

**City of Newburyport Planning Board**  
**Application for a SPECIAL PERMIT**

---

The undersigned hereby submits an application for:

- Special Permit
- Special Permit amendment

Petitioner: Christopher & Elizabeth Duchesne  
Address: 4 Payson St., Newburyport, MA 01950  
Phone: 617.869.7019  
Email: csduchesne@comcast.net  
Owner: Christopher & Elizabeth Duchesne  
Address: 4 Payson St., Newburyport, MA 01950  
Phone: 617.869.7019

Site Address: 3 Donahue Court, Newburyport, MA 01950  
Assessor's Map and Lot(s): 39 / 40B Zoning District: R2  
Book and Page #: 37285 / 479 or Certificate of Title: \_\_\_\_\_

**Ordinance section where relief is being requested:**

- |   |  |
|---|--|
| <input type="checkbox"/> Table of Permitted Uses (V-D)            | <input checked="" type="checkbox"/> Courts and Lanes (XXIII)         |
| <input type="checkbox"/> One residential structure per lot (VI.C) | <input type="checkbox"/> Waterfront West Overlay District (XXIV)     |
| <input type="checkbox"/> Open Space Residential Development (XIV) | <input type="checkbox"/> Towle Complex Redev. Overlay District (XXV) |
| <input type="checkbox"/> Water Resource Protection District (XIX) | <input type="checkbox"/> Other _____                                 |
| <input type="checkbox"/> Federal Street Overlay District (XXII)   |  |

**Describe the Special Permit request:**

Modification of structures on the lot from approved plan.

**Petitioner and Landowner signature(s):**

Every application for a Special Permit 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 the Planning Board dismissing the application as incomplete.

Signature of petitioner/owner:    
Print name(s) here: Christopher Duchesne Elizabeth Duchesne

CITY OF NEWBURYPORT, MA  
ZONING DETERMINATION

APR# 2019-011

Name: Chris and Elizabeth Duchesne

Address: Lot 4B Donahue Court Zoning District(s): R2

Request: Modify prior Courts and Lanes Special Permit approval for house footprint and sitework/lanscape. New house is entirely conforming to Zoning Ordinance, but prior approval showed different footprint and landscaping locations.

ZONING BOARD REVIEW REQUIRED

Variance

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

Sign Variance

- Signs (VIII)
  - Type       Size
  - Lighting       Location

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

Smart Growth District (XXIX)

- Plan Approval

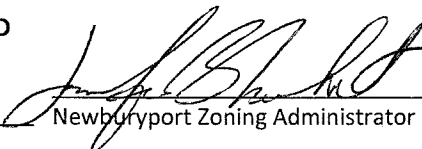
Site Plan Review (XV)

- Major       Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay       \*Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

\_\_\_\_\_  2/20/19  
Newburyport Zoning Administrator Date

Christopher & Elizabeth Duchesne  
4 Payson St.  
Newburyport, MA 01950  
617.869.7019

**February 20, 2019**

*In Hand & Electronic Mail*  
Bonnie Sontag, Chair  
Planning Board  
Zoning Board of Appeals  
City of Newburyport  
City Hall  
60 Pleasant Street  
Newburyport, MA 01950

**RE:** 3 Donahue Court Lot 4B

Dear Chair and Members of the Board,

We come before the board as new owners of the referenced lot, 3 Donahue Court, AKA 26 Toppans Lane 4B, AKA Donahue Court lot 4B. We are aware of the history and trying experience with the subject property and seek to provide a desirable, well communicated and dependable path forward for all parties.

As the Board is aware, lot 4b is subject to the Subdivision Approval dated May 20, 2015 and the special permit as of the same date; and in addition, the lot is subject to Conditions to the Approved Modified Special permit as stipulated by the Board in the special permit amendment decision dated September 19, 2018. We know the board is also aware that some of the conditions stipulated in that September 19, 2018 decision to be completed by November 30, 2018 remain incomplete due to the inaction and appeal of requirements on the part of the previous owner. We fully intend to meet the previously stipulated Conditions to the Approved Modified Special Permit through the plan we share below. We are very cognizant of the desire to expeditiously meet the conditions stipulated in the September 2018 decision and seek the same. We seek approval for the modified plan and approach we set forth below. With our submission, we have provided letters of support from neighbors and abutters.

We have been City residents for 15 years, and currently live on Payson Street. We would like to build a new home on the lot on Donahue court. We seek a modification to the shape and orientation of the footprint of the home and the driveway versus that stipulated in the approved plan. However, both include a smaller physical footprint than the previously approved plan. In addition, the home includes interior square footage less than that approved in the current approved plan.

We intend to execute to a phased plan to meet the previously stipulated conditions, and complete construction of our home. Please reference the submitted site work sequence plan. The planned sequence of steps and activities is:

- 1) Install erosion control / containment measures along the southern property line at the new concrete retaining wall
- 2) Erect a snow fence along the entire southern lot line to contain any construction material / debris
- 3) Regrade the site per plan outside of the construction area
- 4) Deposit and spread topsoil outside of the construction area
- 5) Plant the trees indicated as part of phase 1 planting (28 trees, including 10 deciduous and 18 coniferous)
- 6) Install an erosion control barrier at the limit of the house construction area perimeter
- 7) Seed the soil / lawn area outside of the construction area perimeter
- 8) Construct the home and complete the grading of the construction area per plan
- 9) Complete phase 2 planting of trees (6 remaining trees, all deciduous) for a total of 34 trees consisting of 18 coniferous and 16 deciduous
- 10) Install a fence on the perimeter of the property

As described in the submitted work site sequence plan, the blue line around the home outlines the construction zone. The red, long-dashed line indicates the limit of phase 1 tree plantings. The plan also includes water at the front of the lot in conjunction with these activities to provide regular water to the plantings to maintain good plant health and survival. The size and type of trees to be planted are in keeping with those outlined in the September 2018 conditions – deciduous trees of 3-4" caliper at a height of 4.5 feet at planting; evergreen trees at least 6' tall at planting. Per the previously stipulated conditions, we are prepared to post an \$8,000 bond to assure an 80% survival rate of the 34 trees.

These activities are phased as described with the following considerations in mind:

- Measures for containment and control in consideration of the surrounding environment and abutters
- Seasonal opportunity for successful planting
- Priority addressment of privacy measures along the southern property line
- Prudent phasing of work site development and remediation activities

We plan to begin planting activities in May, weather cooperating.

With regard to the home and footprint, the previously approved site plans show a house and garage footprint of 4,264 square feet; and driveway of 1,450 square feet. Our proposed plan includes a house and garage footprint of 3,232 square feet, more than 1,000 square feet smaller than that previously approved; and a driveway footprint of 1,395 square feet, 55 square feet smaller than that previously approved. While the footprint is of a different shape and orientation, we submit that based on its square footage it will be of lesser impact and remains in keeping with the spirit of the conditions of the initial subdivision and subsequent amendment to the initial conditions. In addition, the home will include square footage less than the 4,500 square feet of living area

stipulated as the limit in the approved conditions. The details of the home and driveway footprint can be found on the attached site plan, accompanied by the elevations prepared by Scott Brown, our architect.

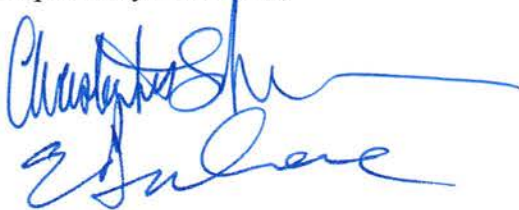
We are cognizant of the original permitting work and have had the new proposal reviewed by Steve Sawyer, P.E., to determine the impact, if any, on the storm water management on the site (please see the attached letter).

We believe that our proposed plans, while different in timing and some details, meet the conditions stipulated previously by the Planning Board; and remain consistent with the conditions and intent of the initial Special Permit under the Donahue Court subdivision under the Special Permit for Courts and Lanes.

We ask that the issuance of building permits be conditioned on completion of the first 5 steps in the work sequence plan. With approval of our plan, we will coordinate with appropriate City departments and representatives to retract the appeal of the December 11, 2018 Notice of Violation from the Zoning Administrator; and retract and close the appeal of the amended conditions currently in Massachusetts Land Court (Civil Action No. 18 MISC 000534).

With the above in consideration, we submit our request continues to meet the criteria for a special permit under the NZO Special Permit for Courts and Lanes, and we request the Board approve a modification to the Special Permit, Special Permit Amendment Decision, as well as the Subdivision Approval as described herein.

Respectfully submitted,

The image shows two handwritten signatures in blue ink. The top signature is for Christopher Duchesne, and the bottom signature is for Elizabeth Duchesne. Both signatures are fluid and cursive.

Christopher & Elizabeth Duchesne

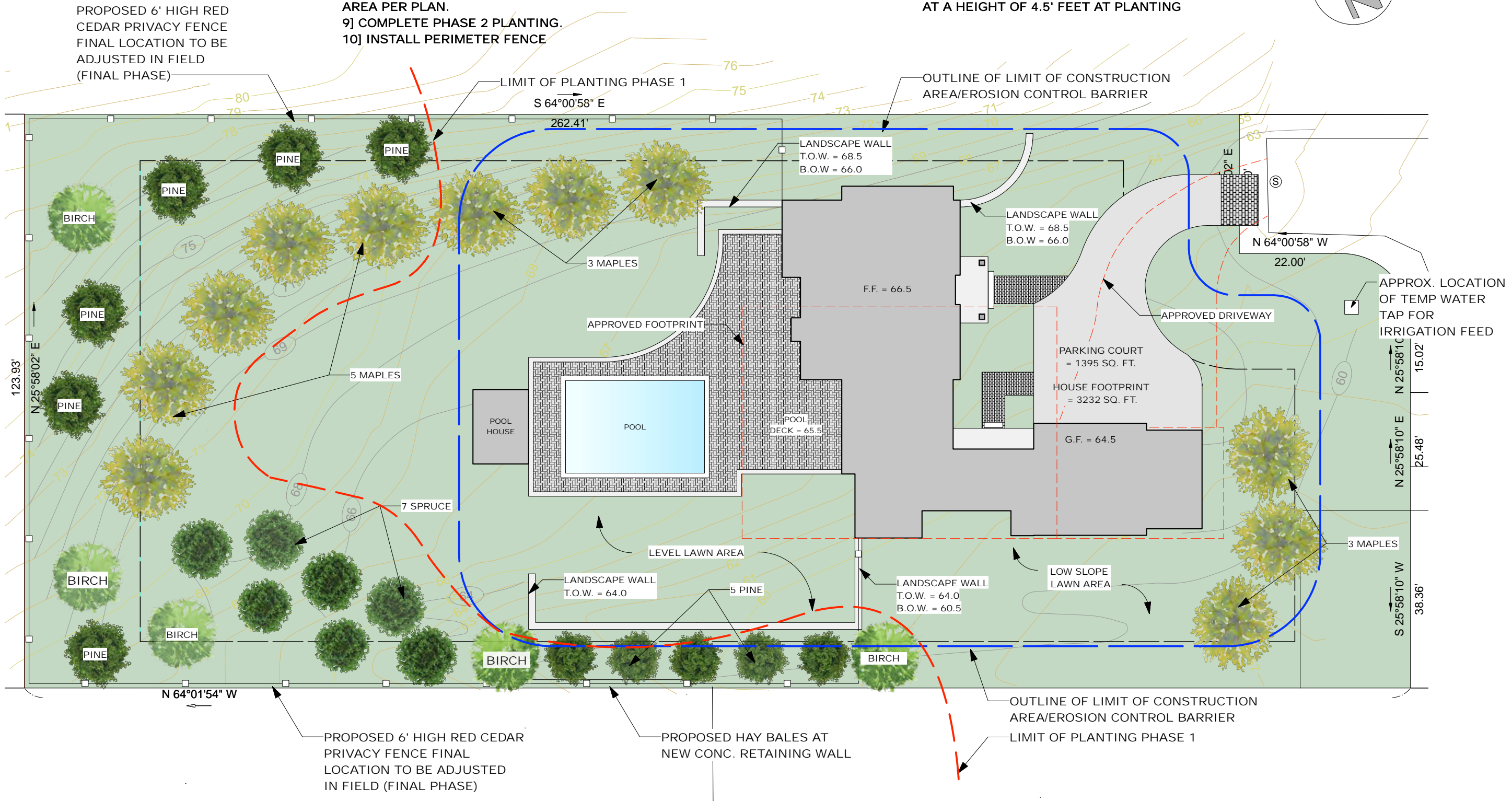
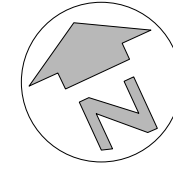
**SITE WORK SEQUENCE PLAN**

- 1] STABILIZE PROPERTY LINE AT NEW CONCRETE RETAINING WALL W/ HAY BALES.
- 2] ERECT SNOW FENCE ALONG ENTIRE SOUTHERN LOT LINE.
- 3] REGRADE SITE OUTSIDE OF CONSTRUCTION AREA PER PLAN.
- 4] PROVIDE AND SPREAD TOPSOIL OUTSIDE OF HOUSE LIMIT OF CONSTRUCTION AREA.
- 5] PROVIDE AND PLANT PHASE 1 TREES
- 6] SET UP EROSION CONTROL BARRIER AT LIMIT OF HOUSE CONSTRUCTION AREA PERIMETER.
- 7] SEED/PLANT OUTSIDE OF LIMIT OF HOUSE CONSTRUCTION AREA PERIMETER.
- 8] CONSTRUCT HOME AND COMPLETE GRADING OF CONSTRUCTION AREA PER PLAN.
- 9] COMPLETE PHASE 2 PLANTING.
- 10] INSTALL PERIMETER FENCE

**PLANTING PLAN**

- PHASE 1 TREES:**  
 11 - EASTERN WHITE PINES  
 7 - SPRUCE  
 5 - BIRCH  
 5 - MAPLE TREES
- PHASE 2 TREES:**  
 6 - MAPLE TREES

\* ALL EVERGREEN TREES TO BE A MINIMUM OF 6 FEET TALL AT PLANTING  
 \* ALL DECIDUOUS TREES TO BE 3-4" CALIPER AT A HEIGHT OF 4.5' FEET AT PLANTING



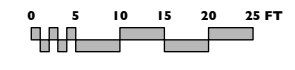
**SCOTT M BROWN**  
 ESTD ARCHITECTS 2007  
 29 WATER STREET,  
 SUITE 209  
 NEWBURYPORT, MA 01950  
 T. 978.465.3535  
 WWW.SCOTTBROWNARCHITECT.COM

**THE DUCHESNE RESIDENCE**  
 AT  
**LOT 4B DONAHUE COURT**

REVISION & REISSUE NOTES		
No.	Date	Notes

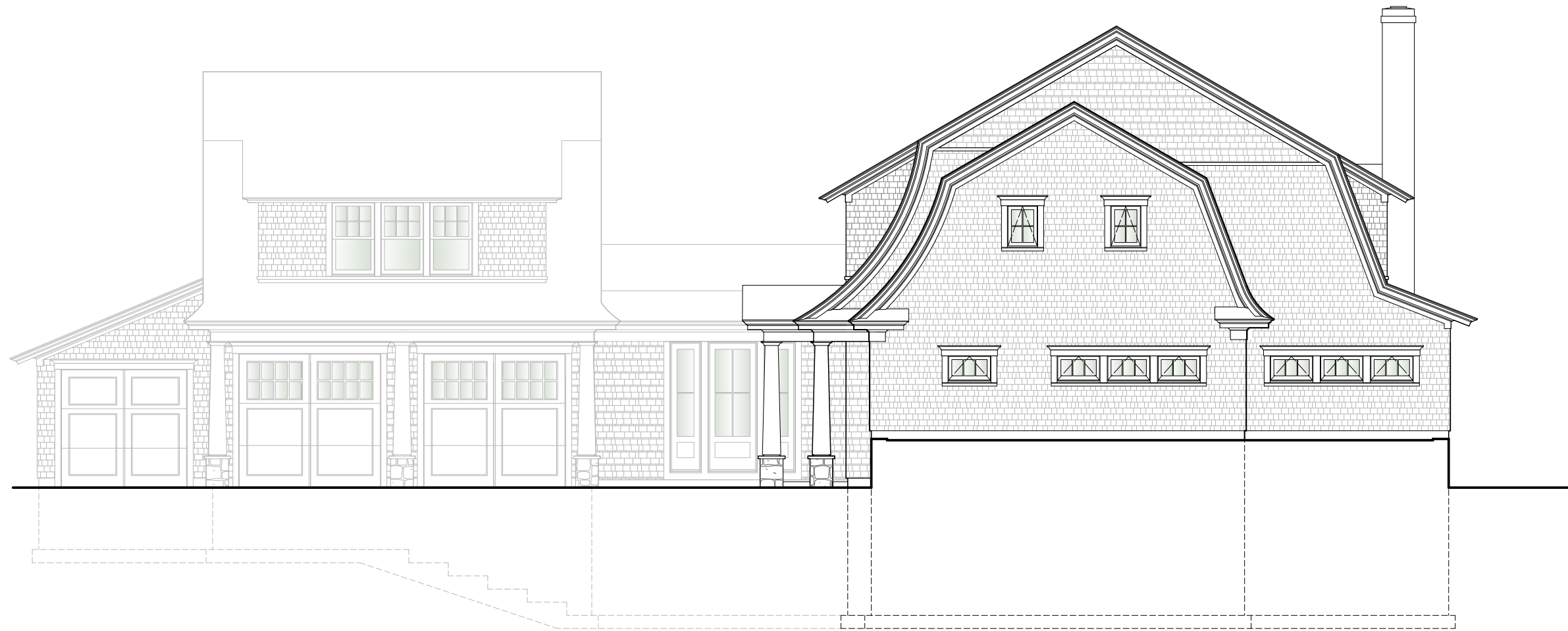
Project # 2018-33 | Project Manager X.X. | Date 2-14-19  
 Scale: AS NOTED

**PROPOSED SITE PLAN**  
**A0.0**  
 COPYRIGHT 2018 SCOTT M. BROWN, ARCHITECTS



CAD File Name: Duchesne\_SD\_SitePlan.vrx

THE DUCHESNE RESIDENCE  
 AT  
 LOT 4B DONAHUE COURT



2 PROPOSED RIGHT SIDE ELEVATION (NORTH ELEVATION)  
 Scale: 1/4" = 1'-0"

31'-0" APPROX. RIDGE HEIGHT  
 5'-0"  
 +28'-2 3/4"  
 ROOF HEIGHT  
 +23'-3"  
 MEAN ROOF HEIGHT  
 26'-0"  
 BUILDING HEIGHT  
 -2'-9" (63.75)  
 MEAN GRADE



1 PROPOSED FRONT ELEVATION (EAST ELEVATION)  
 Scale: 1/4" = 1'-0"



REVISION & REISSUE NOTES

No.	Date	Notes

Project # 2018-33	Project Manager X.X.	Date 2-18-19
----------------------	-------------------------	-----------------

Scale: AS NOTED

PROPOSED  
 ELEVATIONS

A2.1

THE DUCHESNE RESIDENCE  
 AT  
 LOT 4B DONAHUE COURT

REVISION & REISSUE NOTES

No.	Date	Notes

Project # 2018-33	Project Manager X.X.	Date 2-18-19
----------------------	-------------------------	-----------------

Scale: AS NOTED

PROPOSED ELEVATIONS

A2.2



2 PROPOSED LEFT SIDE ELEVATION (SOUTH ELEVATION)  
 Scale: 1/4" = 1'-0"



1 PROPOSED REAR ELEVATION (WEST ELEVATION)  
 Scale: 1/4" = 1'-0"



ZONING MATRIX: RESIDENCE 2		
	REQUIRED	PROPOSED
FRONT SETBACK	25 FT	45.8 FT
SIDE SETBACK	10 FT	15.5 FT
REAR SETBACK	25 FT	163.6 FT
MIN. FRONTAGE	90 FT	90.6 FT
MIN. LOT AREA	10,000 SF	35,935 SF
MAX. BUILDING HEIGHT	35 FT	*
MAX. LOT COVERAGE	25%	9.3%
MIN. OPEN SPACE	40%	86.1%

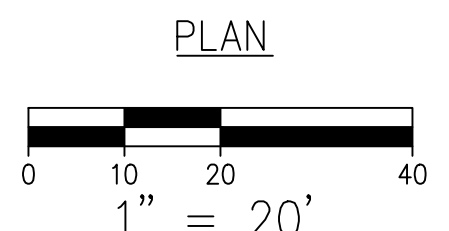
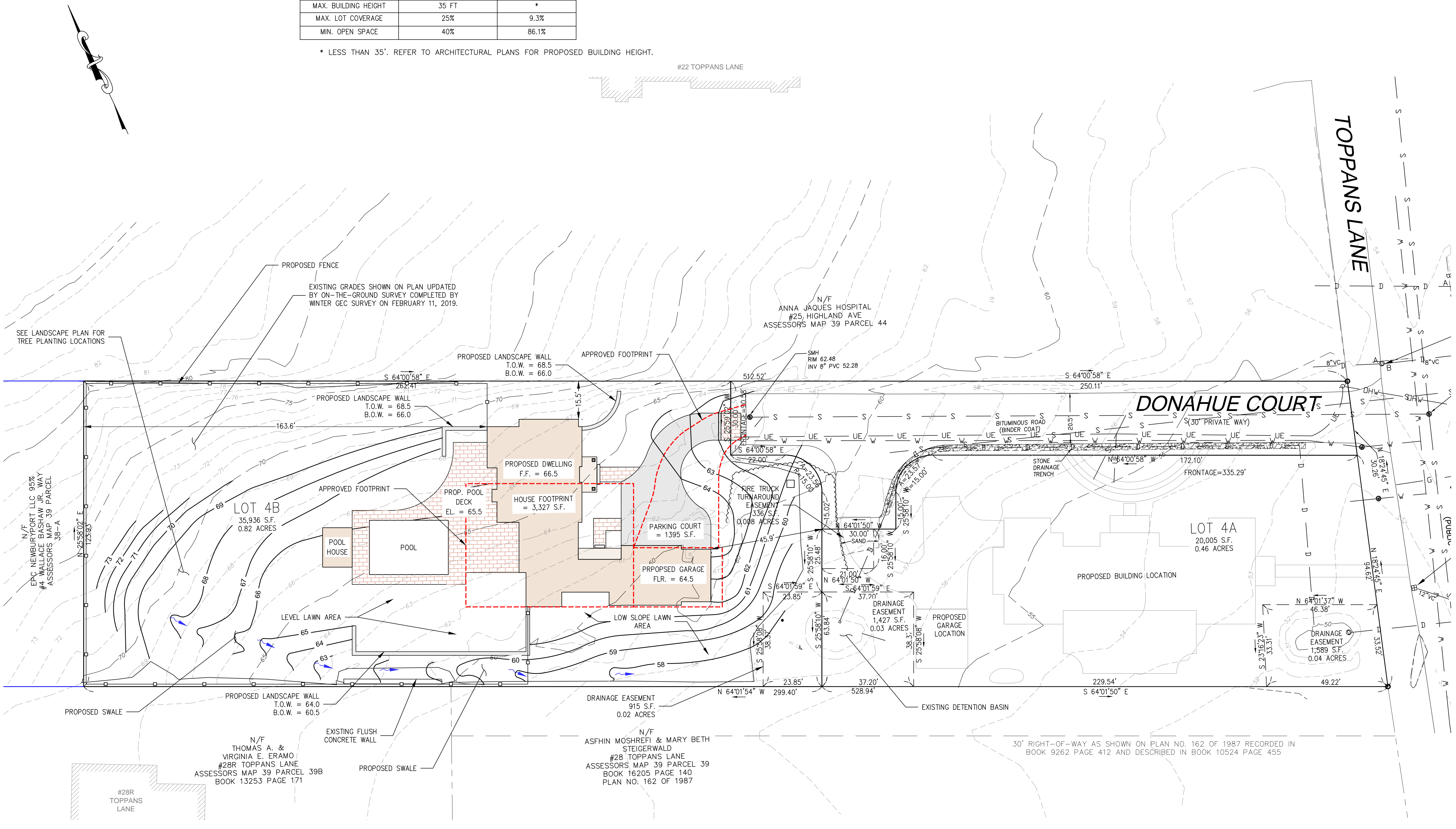
\* LESS THAN 35'. REFER TO ARCHITECTURAL PLANS FOR PROPOSED BUILDING HEIGHT.

SURVEY BY: CSI  
 DRAFTED BY: ABC  
 CHECKED BY: SBS  
 APPROVED BY: SBS  
 SCALE: 1"=20'  
 DATE: FEBRUARY 19, 2019

NO.	DESCRIPTION	DATE

SITE PLAN OF LAND  
 IN  
 NEWBURYPORT, MASSACHUSETTS  
 3 DONAHUE COURT LOT 4B  
 (ASSESSOR'S MAP 39, LOT 40B)  
 PREPARED FOR:  
**CHRISTOPHER & ELIZABETH DUCHESNE**

SITE PLAN  
 DRAWING NO.  
 1 OF 1



PLAN



February 19, 2019

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

RE: #3 Donahue Court, Lot 4B Donahue Court Modification Request

Dear Chair and Members of the Board;

Please see updated the site plan with the proposed home and associated site work for Lot 4B (#3 Donahue Court). The proposed development reduces the square footage of the approved building footprint and driveway. The approved plan and accompanying drainage calculations completed by Millennium Engineering provided for a building footprint of 4,264 square feet; and driveway of 1,450 square feet. The proposed plan includes a house, garage and pool house total footprint of 3,424 square feet, 840 square feet smaller than that previously approved; and a driveway footprint of 1,395 square feet is 55 square feet smaller than that previously approved. The pool area patio will be constructed with permeable open joints allowing stormwater infiltration. As shown on the approved Millennium Engineering Plan a swale will be constructed along the southern property line diverting stormwater to detention basin #1. This swale will prevent any uncontrolled stormwater runoff off property to the south. The existing grading shown on the plan has been updated to show the grading work completed by the previous land owner with on-ground-survey completed on February 11<sup>th</sup>. The proposed grading only requires slight adjustments to accommodate the proposed design. Given the proposed project maintains the intent of the approved drainage design and calculations there is no reason to submit updated the drainage calculations for the project.

The construction will impact approximately 25,000 square feet of land. As such a Stormwater Management Permit will be required to be filed with Newburyport Department of Public Services prior to the issuance of a building permit. The proposed grading and stormwater design will be subject to a detailed review by the City Engineer at that time. Please feel free to email or call me at 978-884-6850 if you have any questions regarding this Submission.

Sincerely,

Morin Cameron Group

*Stephen Sawyer*

Stephen Sawyer, P.E.

CIVIL ENGINEERS • LAND SURVEYORS • ENVIRONMENTAL CONSULTANTS • LAND USE PLANNERS

66 Elm Street, Danvers, MA 01923 978.777.8586 FAX 978.774.3488

*Providing Professional Services Since 1978*

[www.morincameron.com](http://www.morincameron.com)

4 Wright's Court

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

**RE:** 26 Toppans Lane (Lot 4B Donahue Court)

Dear Members,

We have been provided with plans dated February 15<sup>th</sup>, 2019 showing the site layout for a new home at 3 Donahue Court, also known as 26 Toppans Lane / Donahue Court Lot 4B. Included with such plan is a proposed home footprint, driveway footprint, and a sequence of activities to satisfy the work previously stipulated in the Conditions to the Approved Modified Special Permit left incomplete by the previous owner.

While the proposed footprint is of a different shape than that previously approved for the lot, it includes square footage lower than that in the approved footprint, and the proposed house layout fits in with the neighborhood. We do not oppose the proposed changes. In addition, we support the phased sequence of activities to satisfy the special conditions related to the lot.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dan P..." with a long horizontal flourish extending to the right.

Date:

22 Toppans Lane

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

**RE:** 26 Toppans Lane (Lot 4B Donahue Court)

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Sincerely,

*Joanne Baker*  
*Richard Baker*

Date:

*2/17/19*

Holdens  
34 Toppans Lane  
~~4 Wright Court~~

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

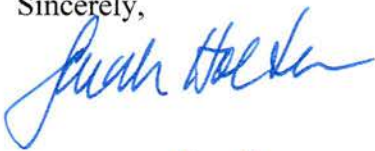
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Sincerely,



Date: 2/17/19

17 FEB 2019

3 Wright's Court

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

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Sincerely,

*Karen McCloskey & Brian McCloskey*

Date: 2/17/19

Anna Jaques Hospital  
Mark Goldstein, CEO

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

**RE:** 26 Toppans Lane (Lot 4B Donahue Court)

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Sincerely,

A handwritten signature in black ink, appearing to read "Mark Goldstein". The signature is fluid and cursive, with the first name "Mark" and last name "Goldstein" clearly distinguishable.

Date:

2/19/19

5 Wright's Court

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

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Sincerely,

*Andrew Boyd*  
*Andrew Boyd*

Date: 2/18/19



Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

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Sincerely,

*Katherine R. Roelke*  
Katherine R. Roelke

Date:

2/17/19

31 Toppans Lane

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

**RE:** 26 Toppans Lane (Lot 4B Donahue Court)

Dear Members,

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Sincerely,



Date:

2/15/19

1 Donahue Court

Planning Board  
City of Newburyport  
60 Pleasant Street  
Newburyport, MA 01950

**RE:** 26 Toppans Lane (Lot 4B Donahue Court)

Dear Members,

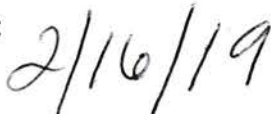
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Sincerely,

A handwritten signature in cursive script that reads "M. Santos".

Date:

A handwritten date in cursive script that reads "2/16/19".