



Town of Hopkinton

Planning Department

330 Main Street, Hopkinton NH 03229-2627 - (603) 746-8243 - planzone@hopkinton-nh.gov

**HOPKINTON ZONING BOARD OF ADJUSTMENT
PUBLIC NOTICE – AGENDA
JUNE 4, 2019**

Notice is hereby given that the Hopkinton Zoning Board of Adjustment will meet on Tuesday, June 4, 2019, at 5:30 PM in the Hopkinton Town Hall, 330 Main Street, Hopkinton, NH, to review and to take action on the following.

I. **Call to Order** (Determine quorum, review attendance of regular members and seating of alternate members, if necessary).

II. **Applications.**

#2019-03 T.F. Bernier, Inc. Variance to reconstruct an existing non-conforming residence and garage having less than the required setbacks for the R-4 district. The property is owned by Edward J. III and Kerry C. Donnelly, located at 5 Eagle Lane, shown on Tax Map 225 as Lot 113. The application was submitted in accordance with Zoning Ordinance 4.1 and 4.2.

III. **Approval of meeting Minutes and Notices of Decisions for May 7, 2019.**

IV. **Other Business.**

V. **Adjournment.**



T.F. BERNIER, INC.
Land Surveyors~Designers~Consultants

50 Pleasant Street, P.O. Box 3464
Concord, NH 03302-3464

Environmental Permitting
State and Local Permitting
Land Surveying
Aerial Mapping
Aerial Photography

Tel. (603) 224-4148
Fax (603) 224-0507

May 16, 2019

Dan Rinden, Chair
Hopkinton Zoning Board of Adjustment
330 Main Street
Hopkinton, NH 03229

RE: Application for Variance
Map 225 Lot 113
Edward J. III & Kerry C. Donnelly
5 Eagle Lane

Dear Chair Rinden and members of the Board:

Please find enclosed the application for a Variance for a house and garage to be reconstructed on Lot 113. The lot is in the R-4 "Agricultural-Residential" zoning district. The structures will be reconstructed, making them more nearly conforming to rear and side setbacks.

The existing house is 17.7' from the Contoocook River and the deck is 7.9' from the river, which is non-conforming to the Town of Hopkinton Zoning 60' rear setback from the Contoocook River (and the NHDES Shoreland 50' setback from the river). The proposal is to reconstruct the house and deck further from the river such that the house is no closer than 21.9' and the deck is no closer than 9.8' from the river.

The existing garage is 7.2' from the side lot line, which is non-conforming to the Town of Hopkinton Zoning 30' side setback. The proposal is to reconstruct the garage further from the lot line, making it no closer to the side lot line than 9.8'. The garage will stay the same distance from the river (64.3').

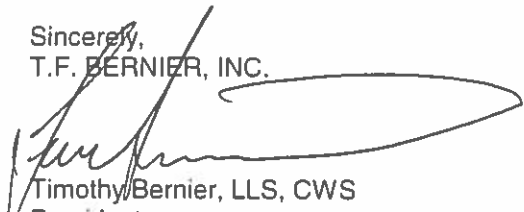
Both the garage and house will also be reconstructed at higher elevations, bringing them out of the flood hazard zone (100 year flood zone).

Additionally, the existing septic system, which is non-conforming to the 75' setback from the river, will be reconstructed over 200' from the river.

The house will continue to use the existing well and driveway on the lot.

Thank you for your time and consideration of this request. If you have any questions or need additional information, please give us a call.

Sincerely,
T.F. BERNIER, INC.



Timothy Bernier, LLS, CWS
President

enclosures

cc: file 641-01

Town of Hopkinton, New Hampshire
Zoning Board of Adjustment
330 Main Street, Hopkinton, NH 03229
Tel: (603) 746-4487 · Fax (603) 746-2952
e-mail: planzone@hopkinton-nh.gov

HOPKINTON ZONING BOARD OF ADJUSTMENT
APPLICATION FOR APPEAL

Name of Applicant: T.F. Bernier, Inc. - Timothy Bernier
Mailing Address: P.O. Box 3464 50 Pleasant Street Concord, NH 03302
Telephone (days): 224-4148
Name of Property Owner: Edward J. III & Kerry C. Donnelly
Mailing Address: 18 Symonds Way Reading, MA 01867
Telephone (days): 617-970-0150
Tax Map: 225 Lot: 113 Location of Property: 5 Eagle Lane

Zoning of property in question (circle one): R-1 R-2 R-3 **R-4** B-1 M-1 VR-1 VB-1 VM-1

Section of Hopkinton Zoning Ordinance under which your application was denied or you believe your proposal relates to: Section: IV Paragraph/Table: 4.1 & 4.2

A copy of your denied Building/Use Application or administrative decision must be attached.

This application is for: Variance Special Exception Equitable Waiver Administrative Appeal

The undersigned hereby requests a Variance, Special Exception, Equitable Waiver, and Administrative Appeal in order to permit the following:

A Variance is requested to reconstruct the existing non-conforming house and garage on Lot 113. Both structures will be constructed in new locations such that they are more nearly conforming to the 60' rear yard setback, the 30' side yard setback, and the 50' NHDES Shoreland buffer, while also being removed from the 100 year flood zone.

NOTE: This application is not acceptable unless all required statements have been completed. Additional information may be supplied on a separate sheet if the space provided is inadequate.

1. Hearing, Abutter, Notification Fees:

- · Variance - \$100.00
- · Special Exception - \$100.00
- · Equitable Waiver - \$100.00
- · Administrative Appeal - \$100.00
- · Rehearing - \$100.00
- · Notification of each Owner, Applicant, Agent, Abutter - \$5.00
- · Published Notice - \$75.00

2. List of names and mailing addresses of all abutters to the property as defined by NH RSA 672:3. Supply information on separate sheet. Abutter is any person whose property adjoins or is directly across the street or stream from the land under consideration.

3. Attach location map showing exact location of property in relation to at least one prominent landmark (road junction, business, town building, etc.). Include north arrow and label road names. Indicate with an X the location of the property in question.

VARIANCE
(Section XV)

In order to secure a variance, the Zoning Board of Adjustment must determine by law that your variance request satisfies the following criteria of the Zoning Ordinance. **Please provide a written response along with any other supporting documentation for each of the following criteria.** Please note that all criteria must be satisfied and supported by the Zoning Board of Adjustment in order for a variance to be granted. Should the space provided be inadequate, please attach additional pages to this application.

1. **The proposed use would not diminish surrounding property values because:**
The house and garage are in substantially the same location from the perspective of abutting properties, and will be new and modern construction. No vegetative buffers need to be disturbed.

2. **Granting the variance would not be contrary to the public interest because:**
Both structures will be reconstructed to be more nearly conforming with yard setbacks. Both of the structures will also be constructed above the 100 year flood elevation.

3. **By granting the variance substantial justice would be done because:**
It will allow the owners to enjoy their lot while improving the non-conformities of the structures. The new septic system will be an environmental improvement, being compliant with current NHDES rules. The structures will be removed from the 100 year flood zone.

4. **The spirit and intent of the Ordinance will not be broken by granting the variance because:**
The structures will become more nearly conforming with yard setbacks, and will be removed from the 100 year flood zone.

5. **Literal enforcement of the ordinance results in unnecessary hardship.**
 - (a) **For purposes of this subparagraph, "unnecessary hardship" means that, owing to special conditions of the property that distinguish it from other properties in the area:**
 - (i) **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property.**
The structures are pre-existing non-conforming on a small lot created in 1945. The new locations of the structures will be more nearly conforming with current setbacks. The lot age and size is typical with surrounding lots.

 - (ii) **The proposed use is a reasonable one.**
The use will remain the same, residential.
Many properties and structures in the area face the same setback and flood zone issues.

 - (b) **If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.**

Edward J. III & Kerry C. Donnelly
18 Symonds Way
Reading, MA 01867

Town of Hopkinton Zoning Board
330 Main Street
Hopkinton, NH 03229

RE: Variance request Map 225 Lot 113

To Whom It May Concern:

We, Edward and Kerry Donnelly, hereby give permission for T.F. Bernier, Inc., P.O. Box 3464, Concord, New Hampshire, to represent us before the Town of Hopkinton Zoning Board relative to the application for Variance, and for any and all related matters.


Edward J. Donnelly III


Kerry C. Donnelly

4. **Attach site plan of property showing:** Boundaries and area of parcel; north point, scale and legend; location, size and type of all existing and proposed buildings, uses, parking, signs, roadways, screening, etc.
5. **List provisions to be made for septic disposal, fire protection, water supply, parking, noise, smoke, surface drainage, etc.** Supply information on separate sheet.
6. **Letter of Authorization to allow an Agent or Attorney to represent Applicant, if applicable.**
7. **Copy of property deed of the subject property.**
8. **Any other pertinent information that you feel the Board may need to assist in their decision making process.**

You must appear at the public hearing or be presented by an authorized agent or attorney for the Board to take action on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, without first providing written notification to the Planning Department

You are fully responsible for researching and knowing any and all laws, which may be applicable and affect the outcome of the Board's decision on your application request. The Town of Hopkinton assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal and local laws, codes, land development regulations and comprehensive plan. The Town of Hopkinton strongly encourages all applicants to consider consulting an attorney regarding their application.

You are encouraged to review the attached Rules of Procedures used by the Board of Adjustment at the public hearing.

I/we being duly sworn, depose and say that I am/We are the owner(s)/lessee(s) of land included in the application and that the foregoing statements herein contained and attached, and information or attached exhibits thoroughly to the best of my/our ability represent the arguments on behalf of the application herewith submitted and that the statements and attached exhibits referred to are in all respect true and correct to the best of my/or knowledge and belief.

In addition, I/We understand this application must be filed with all pertinent information as it pertains to the requirements of the Town of Hopkinton Zoning Ordinance and all other information requested or required by the Zoning Board of Adjustment in order to be considered complete. I/We understand that this application will not be filed until all required information has been received, and do further understand that the Town of Hopkinton reserves the right to postpone this request until such time as the requirements are met.

Furthermore, I/We understand that I/We, our representative as stated on the application, should appear at the public hearing. If photographs, documents, maps or other materials are provided to the Board as evidence at the public hearing, said evidence will become property of the Town of Hopkinton and will remain on file for future reference.

Also, I/We recognize and understand that the public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. **State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Board members in person, by phone, e-mail, or in writing before the application is discussed at a public hearing.**

Applicant's Signature: [Signature] Date: 5/16/19
 Applicant's Printed Name: TIMOTHY BERNIER Date: _____
 Owner's Signature: [Signature] Date: 5.10.19
 Owner's Printed Name: Kerry C. Donnelly Date: 5.10.19

Abutters List
Edward J. Donnelly III
& Kerry Donnelly
Tax Map 225 Lot 114
Contoocook, NH 03229

<u>MAP</u>	<u>LOT</u>	<u>OWNER</u>
225	114 113	Edward J. Donnelly III Kerry C. Donnelly 18 Symonds Way Reading, MA 01867
225	112	George W. Nichols, Linda D, Nichols & Susan C. Graziano 29 Eagle Lane Contoocook, NH 03229
225	104	Deborah G. Irish 355 Little Tooky Road Contoocook, NH 03229
225	122	Paul A. & Christine T. Kimball 376 Little Tooky Road Contoocook, NH 03229
225	115	Nicholson Family Revocable Trust Richard B. & Deborah G. Nicholson-Trustees 377 Little Tooky Road Contoocook, NH 03229
242	15	Glenn L. Bohanan Trust, Glenn L. Bohanan- Trustee Adelemarie F. Bohanan Trust Adelemarie F. Bohanan- Trustee Heather B. & James C. Robertson 945 Penacook Road Contoocook, NH 03229

Conservation Easement

Over Map 242 Lot 15

Five Rivers Conservation Trust
6 Dixon Ave, #201
Concord, NH 03301

and

Town of Hopkinton
330 Main Street
Hopkinton, NH 03229

Professional Consultants

Timothy F. Bernier, LLS, CWS
T. F. Bernier, Inc.
PO Box 3464
Concord, NH 03302-3464

390430

2000 JUN 16 PM 12: 02

EX 2210 PG 0433

2001 015

ORIGINAL NOT SUITABLE
FOR PROPER REPRODUCTION

1725⁰⁰

WARRANTY DEED

699 Center
Hopkinton, MA
03229
Cortecook, MA

I, Phyllis R. Powell-Blazek, Individually, for consideration of One Hundred Fifteen Thousand and 00/100 (\$115,000 00) Dollars grant to Edward J. Donnelly, III and Kerry C. Campbell, Husband and Wife, Tenants by the Entirety, of Charlestown, Massachusetts, with WARRANTY COVENANTS

A certain tract of land with the buildings thereon in the Town of Hopkinton (Cortecook), County of Merrimack and State of New Hampshire bounded and described as follows

Beginning at an iron pin on the southerly bank of the Cortecook River, being the northwest corner of the premises herein conveyed and at land formerly of Harlan P. Wilson,

Thence easterly 125 feet, more or less, along the southerly bank of said River to an iron pin at the land formerly of James J. Murphy,

Thence southerly 18 1/2 rods, more or less, along said Murphy land to an iron pin in the northerly side of the road way

Thence westerly 123 feet 5 inches, more or less, along the northerly side of said road way to an iron pin at land formerly of Harlan P. Wilson

Thence northerly 18 1/2 rods more or less, along said Wilson land to the point of beginning

Also conveying to the within Grantee the right to use the right of way across land of Margaret P. Rollins and William H. L. Rollins as described in their deed to Almira Putnam, dated May 9, 1912 and recorded at Merrimack County Registry of Deeds at Book 401, Page 582

Subject to an easement to Public Service Co. of NH dated July 12, 1947 and recorded in the Merrimack County Registry of Deeds at Book 640, Page 350

Being the same premises as were conveyed to me by deed recorded in Book 1905 Page 1955

STATE OF NEW HAMPSHIRE

DEPARTMENT OF REVENUE ADMINISTRATION
1221

REAL ESTATE TRANSFER TAX

THOUSAND 1 HUNDRED AND 25 DOLLARS

05/18/2000 422779 \$ 115,000.00

VOID IF ALTERED

ORIGINAL NOT SUITABLE
FOR PROPER REPRODUCTION

Witness my hand and seal this 14th day of June, 2000

Witness

Jane LaFontaine

Phyllis Powell
Phyllis R Powell-Blazek
Phyllis R. Powell-Blazek

STATE OF NEW HAMPSHIRE

Court of Grants ss

June 14, 2000

Then personally appeared before me the above named Phyllis R. Powell-Blazek and acknowledged the foregoing instrument to be her free act and deed before me.

Sylvia G. Kinne

Notary Public
My Commission Expires



SYLVIA G. KINNE
NOTARY PUBLIC
STATE OF NEW HAMPSHIRE
My commission expires Sept 29, 2003

MERRIMACK COUNTY RECORDS

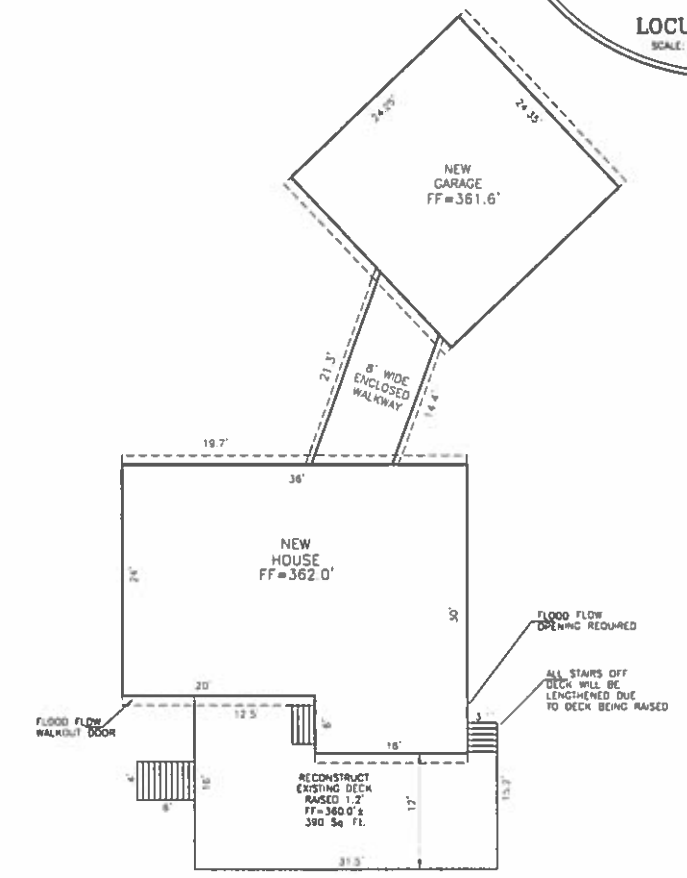
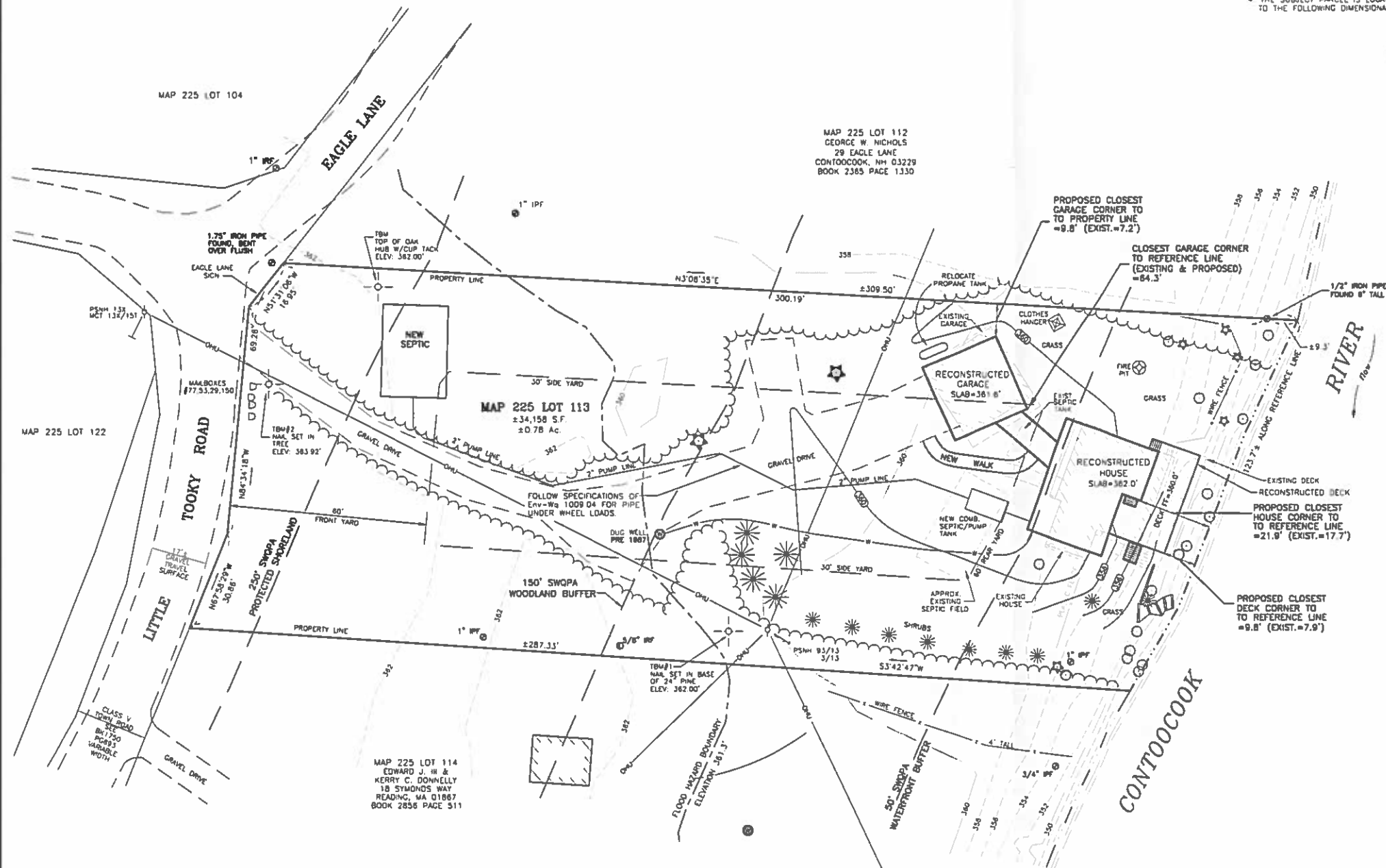
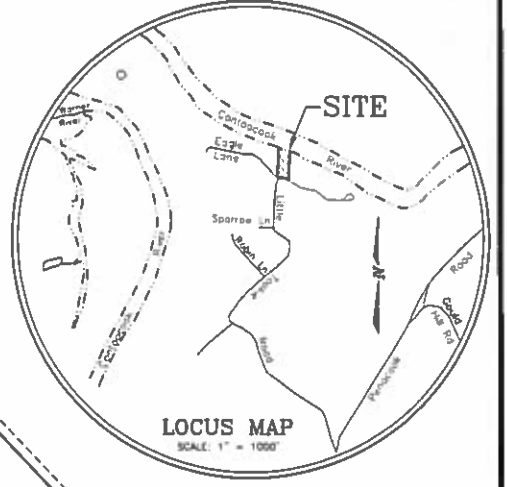
Hattie L. Quay, Registrar



NOTES

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE PROPOSED RELOCATION/RECONSTRUCTION OF THE EXISTING HOUSE AND DECK FURTHER FROM THE RIVER, THE RECONSTRUCTION OF THE GARAGE FURTHER FROM THE SIDE PROPERTY LINE WITH A BREEZEWAY TO THE HOUSE, AND CONSTRUCTION OF A NEW SEPTIC SYSTEM IN ACCORDANCE WITH NHDES SUBSURFACE RULES.
2. THE BOUNDARY LINES SHOWN HEREON ARE FROM FIELD WORK PERFORMED BY THIS OFFICE FROM 1997 TO 2019.
3. THE INFORMATION SHOWN HEREON IS FROM A FIELD SURVEY PERFORMED BY THIS OFFICE IN DECEMBER 2018 AND JANUARY 2019 USING A TOTAL STATION INSTRUMENT.
4. THE SUBJECT PARCEL IS LOCATED IN THE R-4 "AGRICULTURAL-RESIDENTIAL" ZONING DISTRICT, AND IS SUBJECT TO THE FOLLOWING DIMENSIONAL RESTRICTIONS.

MIN. LOT AREA	120,000 SF
MIN FRONTAGE	300'
MIN LOT DEPTH	200'
BUILDING SETBACKS	
FRONT	60'
SIDE	30'
REAR	60'
MAX. BLDG. COVERAGE	20%
MIN OPEN SPACE	70%
MAX. BUILD. HEIGHT	35'



- LEGEND**
- ⊙ IRON PIPE FOUND
 - ⊕ UTILITY POLE
 - ⊕ OLD BARBED WIRE FENCE
 - +358.0 EXISTING SPOT GRADE
 - ☼ LANDSCAPE SHRUB/BUSH
 - DECIDUOUS TREE
 - ⊙ CONIFEROUS TREE
 - 2' CONTOUR LINE
 - 10' CONTOUR LINE
 - EDGE OF EXISTING WOODS/BRUSH/VEGETATION
 - YARD SETBACK LINES
 - SHORELAND SETBACK LINES

LOT COVERAGE
 PROPOSED GARAGE, BREEZEWAY, HOUSE/DECK 2,272 SF. (6.6%)
 TOTAL COVERAGE BUILDINGS & DRIVEWAY= 5,647 SF.
 OPEN SPACE= 63.5%

OWNER OF RECORD
MAP 225 LOT 113
 EDWARD J. DONNELLY III
 KERRY C. DONNELLY
 (F/K/A KERRY C. CAMPBELL)
 18 SYMONDS WAY
 READING, MA 01867
 BOOK 2210 PAGE 433

ZONING SITE PLAN
 LAND OF
EDWARD J. III & KERRY C. DONNELLY
 ASSESSOR'S MAP 225 LOT 113
 5 EAGLE LANE
 CONTOOCCOOK VILLAGE
 HOPKINTON, NH
 SCALE: 1"=20' DATE: MAY 2019



T. F. BERNIER, INC.
Land Surveyors - Designers - Consultants
 50 PLEASANT STREET - P.O. BOX 3484
 CONCORD, NEW HAMPSHIRE 03302-3484
 Tel: (603)224-4148 - Fax: (603)224-0507



DESIGNED BY	DRAWN BY	CHECKED BY	F.B.	PC.	JOB #
	JIC/BRK	FB	200	85	641-01
SHARINU NAME					