 FT
FRONT SETBACK:	25 FT	**	**
SIDE SETBACK:	10 FT	**	**
REAR SETBACK:	25 FT	**	**
LOT COVERAGE:	25%	**	**
OPEN SPACE:	40%	**	**
BLDG HEIGHT:	25 FT	**	**

BASIS OF BEARINGS
PLAN BK. 236, PLAN 47

OWNER OF RECORD

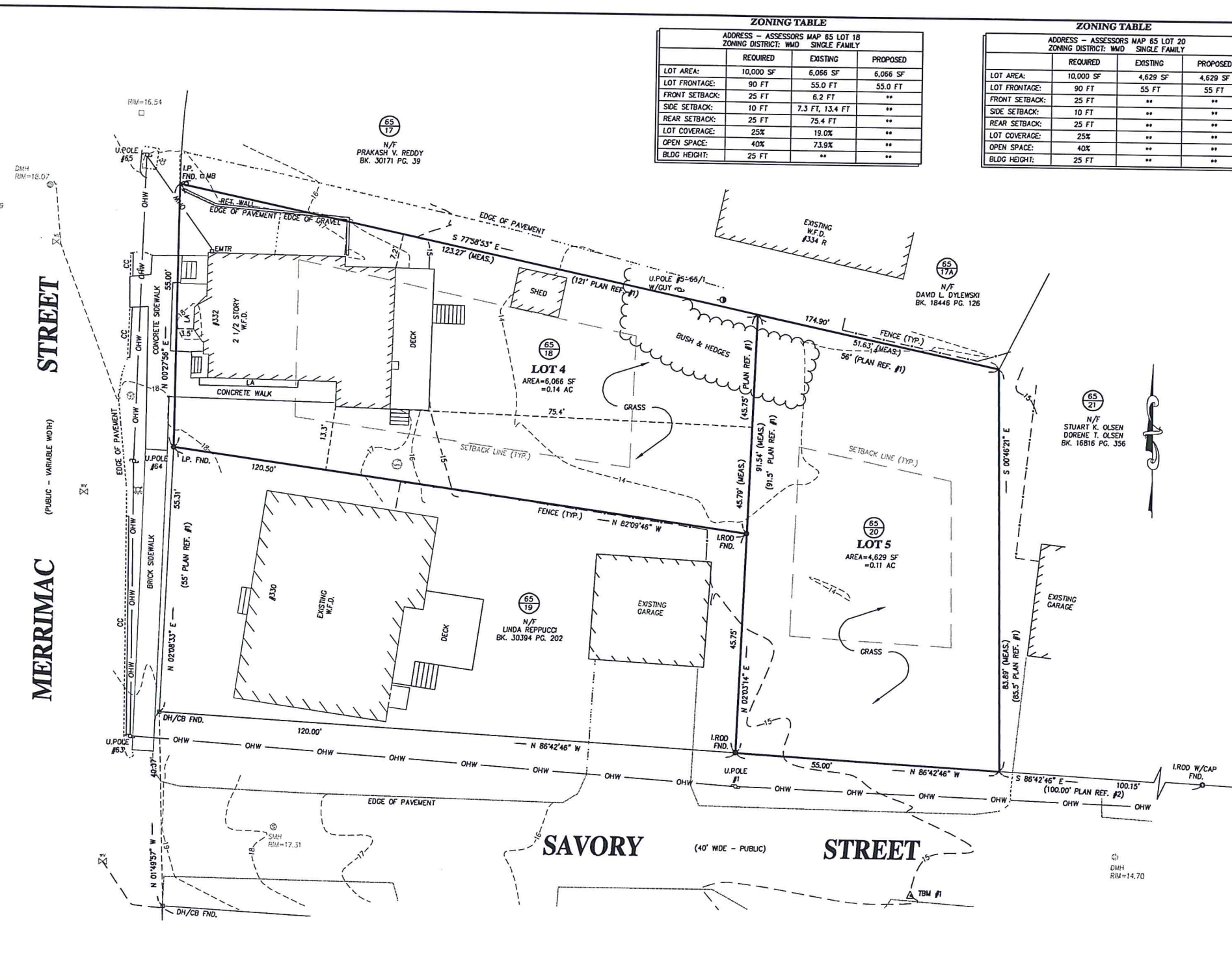
RAYMOND J. LARNARD, JR.
332 MERRIMAC
STREET-NEWBURYPORT
BK. 23964 PG. 204

PLAN REFERENCES

1- PLAN BK. 9, PLAN 19
2- PLAN 478 OF 1962
3- PLAN BK. 236, PLAN 47

VERTICAL DATUM

N.A.V.D. 1988
T.B.M. #1
MAG NAIL FOUND
ELEV. = 14.91



- LEGEND**
- C.B. CONCRETE BOUND
 - D.H. DRILL HOLE
 - I.P. IRON PIPE
 - I. ROD IRON ROD
 - FND. FOUND
 - N/F. NOW/FORMERLY
 - EMTR. ELECTRIC METER
 - MB. MAILBOX
 - CC. CONCRETE CURB
 - CB. CATCH BASIN
 - DMH. DRAIN MANHOLE
 - SMH. SEWER MANHOLE
 - ○ WATER VALVE
 - ○ WATER SHUT OFF
 - ○ HYDRANT
 - ○ UPOLE. UTILITY POLE
 - ○ GUY
 - ○ MEAS. MEASURED
 - ○ EXISTING CONTOUR ELEVATION
 - ○ LA. LANDSCAPED AREA
 - ○ 00. ASSESSORS MAP PARCEL

NOTES:

THIS PLAN DOES NOT SHOW ANY UNRECORDED OR UNWRITTEN EASEMENTS WHICH MAY EXIST. A REASONABLE AND DILIGENT ATTEMPT HAS BEEN MADE TO OBSERVE ANY APPARENT, VISIBLE USES OF THE LAND; HOWEVER, THIS DOES NOT CONSTITUTE A GUARANTEE THAT NO SUCH EASEMENTS EXIST.

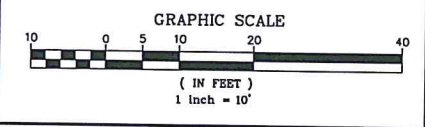
RECORD UTILITY INFORMATION HAS NOT BEEN OBTAINED FOR LOCUS. VISIBLE SURFACE STRUCTURES HAVE BEEN LOCATED AND ARE SHOWN HEREON HOWEVER, SUBSURFACE UTILITY LINES ARE NOT SHOWN.

THE CERTIFICATIONS SHOWN HEREON ARE NOT INTENDED AS CERTIFICATION TO TITLE OR OWNERSHIP OF PROPERTY SHOWN. OWNERS OF ADJOINING PROPERTIES ARE ACCORDING TO CURRENT CITY OF NEWBURYPORT ASSESSORS RECORDS.

I CERTIFY: THAT THIS ACTUAL SURVEY WAS MADE ON THE GROUND ON JUNE 28, 2017, AND THAT THE STRUCTURES AND PHYSICAL FEATURES ARE LOCATED AS SHOWN TO THE BEST OF MY ABILITY AND BELIEF.

PROGRESS PRINT

PROFESSIONAL LAND SURVEYOR DATE



PREPARED FOR
S.J.L. MANAGEMENT
78 MOSELEY AVENUE
NEWBURYPORT, MA 01950

MEI MILLENNIUM ENGINEERING, INC.
ENGINEERING AND LAND SURVEYING
62 ELM ST. SAUBURY, MA 01952 (978) 463-8980
13 HAMPTON RD. EXETER, NH 03833 (603) 778-0528

PLAN OF LAND
IN
NEWBURYPORT, MA
SHOWING
EXISTING CONDITIONS
AT
332 MERRIMAC STREET

EXISTING CONDITIONS PLAN

SHEET: 1 OF 2

NO.	DATE	DESCRIPTION	BY

SCALE: 1"=10'
DATE: JULY 19, 2017
CALC. BY: S.F.R.
CHKD. BY: J.S.H.
PROJECT: M173167

C:\work\proj-2017\m173167\dwg\m173167-8.dwg 7/19/2017 10:24:10 AM EDT