

FINNERAN & NICHOLSON, P.C.
ATTORNEYS AND COUNSELORS AT LAW

30 GREEN STREET
NEWBURYPORT, MA 01950
Tel. (978)462-1514 * Fax (978)465-2584

515 GROTON ROAD, SUITE 203
WESTFORD, MA 01886
Tel. (978)496-1177 * Fax (978)496-1146

**ATTORNEY WORK PRODUCT/PRIVILEGED
COMMUNICATION/CONFIDENTIAL**

April 15, 2021

Newburyport Zoning Board of Appeals
60 Pleasant Street
Newburyport, MA 01950

**RE: Special Permit for Non-Conformities Application
7 Harbor Street, Newburyport, MA**

Dear Chairman Ciampitti and Members of the Board,

The undersigned represents the 7 Harbor Street Nominee Trust, Robert Higgins, Trustee, owner of the property at 7 Harbor Street, on Plum Island in Newburyport, MA. My client would like to add a second story addition over the footprint of the existing single-family structure which dates from 1900. Please accept this letter and the attached documents to serve as my client's application for a Special Permit pursuant to Sections IX.B.2 and IX.B.3.c. of the Newburyport Zoning Bylaws. Please note this letter is also being provided as the required memorandum in support of the application.

The property has been and will continue to be used as a single-family residence; an allowed use in the applicable (R3/PIOD) zoning district.

The existing Lot is non-conforming as to Area (12,000 sf req., 6,504 sf provided) and Frontage (120' req., 70' provided). The existing structure is non-conforming as to Side Setbacks (20' req., 5.6' and 10.3' provided), Rear Setback (20' req., 14.8' provided), Lot Coverage (20% allowed, 22.8% covered), and FAR (max allowed 25%, 36% existing).

The proposed addition would not create any new non-conformities. However, the addition would result in the current FAR of 36% increasing to 39%. Additionally, the addition will extend the pre-existing side setback non-conformity upward. Lastly, please note that the proposed roofline will exceed the height of the existing structure (current height: 17.4', proposed 20.5').

The proposed addition will not result in the completed structure being substantially more detrimental than the existing non-conforming structure to the neighborhood or the PIOD. The addition and the resulting structure are certainly in keeping with many of the surrounding homes, especially those recently redeveloped or

improved upon. Construction of the addition, will be done in conformance with the state and local building codes and will conform to all applicable state and local Conservation regulations and so will not have adverse effects on the environment. Moreover, it is proposed to construct the addition with top quality, energy efficient materials and methodology, again minimizing environmental impacts. Aesthetically, the proposed structure has been professionally designed and, although beauty is in the eye of the beholder, is arguably architecturally an improvement on the existing structure, which will certainly enhance the value of the home and thus the value of the neighboring homes. This improvement will also generate additional tax revenues for the Town through increase property values which equates to a benefit for other Town residents, including those in the surrounding neighborhood and the PIOD. Lastly, the de minimis increase in the FAR and the lateral extension of the pre-existing side setback non-conformity will have little or no impact to the neighborhood and the CEIOD, it will certainly not have a substantial detrimental impact on anyone in sum, the proposed structure will not have a substantial adverse impact on the surrounding neighborhood or the CEIOD and in fact will in some ways provide a beneficial impact.

Having obtained a Zoning Determination letter from the Newburyport Zoning Administrator (attached), please allow this letter, along with the attached documents to serve as the Applicant's formal application for a Special Permit under Sections IX.B.2 and IX.B.3.c. of the Newburyport Zoning Bylaws, (or any other relief the Zoning Board deems necessary), to allow for the construction of the proposed addition.

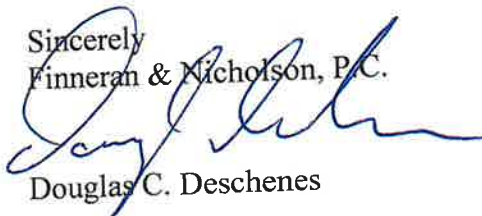
Enclosed please find the following:

1. Special Permit Application;
2. Zoning Determination Letter;
3. Owner Authorization Letter;
4. Owner's Deed;
5. Assessor Card and GIS MAP;
6. Written Memo (this Cover Letter);
7. Site Plan;
8. Architectural Plans;
9. Filing Fee.

Please note, that electronic copies of all materials will be forwarded to the Board by e-mail, under separate cover. Additionally, copies are being filed with the Town of Newburyport's Clerk's office.

Thank you very much for your time and consideration. Please contact me if you should have any questions or need any additional information regarding this application.

Sincerely
Finneran & Nicholson, P.C.



Douglas C. Deschenes

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

Petitioner: Douglas C. Deschenes, Attorney for Owner

Mailing Address: Finneran & Nicholson, P.C, 515 Groton Road, Suite 203, Westford, MA 01886

Phone: 978-496-1177 Email: doug@finnic.com

Property Address: 7 Harbor Street, Newburyport

Map and Lot(s): 77-4 Zoning District: R3 & PIOD

Book and Page(s): Book 37533, Page 0346

Owner(s) Name: 7 Harbor Street Nominee Trust, Robert Higgins Trustee

Mailing Address (if different): 45 Water Street, Newburyport, MA 01950

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

Description of request:

Proposed construction of second story addition over existing footprint of single-family structure dating from 1900. The proposed addition will extend a non-conformance upward. Also, the expansion of the proposed roof line change will exceed the height of the current structure. (see attached cover letter).

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

	Required Dimensional Controls from Section VI.A	Existing Dimensional Controls from survey or site plan	Proposed Dimensional Controls from proposed plans
Lot Area	12,000 s.f.	6,504 s.f. +/-	6,504 s.f +/- (nc)
Frontage	120'	70'	70' (nc)
Height*	35' max	17.4' +/-	20.5' +/-
Max. Lot Coverage (%)**	20%	22.8%	22.8% (nc)
Min. Open Space (%)***	35%	49.8%	49.8% (nc)
Primary Front Setback	20'	43.9'	43.9' (nc)
Side A Setback/Secondary Front Setback	20'	5.6'	5.6' (nc)
Side B Setback	20'	10.3'	10.3 (nc)
Rear Setback	20'	14.8'	14.8' (nc)
Parking Spaces	2	5+	5+ (nc)
FAR****	.25	.36	.39

*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.

By checking this box and typing my name below, I am electronically signing this application.

Douglas C. Deschenes, Attorney for Owner

 Petitioner

By checking this box and typing my name below, I am electronically signing this application.

Please see attached Authorization Letter

 Owner (if different)

ZONING DETERMINATION

Name: 7 Harbor Street Trust/ Robert Higgins

Address: 7 Harbor Street

Zoning District(s): R3/PIOD

Request: Construct addition at the second level of existing single family dating from 1900 by way of a roofline change that exceeds the definition of height for the existing structure. Addition extends a nonconforming setback upward. VE flood zone but not substantial improvement

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, 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)
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)

Site Plan Review (XV)

- Major, Minor

Smart Growth District (XXIX)

- Plan Approval

HISTORICAL COMMISSION REVIEW REQUIRED

- Demo. Delay, *Advisory Review

CONSERVATION COMMISSION REVIEW REQUIRED

The name typed below represents the intent to sign the foregoing document:

Jennifer T Blanchet

04/12/2021

Newburyport Zoning Administrator

Date

April 13, 2021

City of Newburyport
Zoning Board of Appeals
60 Pleasant Street
Newburyport, MA 01950

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

City of Newburyport
Conservation Commission
60 Pleasant Street
Newburyport, MA 01950

RE: 7 Harbor Street, Newburyport

Dear Members of the Board,

Please be advised that the undersigned 7 Harbor Street Nominee Trust, Robert Higgins, Trustee, does hereby authorize Attorneys Douglas C. Deschenes and/or related associates of the law firm of Finneran & Nicholson, P.C., with locations at 515 Groton Road, Suite 203, Westford, MA 01886 and 30 Green Street, Newburyport, MA 01950, to act (including but not limited to signing, filing and permitting) in regards to any filing, permit application, or other documents relating to proposed reconstruction and/or alteration of my property located at 7 Harbor Street, Newburyport, MA 01950.

Thank you for your time and attention to this matter.

Sincerely,



Robert Higgins, Trustee

MASSACHUSETTS EXCISE TAX
Southern Essex District ROD
Date: 05/24/2019 10:56 AM
ID: 1295056 Doc# 20190524001670
Fee: \$4,104.00 Cons: \$900,000.00

QUITCLAIM DEED

7 Harbor Street Development, LLC., a Massachusetts Limited Liability Company with a mailing address of 17 Brook Street, Manchester By The Sea, MA 01944

For consideration paid of Nine Hundred Thousand and NO/100 (\$900,000.00) Dollars

Grant to Robert Higgins, Trustee of the 7 Harbor Street Nominee Trust, u/d/t dated May 20, 2019, as evidenced by Trustee's Certificate Pursuant to M.G.L. c. 184, § 35 recorded herewith, of 45 Water Street, Newburyport, Essex County, Massachusetts 01950

with *QUITCLAIM COVENANTS*:

The land with the buildings thereon situated in Newburyport, Essex County, Massachusetts, as follows, viz:

A parcel of land in Newburyport, Essex County, Massachusetts, constituting and being Lot No. fifty-three A (53A) in Block lettered "A" as shown upon a certain plan dated May, 1920, and entitled "Plan of Section One, of Lands of Plum Island Beach Company," Rowland H. Barnes and Henry F. Beal, Civil Engineers, which Plan is recorded with Essex South District Registry of Deeds in Plan Book 34 as Plan No. 7.

Said Lot No. 53A containing approximately 6,520 square feet.

Lot No. 53A is conveyed with easements, rights and restrictions of record and now in force and effect.

This is not a homestead property and the Grantor states under the pains and penalties of perjury that there is no person entitled to an estate of homestead herein.

This sale does not constitute all or substantially all of the Grantor's assets in the Commonwealth of Massachusetts.

For grantor's title, see deed dated September 11, 2009 recorded at Book 33717, Page 493.

[Signature page to follow]

WITNESS the hand and seal of the Grantor this 24th day of May, 2019.

7 Harbor Street Development, LLC

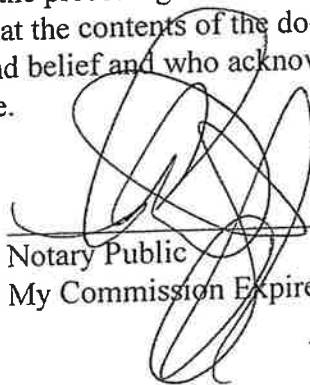


By: Anthony Ranaldi
Its Manager

COMMONWEALTH OF MASSACHUSETTS

On this 24th day of May, 2019, before me, the undersigned notary public, personally appeared Anthony Ranaldi, Manager of 7 Harbor Street Development, LLC and proved to me through satisfactory evidence of identification, which was/were driver's licenses or other state or Federal governmental document bearing a photographic image, () oath or affirmation of a credible witness known to me who knows the above signatory, or () my own personal knowledge of the identity of the signatory to be the person whose name is signed on the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief and who acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public
My Commission Expires:



7 HARBOR ST

Location 7 HARBOR ST

MBLU 77/4/11

Owner HIGGINS ROBERT TRS

Assessment \$756,000

PID 5539

Building Count 1

Current Value

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$306,100	\$449,900	\$756,000

Owner of Record

Owner HIGGINS ROBERT TRS
Co-Owner 7 HARBOR STREET NOMINEE TRUST
Address 45 WATER ST
 NEWBURYPORT, MA 01950

Sale Price \$900,000
Certificate
Book & Page 37533/0346
Sale Date 05/24/2019
Instrument 00

Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
HIGGINS ROBERT TRS	\$900,000		37533/0346	00	05/24/2019
7 HARBOR ST DEVELOPMENT LLC	\$400,000		33717/0493	1H	12/05/2014
KEYLES CARMELLA W	\$0		33717/0491	1A	12/05/2014
BARKER ALICE M EST OF	\$0		P3269/0018		05/17/1975

Building Information

Building 1 : Section 1

Year Built: 1900
Living Area: 1,768

Building Attributes	
Field	Description
Style:	Conventional
Model	Residential
Grade:	Average +10

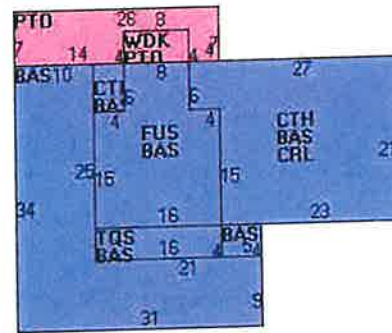
Stories:	2
Occupancy	1
Exterior Wall 1	Vinyl Shingle
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Pine/Soft Wood
Interior Flr 2	
Heat Fuel	Oil
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	2 Bedrooms
Total Bthrms:	2
Total Half Baths:	1
Total Xtra Fixtrs:	
Total Rooms:	5 Rooms
Bath Style:	Modern
Kitchen Style:	Modern
Num Kitchens	01
Cndtn	
Num Park	
Fireplaces	
Kitchen Grd	
Fndtn Cndtn	
Basement	

Building Photo



(<http://images.vgsi.com/photos/NewburyportMAPhotos/0100072160.jpg>)

Building Layout



(http://images.vgsi.com/photos/NewburyportMAPhotos/Sketches/5539_57)

Building Sub-Areas (sq ft)			Legend	
Code	Description	Gross Area	Living Area	
BAS	First Floor	1,432	1,432	
FUS	Upper Story, Finished	288	288	
TQS	Three Quarter Story	64	48	
CRL	Crawl Space	507	0	
CTH	Cathedral Ceiling	531	0	
PTO	Patio	182	0	
WDK	Deck, Wood	32	0	
		3,036	1,768	

Extra Features

Extra Features				Legend
Code	Description	Size	Value	Bldg #
FPL4	FIREPLACE, MNF	1.00 UNITS	\$1,600	1

Land

Land Use

Use Code 1013
Description SFR WATER

Land Line Valuation

Size (Acres) 0.15
Depth 0
Assessed Value \$449,900

Outbuildings

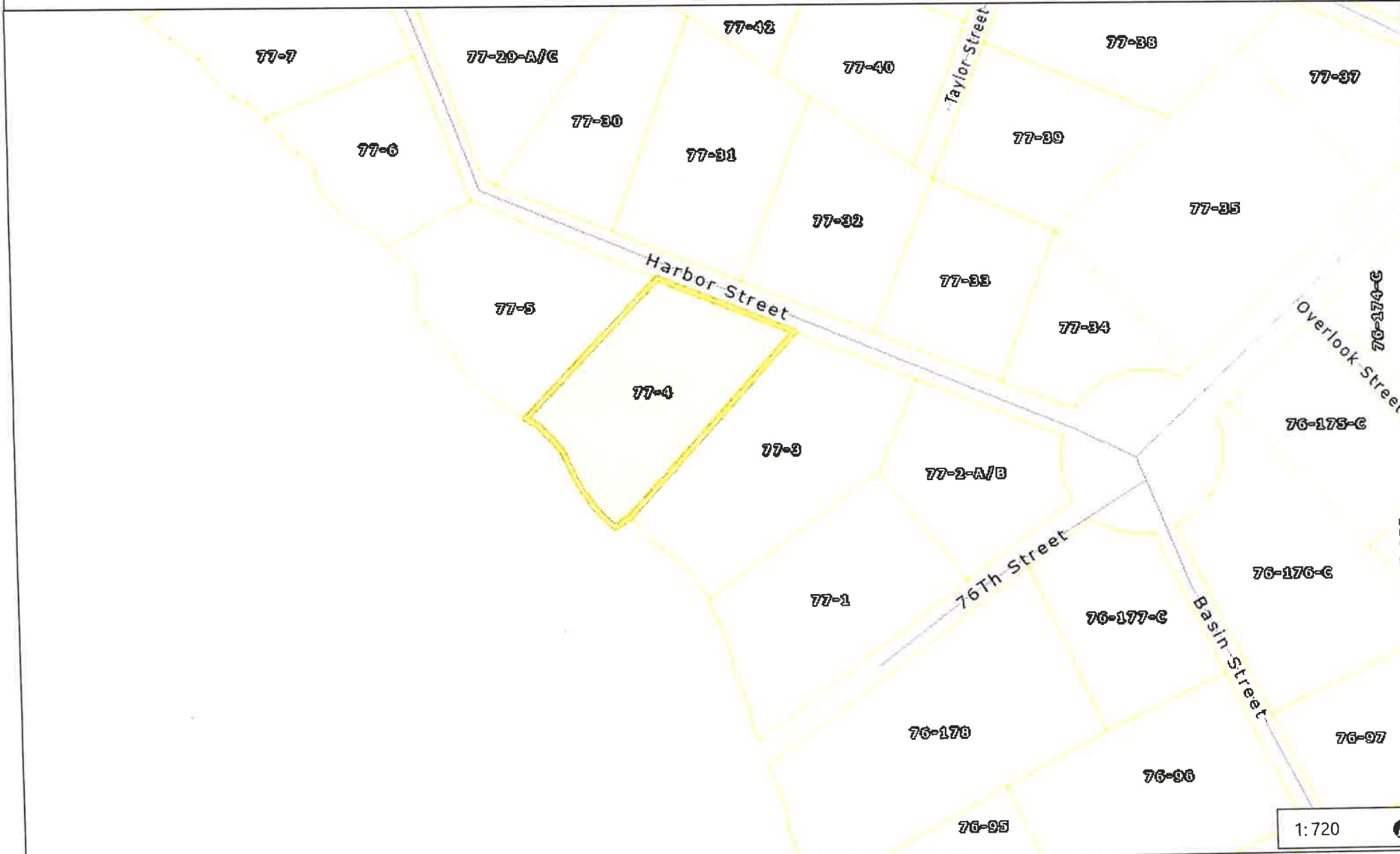
Outbuildings	Legend
No Data for Outbuildings	

Valuation History

Assessment			
Valuation Year	Improvements	Land	Total
2020	\$292,500	\$449,900	\$742,400

City of Newburyport

4/14/2021



Data Sources: Produced by Merrimack Valley Planning Commission (MVPC) using data provided by the City of Newburyport & MassGIS. MVPC AND THE CITY OF NEWBURYPORT MAKES NO WARRANTIES, EXPRESSED OR IMPLIED, CONCERNING THE ACCURACY, COMPLETENESS, RELIABILITY, OR SUITABILITY OF THESE DATA. THE CITY OF NEWBURYPORT AND MVPC DOES NOT ASSUME ANY LIABILITY ASSOCIATED WITH THE USE OR MISUSE OF THIS INFORMATION.

Municipal Boundary	Roads	Interstate	Major Road	Local Road	Railroad	Parcels (on aerial)
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