

City of Newburyport Zoning Board of Appeals
Application for a VARIANCE

Petitioner: Holly Mazur c/o Lisa Mead, Mead, Talerman & Costa, LLC
 Mailing Address: 30 Green Street, Newburyport, MA 01950
 Phone: (978) 463-7700 Email: lisa@mtclawyers.com
 Property Address: 8 Butler Street, Newburyport, Massachusetts 01950
 Map and Lot(s): Map 63, Lot 38 Zoning District: R-2
 Book and Page(s): Book 36753, Page 281
 Owner(s) Name: Lisa Andrews and Jeffrey Andrews
 Mailing Address (if different): _____

The petitioner is requesting a Variance from section(s):

- Use Regulations (V)
- Parking (VII)
- PIOD (XXI)
 - ___ FAR
 - ___ 2 ½ stories
 - ___ Footprint expansion
- Dimensional Controls (VI)
 - ___ Lot Area
 - ___ Open Space
 - ___ Lot Coverage
 - ___ Height
 - ___ Frontage
 - ___ Front Yard
 - ___ Side Yard
 - ___ Rear Yard
 - ___ Lot Width
- Other: _____

Request:

A variance pursuant to Newburyport Zoning Ordinance X-H-6 for a proposed reduction in size of a lot with a non-conforming structure.

	Existing	Proposed
Ground Floor Square Feet	754	754
Number of Floors	2	2
Total Square Feet	1,492	1,492
Use	Residential	Residential



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	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	20,110 sq. ft.	18,590 <i>sq. ft.</i>	10,000 sq. ft.
Frontage	101.03 ft.	101.03 ft.	90 ft.
Height	< 35 ft.	< 35 ft.	35 ft.
Lot Coverage (%)	< 25%	< 25%	25%
Open Space (%)	> 40%	> 40%	40%
Front Setback	4.8 ft.	4.8 ft.	25 ft.
Side A Setback	4.8 ft.	4.8 ft.	10 ft.
Side B Setback	> 10 ft.	> 10 ft.	10 ft.
Rear Setback	25 ft.	25 ft.	105 ft.
Parking Spaces	2	2	2
FAR*	n/a	n/a	n/a

*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. Every application for a Variance shall be made on this form, which is the official form of the ZBA. 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, publishing, 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 of this application as incomplete.

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



Mead, Talerman & Costa, LLC
Attorneys at Law

30 Green Street
Newburyport, MA 01950
Phone 978.463.7700
Fax 978.463.7747
www.mtclawyers.com

In Hand

August 27, 2018

Ed Ramsdell, Chair
Zoning Board of Appeals
City of Newburyport
60 Pleasant Street
Newburyport, Massachusetts 01950

Re: 8 Butler Street (the "Property") / Variance Application
Map 63 Lot 38

Dear Chair and Members of the Board:

Reference is made to the above captioned matter. In that connection, I represent the Applicant, Holly Mazur, owner of adjoining property at 6 Butler Street who has filed this application on behalf of the owners of the Property, Lisa Andrews and Jeffrey Andrews. The Andrew's are proposing to reduce the size of the Property by dividing the lot so as to create a second non-buildable lot which adjoins the Applicant's property at 6 Butler Street. See site plan attached as **Exhibit A**. The Applicant will then take title to this small non-buildable parcel.

The Property has more than adequate area to meet the lot area, open space, and lot coverage requirements of the Newburyport Zoning Ordinance ("Ordinance") after this small parcel is carved off.

Millis Office

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

	AREA	FRONTAGE	SIDE A AND B	REAR
EXISTING	20,110	101.03	4.8' and > 10	105 +
PROPOSED	18,590.1	101.03	4.8' and >10	105+

The parcel to be created is to the rear of the Property, far from any structures, and the reduction in the size of the Property will not cause the rear setback or conforming side setback of the structure to decrease. See **Exhibit A**. However, the Property presently has a structure on it that is non-conforming for front setback and one side setback.¹ Absolutely no change will be occurring to this portion of the lot and the existing non-conformities. However, as you are aware, by moving a lot line, a new lot is created. In turn, the creation of the new lot renders this structure, which was once a preexisting non-conforming structure, a structure that is now noncompliant with zoning for front setback and one side setback. See Ordinance Section VI-A-1. The lot size reduction would leave the Property otherwise in conformity with all dimensional requirements of the Ordinance.

The Applicant requires relief from the dimensional requirements of the Ordinance due solely to the shape of the Property. As seen on **Exhibit A**, the Property extends in a zig-zag pattern to the rear.

Variance from the Side-Yard Setback Requirement

Pursuant to Section X-H(6) of the Zoning Ordinance, “[t]he [Z]oning [B]oard of [A]ppeals shall have the power. . . to grant. . . a variance. . . from the terms of this zoning ordinance. . .” Here, the grant of a variance by the Board is consistent with the standards of G.L. c. 40A, § 10 and said Section X-H(6). As required by the “Application for a Dimensional Variance,” those standards are addressed as follows:

A. State the particular use proposed for the land or structure.

The use of the structure and land at 8 Butler Street will remain unchanged, only a reduction in lot size is contemplated.

B. Explain the conditions and circumstances related to soil conditions, shape, or topography of the land that are unique to the applicant's lot, structure, or building and do not apply to the neighboring lands, structures, or buildings in the same district.

The shape of the lot is certainly unique, especially with regard to the location of the structure. Most of the neighboring properties are much smaller and have far less lot area than the Property. The Property boundary being so close to the garage at 6 Butler Street also unique for the area. The Property is also uniquely far larger in lot size than neighboring properties. The shape of the Property does not affect “generally the zoning district in which [the Property] is located.” See G.L. c. 40A, § 10; see also Section X-H(6)(A) of the Zoning Ordinance.

¹ The Zoning Enforcement Officer in issuing the denial also cited frontage as being non-conforming. It appears as though she misread the plan. The R-2 zoning district requires 90 feet of frontage, and the Property has over 100 feet of frontage on Butler Street. No relief for frontage is required.

C. Explain how strict application of the ordinance would deprive the applicant of reasonable use of the lot, structure, or building in a manner equivalent to the use permitted by other owners of neighboring properties in the same district.

According to the Zoning Ordinance, a hardship may be found to exist “[w]here by reason of . . . unusual shape of a specific site. . . the literal enforcement of the requirements of this [Zoning Ordinance] pertaining to yards or other space relationships. . . would result in exceptional practical difficulties or exceptional and undue hardship upon the owner of such property.” See Zoning Ordinance, § X-H(6)(D)(1). Here the Property is uniquely shaped, and large in comparison to neighboring properties. The structure on the Property will not move, and the area of the Property being reduced in size is located far from said structure. The Applicant hopes to increase the conformity of 6 Butler Street with the Ordinance by purchasing a non-buildable parcel that will merge with the 6 Butler Street parcel. In this case the strict application of the Ordinance will result in the inability the Applicant and the owner of the Property to make 6 Butler Street more conforming with the Ordinance.

D. Explain how the unique conditions are not the result of actions taken by the applicant subsequent to the adoption of the ordinance.

The location of the structure on the Property is unchanged. The reduction in lot size is the only change. The structure will become non-compliant with zoning, but as a practical matter will be no closer to the side lot line or the front lot line than it was before. 6 Butler Street is a preexisting non-conforming lot which is greatly undersized for the zoning district. The Applicant did not choose to create the condition of an undersized preexisting non-conforming lot.

E. Explain how relief will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

The Property is unique in that it is much larger in size than most of the other parcels that surround it. The Property will be reduced in size in order to make the neighboring property at 6 Butler Street more conforming. The use of the Property will remain unchanged, the Property will simply be slightly smaller in size but still be well in excess of the required lot area in the district. The proposed lot size reduction will not create any inconsistencies with surrounding properties in the R-2 district.

The Applicant seeks only to make an adjoining property more compliant with the Ordinance by purchasing a non-buildable parcel from the owner of the Property. The Property is more than adequate in size to allow for a small reduction in lot size that will not adversely impact any neighboring property owner, nor be inconsistent with the Ordinance. The structure on the Property will remain in the same location. Therefore, the Applicant requests that the Board grant a variance for the Property.

Respectfully submitted,
Holly Mazur
By Her Attorney,



Lisa L. Mead

cc: client

CITY OF NEWBURYPORT, MA
ZONING REVIEW (BUILDING PERMIT DENIAL)

APR# 2018-071

Name: Lisa Mead, MTC LLC, Holly Mazur # 6 Butler Street (Valerie Faxon owner #8 Butler)

Address: #8 Butler Street Zoning District(s): R2/DCOD

Request: Adjust lot lines on previously existing non-conforming lot requiring a variance due to lack of compliance with current dimensional controls. Create "non-buildable" parcel behind #6 Butler Street

ZONING BOARD REVIEW REQUIRED

Variance

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

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 _____

Sign Variance

- Signs (VIII)
 - Type Size
 - Lighting Location

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 _____

Smart Growth District (XXIX)

- Plan Approval

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)

Site Plan Review (XV)


- Major Minor

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

CITY COUNCIL REVIEW REQUIRED (X.H.9)


Newburyport Zoning Administrator

08/23/2018
Date

6 BUTLER ST

Location 6 BUTLER ST

Mblu 63/ 39/ //

Owner MAZUR HOLLY ALDEN

Assessment \$465,100

PID 4233

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$255,900	\$209,200	\$465,100

Owner of Record

Owner MAZUR HOLLY ALDEN
Co-Owner DAVID EVAN MAZUR T/E
Address 6 BUTLER ST
 NEWBURYPORT, MA 01950

Sale Price \$527,000
Certificate
Book & Page 32708/0350
Sale Date 07/31/2013
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
MAZUR HOLLY ALDEN	\$527,000		32708/0350	00	07/31/2013
MELLET MARY JANE	\$0		31130/0494	1F	03/01/2012
MELLET HERBERT PAUL	\$465,000		27237/0204	00	10/05/2007
MCNEIL PETER	\$290,000		16290/0295	00	04/13/2000
LIMA C D JR & M E TRS	\$0		14436/0567	1F	11/19/1997

Building Information

Building 1 : Section 1

Year Built: 1904
Living Area: 1,644

Building Photo

Building Attributes	
Field	Description
Style	Conventional
Model	Residential
Stories:	2 Stories
Occupancy	1
Exterior Wall 1	Wood Shingle
Exterior Wall 2	

Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Plastered
Interior Wall 2	
Interior Flr 1	Vinyl/Asphalt
Interior Flr 2	Hardwood
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	2
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	6 Rooms
Bath Style:	Average
Kitchen Style:	Average



(http://images.vgsi.com/photos/NewburyportMAPhotos//\00\00\03\64.jpg)

Building Layout



Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	822	822	
FUS	Upper Story, Finished	822	822	
FEP	Porch, Enclosed	91	0	
PDA	Pull Down Attic	630	0	
UBM	Basement, Unfinished	630	0	
		2,995	1,644	

Extra Features

Extra Features		Legend
No Data for Extra Features		

Land

Land Use

Use Code 1010
 Description SINGLE FAM
 Zone R3

Land Line Valuation

Size (Acres) 0.12
 Depth 0
 Assessed Value \$209,200

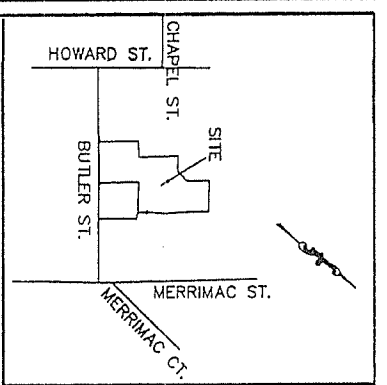
Outbuildings

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
FGR5	W/LOFT GOOD			400 S.F.	\$13,200	1
WDK	WOOD DECK			144 S.F.	\$2,100	1

Valuation History

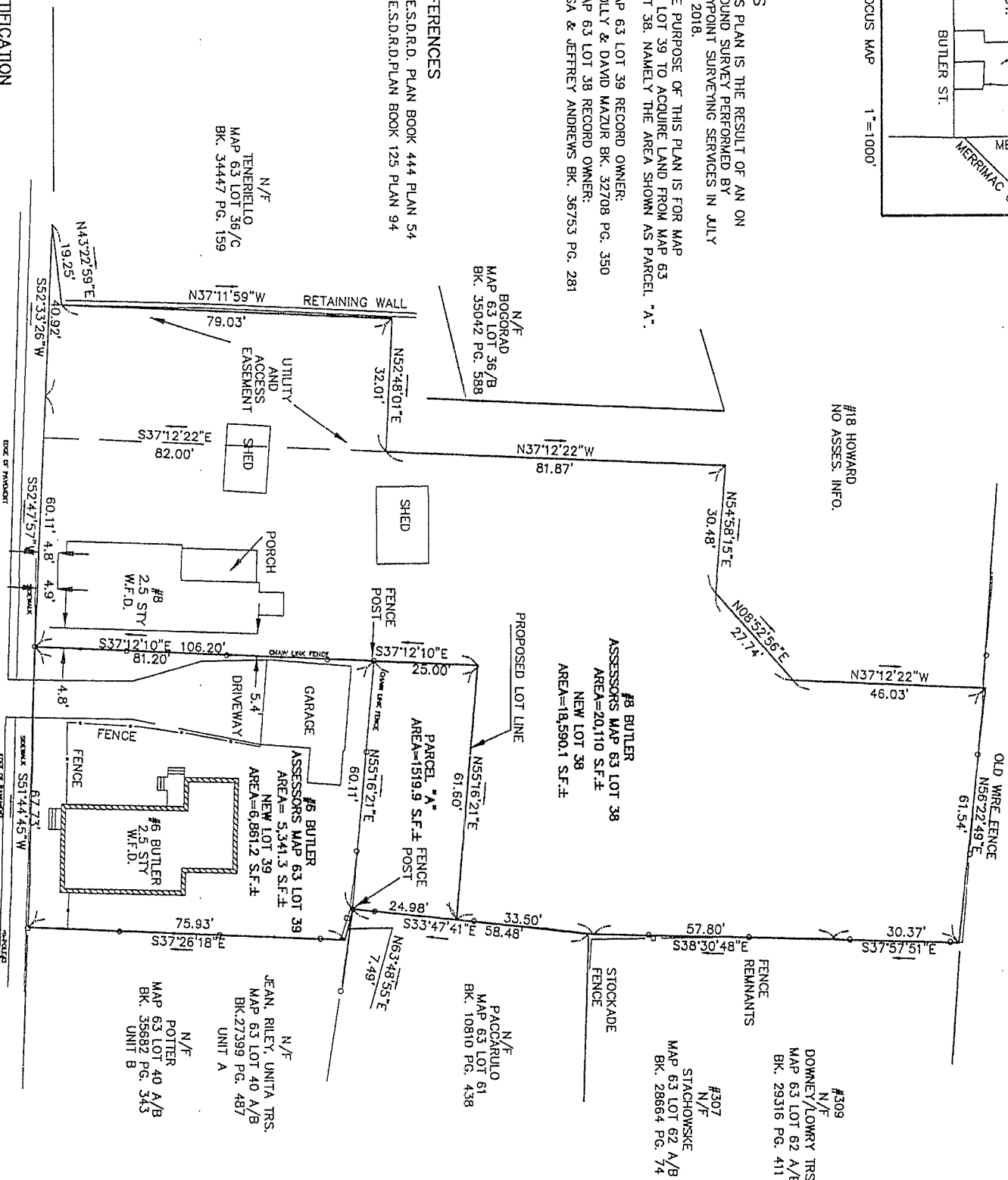
Assessment			
Valuation Year	Improvements	Land	Total
2017	\$248,800	\$199,200	\$448,000

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- NOTES**
- 1.) THIS PLAN IS THE RESULT OF AN ON GROUND SURVEY PERFORMED BY WAYPOINT SURVEYING SERVICES IN JULY OF 2018.
 - 2.) THE PURPOSE OF THIS PLAN IS FOR MAP 63 LOT 39 TO ACQUIRE LAND FROM MAP 63 LOT 38, NAMELY THE AREA SHOWN AS PARCEL "A".
 - 3.) MAP 63 LOT 39 RECORD OWNER: HOLLY & DAVID MAZUR BK. 32708 PG. 350
MAP 63 LOT 38 RECORD OWNER: USA & JEFFREY ANDREWS BK. 36753 PG. 281

- REFERENCES**
- 1.) E.S.D.R.D. PLAN BOOK 444 PLAN 54
 - 2.) E.S.D.R.D. PLAN BOOK 125 PLAN 94



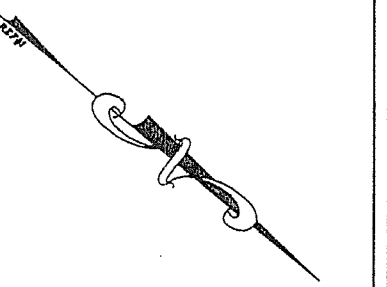
CERTIFICATION
I CERTIFY THAT THIS PLAN WAS PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERED PROFESSIONAL LAND SURVEYORS.

DAVID AYES 44444
REGISTERED PROFESSIONAL LAND SURVEYOR
8-6-18
DATE

BUTLER STREET (PUBLIC-VARIABLE WIDTH)

ZONING TABLE
ZONING DISTRICT: R2 (#8 BUTLER)

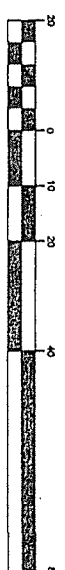
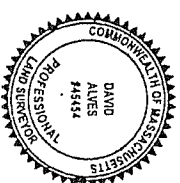
	REQUIRED	PROPOSED
FRONT	25'	4.8' (EXISTING)
SIDE	10'	4.8' (EXISTING)
REAR	25'	105'± (EXISTING)
MIN. LOT AREA	10,000 S.F.	18,590.1 S.F.
FRONTAGE	90'	101.03' S.F. (EXISTING)



APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED.
CITY OF NEWBURYPORT PLANNING BOARD

ENDORSEMENT OF THIS PLAN IS NOT A DETERMINATION OF CONFORMANCE WITH ZONING REGULATIONS

DATE



LAND ACQUISITION PLAN
4/6 BUTLER STREET
NEWBURYPORT, MASSACHUSETTS
ASSESSORS MAP 63 PARCELS 38&39
PREPARED FOR
HOLLY MAZUR

SCALE: 1" = 20' AUGUST 6, 2018

WAYPOINT SURVEYING SERVICES
141 BRIDGE ROAD, SUITE 202-5
SALISBURY, MASSACHUSETTS 01962
(978) 505-5261

REVISION	DRAWN BY:	CHECKED BY:
	D.A.	D.A.
	SHEET #:	DESIGN BY:
	1 of 1	D.A.
	FILE #:	
	3940	