Form revised 11/7/18

City of Newburyport Zoning Board of Appeals Application for a VARIANCE

Petitioner:	Thomas Connolly & Lucia Green	, c/o Patrick Hef	fernan, Esq.	
Mailing Address:	Finneran & Nicholson, PC, 30 Gr	een Street, New	/buryport, MA 0)1950
Phone:	978-462-1514	Email	patrick@finni	c.com
Property Address:	346 High Street			
Map and Lot(s):	68-127A/B	ν	Zoning District:	R-2
Book and Page(s):	30393/0417		_	N
Owner(s) Name:	Thomas Connolly and Lucia Gre	en		
Mailing Address (if d	different): 346 High Street, Newbury	yport, MA		
,	uesting a Variance from section(s):			
The pendoner is requ	desting a variance nom section(s).			
Dimensional	l Controls (VI)	☐ Parking (VII)		
✓ Lot Area	Front Yard			
Open Sp ✓ Lot Cove	pace ✓ Side Yard erage — Rear Yard	☐ PIOD (XXI) — FAR		
Height	Lot Width	2 ½ stories	=	
<u>√</u> Frontage	9	Footprint exp	oansion	
Other:				

Request:

Proposed lot split to divide existing lot that contains two single-family homes which are owned as condominum units to create two new lots where new lot for 346 High Street will have nonconformites for lot area, frontage, front yard and side yard setbacks.

City of Newburyport Zoning Board of Appeals Application for a VARIANCE

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	14,663 sf	6,735 sf	10,000 sf
Frontage	133.94 ft	61.87 ft	90 ft
Height	less than 35 ft	less than 35 ft	35 ft
Lot Coverage (%)	25%	27.5%	25%
Open Space (%)	60.7%	58.2%	40%
Front Setback	7 ft	61.87 ft	25 ft
Side A Setback	5 ft	5 ft	10 ft
Side B Setback	20.3 ft	15.5 ft	10 ft
Rear Setback	45.3 ft	45.3 ft	25 ft
Parking Spaces	2 per Unit	2	2 per single family
FAR*	a	SEE EXHIBIT A GARAGE SETBA	OR ACCESSORY

^{*}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):

Patrick Heffernan, Esq for Petitioners Thomas Connolly and Lucia Green

Exhibit A

Zoning Table - Detached Accessory Buildings

	Existing Dimensions	Proposed Dimensional	Required Dimensional
		Controls-346 High Street Controls	Controls
Front Setback	Greater than 25 ft	Greater than 25 ft	25 ft
Side A Setback	Greater than 6 ft	Greater than 6 ft	6 ft
Side B Setback	Greater than 6 ft	.45 ft	6 ft
Rear Setback	8 ft	8 ft	6 ft
Distance from	Greater than 10 ft	Greater than 10 ft	10 ft
Principal Structures			
Dimensions	15 ft x 20 ft	$15 \mathrm{ft} \mathrm{x} 20 \mathrm{ft}$	22 ft x 24 ft (max)

CITY OF NEWBURYPORT, MA ZONING DETERMINATION

APR#	201	9-003	
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Name: Thomas Connolly & Lucia Green/Patrick Heffer	nan of Finneran and Nicholson P.C.
Address: 346 High Street	Zoning District(s): DCOC/R2
Request: Lot split of property with 2 single family homes in to 2 seperate conforming lot area, frontage, front setback, side setback and existing condition of two residences on one parcel was created	accessory structure side setback and lot coverage. This
ZONING BOARD REVIEW REQUIRED Variance Dimensional Controls (VI) Lot Area Dopen Space Lot Front Yard Lot Frontage Lot Width Rear Yard Parking (VII)	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) #	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
CONSERVATION COMMISSION REVIEW REQUIRED	1 6010
CITY COUNCIL REVIEW REQUIRED (X.H.9)	Sund June 1 01/11/2019 Date Date

Form revised 11/7/18

City of Newburyport Zoning Board of Appeals Application for a VARIANCE

Petitioner:	Ronald St. Pierre, c/o Patrick Hef	fernan, Esq.		
Mailing Address:	Finneran & Nicholson, PC, 30 Gro	een Street, Newl	buryport, MA 0	1950
•	978-462-1514	Email:	patrick@finni	c.com
Property Address:	346A High Street			
Map and Lot(s):	68-127A/B		Zoning District:	R-2
Book and Page(s):	34983/0599		Zoming Ziemen	
	Ronald St. Pierre			
Owner(s) Name: Mailing Address (if d	346A High Street, Newbu	ryport, MA		
	uesting a Variance from section(s):			
✓ Dimensional ✓ Lot Area Open Sp	Controls (VI) V Front Yard Pace V Side Yard Pace Rear Yard Lot Width	Parking (VII) PIOD (XXI) FAR 2 ½ stories Footprint exp.	ansion	

Request:

Proposed lot split to divide existing lot that contains two single-family homes which are owned as condominum units to create two new lots where new lot for 346A High Street will have nonconformities for lot are, lot coverage, frontage and front yard setback.

City of Newburyport Zoning Board of Appeals Application for a VARIANCE

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	14,663 sf	7,928 sf	10,000 sf
Frontage	133.94 ft	72.07 ft	90 ft
Height	less than 35 ft	less than 35 ft	35 ft
Lot Coverage (%)	25%	23%	25%
Open Space (%)	60.7%	62.9%	40%
Front Setback	7 ft	70.07 ft	25 ft
Side A Setback	5 ft	24.0 ft	10 ft
Side B Setback	20.3 ft	20.3 ft	10 ft
Rear Setback	45.3 ft	48.8 ft	25 ft
Parking Spaces	2 per Unit	2	2 per single family
FAR*	Dharalaland O. J. Division Market	SEE EXHIBIT A FO	OR ACCESSORY

^{*}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):

Patrick Heffernan, Esq for Petitioner Ronald St. Pierre

Exhibit A

Zoning Table - Detached Accessory Buildings

	Existing Dimensions	Proposed Dimensional	Required Dimensional
		Controls-346 High Street Controls	Controls
Front Setback	Greater than 25 ft	Greater than 25 ft	25 ft
Side A Setback	Greater than 6 ft	3.9 ft	6 ft
Side B Setback	Greater than 6 ft	Greater than 6 ft	6 ft
Rear Setback	8 ft	8 ft	6 ft
Distance from	Greater than 10 ft	Greater than 10 ft	10 ft
Principal Structures			
Dimensions	20 ft x 20 ft	$20 \text{ ft} \times 20 \text{ ft}$	22 ft x 24 ft (max)

CITY OF NEWBURYPORT, MA ZONING DETERMINATION

APR# 2019-004

Name: Ro	onald St Pierre /Patrick Heffernan of Finnerar	n and Nicholson P.C.	
Address:	346A High Street	Zoning District(s): DCOC/R2	1
<u> </u>	Lot split of property with 2 single family homes in to 2 se proposes non conforming lot area, frontage, front setbac condition of two residences on one parcel was created in	ck, and accessory structure side setback. The	is existing
Va	ING BOARD REVIEW REQUIRED ariance Dimensional Controls (VI) Lot Area Dopen Space Lot Front Yard Lot Frontage Bear Yard Parking (VII)	Lighting Loca	
<u>S</u> g	Table of Use Regulations (V.D) #:	Special Permit for Non-Conformities Extension or Alteration (IX.B.2) Parking Rear Upward Extension Lot of the Conformities Open Space Side Height Lot of the Conformities Use Over 500 sf. increase (IX.B.3.c) Plum Island Overlay District (XXIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIIII	Coverage Yard Frontage It Yard -G-3)
Sr.	MNING BOARD REVIEW REQUIRED Decial 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 Other Mart Growth District (XXIX) Plan Approval Plan Approval ORICAL COMMISSION REVIEW REQUIRED Demo. Delay *Advisory Review Advisory Review Plan Approval Pl	Special Permit for Non-Conformities Extension or Alteration (IX.B.2) — Parking Rear \(\) — Upward Extension Lot Co \(\) — Open Space Side \(\) — Height Lot Front Use Over 500 sf. increase (IX.B.3.c) Site Plan Review (XV) Major Minor	overage Yard Contage
_	SERVATION COMMISSION REVIEW REQUIRED COUNCIL REVIEW REQUIRED (X.H.9)	hall fall of	/11/2019

FINNERAN & NICHOLSON, P.C.

ATTORNEYS AND COUNSELORS AT LAW 30 GREEN STREET NEWBURYPORT, MASSACHUSETTS 01950 (978) 462-1514 FACSIMILE (978) 465-2584

E-MAIL: cases@finnic.com

January 15, 2019

Newburyport Zoning Board of Appeals Attn: Edward Ramsdell, Chairman 60 Pleasant Street Newburyport, MA 01950

Re: 346 & 346A High Street; Letter in Support of Dimensional Variance for Proposed Lot Split

Dear Mr. Ramsdell:

I represent Ronald St. Pierre, Thomas Connolly and Lucia Green ("Petitioners") in connection with obtaining a lot split in the above-referenced matter. The existing lot contains two (2) single-family homes which are owned as condominium units (the "Units"). The proposed lot split will divide the existing lot to create two new lots. This letter is provided in support of the Petitioners' application for a Dimensional Variance with respect to nonconformities created by the lot split.

Existing Conditions

The Units were constructed pursuant to a previously obtained Section VI-C Special Permit. Unit 346 is owned by Thomas Connolly and Lucia Green and Unit 346A is owned by Ronald St. Pierre. Unit 346 was built in or around 1780 and Unit 346A was built in or around 2005. The property is located in the R-2 Zoning District and within the Demolition Control Overlay District. The structures on the lot are pre-existing legally nonconforming for front setback (7 ft) and left side setback (5 ft). The lot is also nonconforming with respect to lot area as it has 14,663sf where 15,000 sf are required for two units in the R-2 District.

Proposed Lot Split

Petitioners are proposing to split the existing lot creating two new lots, each lot containing a single-family home and one-car garage. Both newly created lots will be nonconforming with respect to the following conditions:

346 High Street – Single Family Structure

- 1. Lot Area: 6,735 sf (10,000 required);
- 2. Frontage: 61.87 ft (90 ft required);
- 3. Lot coverage: 27.5% (25% maximum)
- 4. Front Setback: 8.8 ft (25 ft required); and
- 5. Left Side Setback: 5 ft (10 ft required)

346 High Street – One Car Garage

1. Right Side Setback: .45 ft (6 ft required)

346A High Street - Single Family Structure

- 1. Lot Area: 7,928 sf (10,000 required);
- 2. Frontage: 72.07 ft (90 ft required); and
- 3. Front Setback: 7 ft (25 ft required);

346A High Street - One Car Garage

1. Left Side Setback: 3.9 ft (6 ft required)

The proposed lot split involves no construction or demolition at all and will merely consist of delineating a new lot line between the two existing units. Indeed, the delineation will be exactly where the exclusive use areas are currently defined on the condominium site plan. (See attached Exhibit A)

Variance

Pursuant to Section X-H(6) of the Zoning Ordinance, the Board has the power to grant a variance provided that the desired relief "may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this ordinance." Here, the grant of a variance by the Board is consistent with this standard. The following conditions pursuant to Section X-H(6)(C) are present which are required for the grant of a variance:

The proposed use is single family use for the land and the structures.

The existing use is single family (use #101) for each Unit but the use of the lot is two family (use #102). The proposed lot split will not alter the use of the Units but will create a single-family use for each new lot.

Conditions and circumstances 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

Section VI-C of the Zoning Ordinance prohibits more than one residential building per lot. The existing lot is unusual to the district in that it is the only lot in the surrounding neighborhood with two single-family structures on it.

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.

As previously mentioned, the surrounding lots are in a single form of ownership with respect to structures thereon. A reasonable use which is consistent with most uses is to have a stand-alone single-family dwelling unit sit on a lot which is wholly owned by its owner. This is the most complete and "clean" form of ownership and avoids the potential downsides of a condominium form of ownership where there is a clear potential for disputes between owners with respect to common charges, usage of exclusive areas and maintenance and repair of what appear to be independent units. Additionally, there are hurdles to obtaining financing on such developments as lenders are not as used to condominiums where the dwellings are not within one structure.

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

The Petitioners did not choose to create the condition of a preexisting non-conforming lot. This development and condominium conversion took place in or about 2006 by an original owner unrelated to the parties.

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

The proposed lot split will not create any inconsistencies with surrounding properties. The neighborhood is already accustomed to one single or multi-family structure on undersized lots that have similar existing garage structures on their properties. The Petitioners' proposed lot split will fit in with the character of the neighborhood. While the Unit 346 and Unit 346A currently exist on the same lot, Unit 346A was built over two hundred years after Unit 346 so separation of the structures to their own lots will have no impact on the historic characteristics of surrounding neighborhood. Additionally, the creation of two new lots will not alter either existing structure or have any visual impact on High Street as the proposed lot split will not change any of the existing structures.

The relief sought will be desirable and without substantial detriment to the public good. The requested relief may be given without nullifying or substantially derogating from the intent or purpose of the ordinance for all of the same reasons previously indicated. By splitting the existing lot, the Petitioners would have better use of the lot. All of this is consistent with the intent and purpose of the zoning ordinance.

For the foregoing reasons the Petitioner respectfully requests that the ZBA approve the Petitioners application for a variance from the above-referenced nonconformities.

Sincerely,

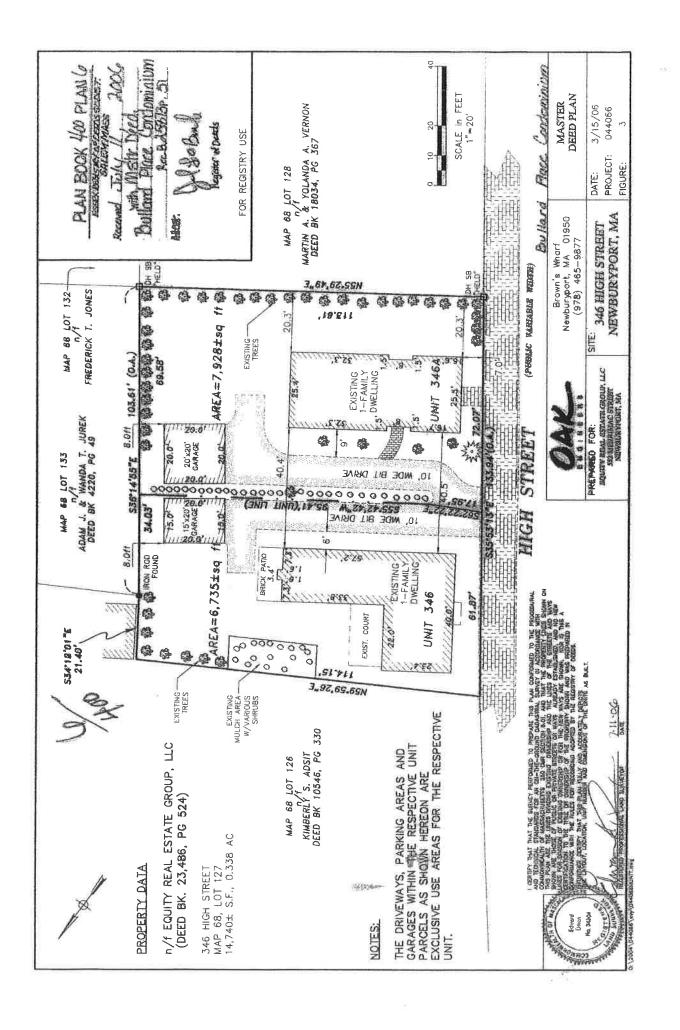
Patrick Heffernan, Esq.

Enclosures.

F:\Cases\18-346\Memo in Support of Variance 1.15.19.docx

Exhibit A

Condominium Site Plan



346 HIGH ST

Location 346 HIGH ST

MBLU 68/127/A//

Owner CONNOLLY THOMAS G

Assessment \$889,100

PID 103364

Building Count 1

Current Value

Assessment					
Valuation Year	Improvements	Land	Total		
2019	\$889,100	\$0	\$889,100		

Owner of Record

Owner

CONNOLLY THOMAS G

Co-Owner LUCIA GREENE CONNOLLY T/E

Address

346 HIGH ST

NEWBURYPORT, MA 01950

Sale Price

\$855,000

Certificate

Book & Page 30393/0417

Sale Date

05/06/2011

Instrument

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
CONNOLLY THOMAS G	\$855,000		30393/0417	00	05/06/2011
BUESCHEL STACEY L	\$884,900		26340/0340	00	11/30/2006
EQUITY REAL ESTATE GROUP LLC	\$0		23629/0283		11/15/2004

Building Information

Building 1: Section 1

Year Built:

1780

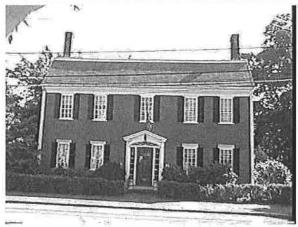
Living Area:

3,240

Building Attributes				
Field	Description			
STYLE	Condominium			
MODEL	Res Condo			
Stories:	2.5			
Occupancy	1			
Interior Wall 1:	Plastered			
Interior Wall 2:				

Interior Floor 1	Pine/Soft Wood
Interior Floor 2	Hardwood
Heat Fuel:	Oil
Heat Type:	Forced Air-Duc
AC Type:	None
Ttl Bedrms:	4 Bedrooms
Ttl Bathrms:	2 Full
Ttl Half Bths:	1
Xtra Fixtres	
Total Rooms:	8
Bath Style:	
Kitchen Style:	
Kitchen Grd	
Grade	Average +20
Stories:	2.75
Residential Units:	2
Exterior Wall 1:	Clapboard
Exterior Wall 2:	
Roof Structure	Gambrel
Roof Cover	Asph/F Gls/Cmp
Cmrcl Units:	0
Section #:	0
Parking Spaces	0
Section Style:	0
Foundation	
Security:	
Cmplx Cnd	
Xtra Field 1:	
Remodel Ext:	
Super	

Building Photo



(http://images.vgsi.com/photos/NewburyportMAPhotos/\\01\00\!

Building Layout

UBM[1234]

BAS[1484]

FUS[1484]

FHS[543]

(http://images.vgsi.com/photos/NewburyportMAPhotos//Sketche:

Building Sub-Areas (sq ft) <u>Legs</u>				
Code	Description	Gross Area	Living Area	
BAS	First Floor	1,484	1,484	
FUS	Upper Story, Finished	1,484	1,484	
FHS	Half Story, Finished	543	272	
UВМ	Basement, Unfinished	1,234	0	
		4,745	3,240	

Extra Features

Extra Features <u>Legend</u>					
Code	Description	Size	Value	Bldg #	
FPL3	FIREPLACE 2 ST	1 UNITS	\$3,300	1	
FPO	EXTRA FPL OPEN	1 UNITS	\$1,100	1	

Land

Land Use

Land Line Valuation

Use Code

1021

Description CONDO Zone

Depth

0

Size (Acres)

Assessed Value \$0

Outbuildings

Outbuildings	
No Data for Outbuildings	
	· · · · · · · · · · · · · · · · · · ·

Valuation History

Assessment					
Valuation Year	Improvements	Land	Total		
2018	\$862,200	\$0	\$862,200		

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346A HIGH ST

Location 346A HIGH ST

MBLU 68/127/B//

Owner ST PIERRE RONALD

Assessment \$1,032,600

PID 103365

Building Count 1

Current Value

Assessment					
Valuation Year	Improvements	Land	Total		
2019	\$1,032,600	\$0	\$1,032,600		

Owner of Record

Owner

ST PIERRE RONALD

Sale Price

\$1,020,000

Co-Owner Address

346A HIGH ST

NEWBURYPORT, MA 01950

Certificate

Book & Page 34983/0599

Sale Date

06/07/2016

Instrument 00

Ownership History

Ownership History						
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date	
ST PIERRE RONALD	\$1,020,000		34983/0599	00	06/07/2016	
MARCHIBRODA DEBBIE M	\$965,000		27741/0194	00	04/30/2008	
CIAMPITTI ROBERT A SR	\$1,300,000		26691/0131	1A	03/30/2007	
EQUITY REAL ESTATE GROUP LLC	\$0		23629/0283		11/15/2004	

Building Information

Building 1: Section 1

Year Built:

2005

Living Area:

3,527

Building Attributes				
Field	Description			
STYLE	Condominium			
MODEL	Res Condo			
Stories:	2.75			
Occupancy	1			
Interior Wall 1:	Drywall/Sheet			

Interior Wall 2:	
Interior Floor 1	Hardwood
Interior Floor 2	
Heat Fuel:	Gas
Heat Type:	Forced Air-Duc
AC Type:	Central
Ttl Bedrms;	5 Bedrooms
Ttl Bathrms:	3 Full
Ttl Half Bths:	2
Xtra Fixtres	
Total Rooms:	9
Bath Style:	Average
Kitchen Style:	Average
Kitchen Grd	
Grade	Average +20
Stories:	2.75
Residential Units:	2
Exterior Wall 1:	Clapboard
Exterior Wall 2:	
Roof Structure	Gambrel
Roof Cover	Asph/F Gls/Cmp
Cmrcl Units:	0
Section #:	0
Parking Spaces	0
Section Style:	0
Foundation	
Security:	
Cmplx Cnd	
Xtra Field 1:	
Remodel Ext:	
Super	

Building Photo



 $(http://images.vgsi.com/photos/NewburyportMAPhotos// 01 \00 \!$

Building Layout

FBM[720] BAS[1415] FUS[1415] TQS[929]

UBM[721] WDK[70]

(http://images.vgsi.com/photos/NewburyportMAPhotos//Sketche

Building Sub-Areas (sq ft)				
Code	Description	Gross Area	Living Area	
BAS	First Floor	1,415	1,415	
FUS	Upper Story, Finished	1,415	1,415	
TQS	Three Quarter Story	929	697	
FBM	Basement, Finished	720	0	
UВМ	Basement, Unfinished	721	0	
WDK	Deck, Wood	70	0	
		5,270	3,527	

Extra Features

Extra Features <u>Legender</u>				
Code	Description	Size	Value	Bldg #
FPL4	FIREPLACE, MNF	1 UNITS	\$1,700	1

Land Use

Land Line Valuation

Use Code

1021

Description CONDO

Zone

Size (Acres)

0

Depth

Assessed Value \$0

Outbuildings

Outbuildings				<u>Legend</u>		
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
FGR2	GARAGE-GOOD			420 S.F.	\$12,000	1

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2018	\$1,002,000	\$0	\$1,002,000

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