

April 19, 2021

Zoning Board of Appeals
Town of Holliston
703 Washington Street
Holliston, MA 01746

Re: Variance Application Under Section V-H relating to Open Space Lot Development

Dear Board Members,

Enclosed is our application in request for a dimensional variance with regards to the lot at 0 Fairview Street (the "Property"). The Property is a remaining buildable lot from an open space development approved by the Planning Board. Our filing is for the purpose of obtaining relief to comply with the current Holliston Zoning By-law (the "Zoning By-law") for dimensional setbacks for Open Space Residential Developments which require a front setback of 30 feet. As we seek to comply with current zoning, we thought the enclosed filing was not required.

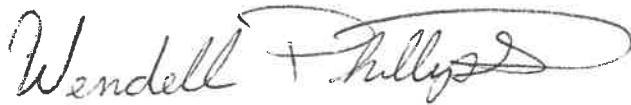
The Building Inspector was of the opinion that the dimensional setbacks applicable to the Property are the setbacks that were in effect at the time the open space development was approved in May, 1995. A copy of that decision is enclosed. As you can see, such decision does not specify any mandated setbacks. The Zoning By-law setbacks at the time were a minimum front yard setback of 40 feet, a minimum side yard setback of 20 feet, and minimum rear yard setback of 40 feet.

Current zoning would allow our requested setbacks. We seek variance relief for the reasons set forth in our Application and believe our request to be in conformity with current zoning. We are proposing to locate the house 30 feet from the front yard setback.

In no way should this application be viewed to waive any rights entitled to the lot at 0 Fairview with regards to the current zoning requirements applicable to Open Space Residential Developments.

We appreciate the Zoning Board's attention in this matter.

Respectfully,

A handwritten signature in cursive script, reading "Wendell Phillips". The signature is written in dark ink and is positioned above the printed name.

Wendell Phillips
Phillips Land Holdings LLC.

Zoning Board of Appeals
Town of Holliston
703 Washington Street
Holliston, MA 01746

Re: 0 Fairview Variance Application Addendum

Dear Board Members,

In addition to our request for a 10 foot variance with regards to frontage we would like to request a variance for the right side yard setback closest to 105 Fairview. After consulting with Board of Health Director Scott Moles, regulations require a full foundation to be a minimum of 20 feet from leach field pipes. To meet this requirement we are asking to locate the foundation 15.8 feet from the right side property line. Zoning for the district requires a 20 foot side setback. This would require just over a 4 foot variance.

The applicant presents the following evidence that supports grant of the dimensional variance:

a. Literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise, owing to circumstances related to the following unique physical characteristics of the land (1. Soil conditions, 2. Shape or 3. Topography of land or structures):

The leach fields are a preexisting aspect of the property. The unique characteristics of this lot provide little room to locate a house. We are attempting to strike a balance between developing the lot to create a usable outdoor environment while adhering to health and safety standards, protecting wetlands, and meeting zoning requirements. Without a variance, proximity to the leach fields will require pouring a large slab in the front left corner of the foundation and a smaller slab in the back left. This limits the usability of the basement while creating added costs of forming and materials. In addition; gas, water, electrical, and cable have to be run underground into the left side of the foundation. Multiple slabs along with the known issue of ledge complicate the process. Granting a variance will eliminate the need for a slab in the back of the foundation and reduce the size of the slab in front. This will help mitigate some of the increased labor and material costs and provide more options for running utilities.

b. If this variance is allowed it will create no substantial detriment to the public good because:

The right side of the house will be located 15.8' from the property line. As mentioned previously, the lot is approximately 3 times the width of an average lot in the subdivision and contains over double the amount of square footage of some lots in the subdivision. This significantly larger size will more than offset any detrimental impact. Given the overall scope of the land, a 4.2 foot side yard variance request is a very small proportion of the overall size. Looking at the house from the road the difference will be imperceptible. There will be no detrimental impact on the aesthetics of the neighborhood.

For added evidence there is no substantial detriment to public good we need look no further than the opinion of Holliston Town Meeting. Holliston has modified the zoning intensity regulations for subdivisions to require minimum setbacks that are less restrictive. Current by-laws under section V-H regarding Open Space Residential Development, subsection B establish a minimum side yard setback of

10 feet. The granting of a variance in this case will update the side setback requirement to be even stricter than the current intent of the zoning regulations.

c. If this variance is allowed, it will not nullify or substantially derogate from the intent and purpose of the zoning bylaw because:

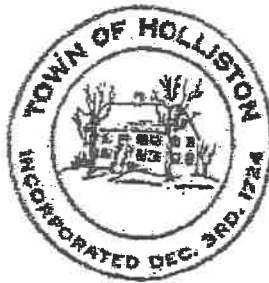
The intent of the zoning by-law is to protect the interests of neighbors and the usability and value of their properties. Allowing this variance will have no negative impact on the visual appeal of the area and will not adversely harm any property owner. It will allow a home that is in keeping with the size and scope of the neighborhood to be constructed, enhancing property values. The current zoning being enforced is no longer applied to newly created Open Space Residential Developments. These regulations have been deemed antiquated and replaced with new regulations. A variance will be more in keeping with setback requirements currently in place for Open Space Residential Developments and only serve to strengthen the existing by-laws.

d. Will the proposed used include the storage or process of any hazardous substance?

Yes _____ (Please attach additional information.) No ☒ X _____

Applicant's Signature Wendell Phillips

Owner's Signature Bruce A. Assadore



TOWN OF HOLLISTON
ZONING BOARD OF APPEALS
TOWN HALL

HOLLISTON, MASSACHUSETTS 01746

APPLICATION FOR GRANT OF A DIMENSIONAL VARIANCE

Date Filed: 4/15/2021

Applicant's Name: Wendell T Phillips

Applicant's Address: 8 Lantern Lane, Milford, MA 01757

Applicant's Phone Number: 508-369-7065

Owner's Name: Attorney Bruce Issadore

Owner's Address: 6 Heron Way, Hingham, MA 02043

The Owner hereby appoints Wendell Phillips to act as his/her/its agent for the purposes of submitting and processing this application for a variance.

The Owner's title to the land that is the subject matter of this application is derived

Bruce A. Issadore, Trustee of
under deed from Pinecrest Community and, dated February 26, 1999
Investment Trust

Registered
And recorded in Middlesex Registry of Deeds, Doc # 1101428
District of the Land Court

Or Land Court Certificate of Title No. 0214486, registered on March 24, 1999

Registration
in District Book 1202, Page 86. Lot 62 on Land Court Plan
14401-6 Cert # 227766.

The land is shown in the Assessor's records as Lot 80.1 on Map 8.0, Block 2

And has an address of or is located at 0 Fairview

in the Open Space Residential Development
zoning district

AK-2

Nature and subject matter of variance (Please state the section of the by-law from which you are seeking relief, the required standard and your proposal.):

We are seeking relief from Section IV-B Schedule of Intensity Regulations as applied with regards to the front yard setback. At the time the subdivision was approved the by-laws for Open Space Residential Developments required a minimum front yard setback of 40 feet, a minimum side yard setback of 20 feet, and a minimum rear yard setback of 40 feet. These are the current setbacks being enforced on the lot.

We are applying for a 10 foot variance with regards to front yard setbacks that would allow the front steps of the house to be located at a setback of 30 feet from the road.

Zoning information and comments (To be completed by the Inspector of Buildings):

This lot was under a special permit for cluster development. So the zoning for this lot would be what was granted under that special permit. Applicant would require a dimensional variance for a front yard set back.

 4/26/21

The applicant presents the following evidence that supports grant of the dimensional variance:

a. Literal enforcement of the provisions of this by-law would involve substantial hardship, financial or otherwise, owing to circumstances related to the following unique physical characteristics of the land (1. Soil conditions, 2. Shape or 3. Topography of land or structures):

This lot has unique physical characteristics unlike other lots in the subdivision. While its overall area is significantly larger, there are wetlands in the back right corner of the lot. There is a 50 foot do not disturb buffer zone around wetlands as marked in blue on the plan provided. To protect the wetlands, Holliston Conservation Commission has approved an Order of Conditions limiting building on the lot and restricting the clearing of trees at the back of the lot. As currently approved, the Order of Conditions shows a house box with front steps that do not meet the front yard setback requirement (plan attached). In addition, when the subdivision was built the developer located 7 septic leach fields on the lot. These leach fields are within the yellow dashed area of the plans labeled "Septic Easement Line" and the leach field for house to be built is marked with a red dashed line labeled "Approximate Location of Existing Leach Field". The required setbacks around these leach fields, the location of the leach field for this home and existing D-box, combined with the wetland restrictions and do not disturb buffer zone create a substantial hardship in the form of an exceedingly small buildable area that is much smaller than typical. As a result, the size of the house box is very limited. To construct a house that is in keeping with the

large sized homes in the area it is not possible to have an attached garage as the other homes do. The garage has to be located under increasing costs of site work and necessitating fill and a retaining wall. If the variance is granted the site work costs will be decreased and we will reduce the size of the retaining wall by 40 square feet.

Existing conditions combined with the setback requirements considerably complicate the development of the lot in many ways creating other significant financial and usability difficulties. Adhering to the front yard setback of 40 feet would allow only a minimal back yard grassy area of approximately 15 feet extending from the rear of the foundation. There will not be space to locate a deck or patio. Patios or decks cannot be built over the leach fields making it impossible to create any type of useable outdoor space. This creates a hardship by greatly limiting the usability of the property for outdoor entertaining and has an adverse impact on the value of the house as all homes in the area have a deck or patio.

If these problems were not enough, unusual soil conditions also present a development problem. After digging test pits on the lot we found ledge under the proposed back right corner of the foundation. The ledge runs towards the center of the house box. A test pit at the front of the lot did not find ledge. We estimate ledge removal costs to be around \$30,000. Approval of this variance request would provide some degree of flexibility. Moving the house forward would mitigate costs for ledge removal. If the wetlands, leach fields and easements did not exist we would have a significantly larger buildable area and numerous options for locating the foundation while still providing for an ample sized back yard.

b. If this variance is allowed it will create no substantial detriment to the public good because:

The closest point of the house to the road will be the nosing of the bottom step which will be 30 feet from the front yard setback line. The right side of the house will be 31 feet from the line. The front step will end approximately 43 feet from the roadway curb. As viewed from the road the 10 foot variance requested will be hardly noticeable. The 30 foot setback will provide plenty of buffering from the roadway and a visual appeal that is in keeping with the neighborhood. The lot is not located at a corner or intersection so no visibility issues will come into play. The lot is approximately 3 times the width of an average lot in the subdivision and contains over double the amount of square footage of some lots in the subdivision. This significantly larger lot size will more than offset any potential detrimental impact associated with the granting of a variance. For added evidence there is no substantial detriment to public good we need look no further than the opinion of Holliston Town Meeting. Holliston has modified the zoning intensity regulations for subdivisions to require minimum setbacks that are less restrictive. Current by-laws under section V-H regarding Open Space Residential Development, subsection B establish a minimum front yard setback of 30 feet, a minimum side yard setback of 10 feet, and a minimum rear yard setback of 10 feet. The granting of a variance in this case will update the front setback requirement for this lot to be more in keeping with the current intent of the zoning regulations.

c. If this variance is allowed, it will not nullify or substantially derogate from the intent and purpose of the zoning bylaw because:

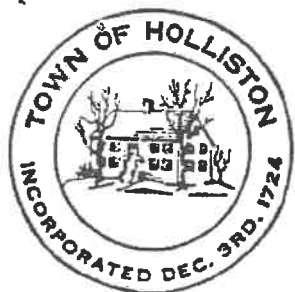
The current zoning being enforced on the lot is no longer applied to newly created Open Space Residential Developments. These regulations have been deemed antiquated and replaced with new regulations. A variance will be more in keeping with setback requirements currently place for Open Space Residential Developments and only serve to strengthen the existing by-laws.

d. Will the proposed used include the storage or process of any hazardous substance?

Yes _____ (Please attach additional information.) No X _____

Applicant's Signature Wendell Phillips

Owner's Signature Bruce A. Assadore, as Trustee of Pinecrest & Community Investment Trust



TOWN OF HOLLISTON
PLANNING BOARD
TOWN HALL
HOLLISTON, MASSACHUSETTS

OFFICE OF THE
TOWN CLERK
HOLLISTON, MASS.

95 MAY -9 PM 12:49

Nancy J. Rowe

May 9, 1995

Mr. Bruce Issadore
Issadore & Associates
17 Accord Park Drive, Suite 100
Norwell, MA 02061

via Certified Mail
P 414 099 641

Re: Notification of Planning Board Action with Regard to:
MILLER HILL ESTATES - DEFINITIVE CLUSTER SUBDIVISION

Dear Mr. Issadore:

This is to inform you that, in accordance with the provisions of the Subdivision Control Law, Chapter 41, Sections 81-K to 81-GG inclusive, of the General Laws of the Commonwealth of Massachusetts as amended, and in accordance with Chapter 40A of the General Laws as amended, the Holliston Planning Board held a duly advertised public hearing on September 8, 1994 on the application for approval of the above described plan.

And, further, in accordance with Section 81-U, the Planning Board, at a meeting on May 4, 1995, moved, seconded, and voted to approve the cluster subdivision shown on plans entitled "Miller Hill Estates, Holliston, MA", Owner: Miller Hill Land Trust, Prepared by: GCG Associates, Inc., dated October 3, 1994, most recent revision March 7, 1995 with the following conditions:

- all requirements of the Board of Health shall be met;
- all requirements of the Conservation Commission shall be met;
- the requirements of the letters from Ivan Lopez dated September 8, 1994 and February 9, 1995 shall be met and shown on the final plans;
- the common driveway serving lots on Underwood Street must be constructed in accordance with the Holliston Planning Board Rules and Regulations;
- the common driveway serving lots on Underwood Street must have water service from Underwood Street with a minimum eight (8) inch diameter main and a minimum of two (2) hydrants

Mr. Bruce Issadore
May 9, 1995
Page Two

located at stations 6+50 and 8+50 on the common drive entitled on the plan "Miller Hill Drive";

- before any lot served by the common drive is released, the common drive shall be built or covered by appropriate bond or assurance;

- before any lot can be released from the covenant, a homeowners agreement regarding the open space must be approved by the Planning Board and filed with the deeds of the lots, unless the open space has been transferred as described in the Zoning By-Laws to the Town or a conservation trust;

- there shall be a homeowners agreement approved by the Planning Board filed with the deeds of the lots served by a common drive in accordance with the Planning Board Rules and Regulations;

- the developer will provide an acceptable landscaping plan for the center of the cul-de-sac on Road A before any lots are released on Road A;

- guardrails, where required, shall be of the rusted steel type with wooden posts as approved by the Highway Department;

- Road A shall be named Peter Street;

- the extension from Pinecrest Road and Road D shall be named Pinecrest Road;

- Road B to the intersection of Road D shall be named Fairview Street;

- Road C shall be named Constitution Circle

- legible direction signs with letters no less than three (3) inches high shall be placed at the ends of the common drive designating the Underwood Street addresses that the driveway services;

- the name "Miller Hill Drive" shall be removed from the plans on the common driveway.

The following waivers are granted by the Planning Board and may be enacted by the developer:

- 1 - waiving of the second sidewalk on the north side of Road D, the north and west sides of Road B, the east side of Road C, and the west side of Road A. In exchange for the above,

Mr. Bruce Issadore
May 9, 1995
Page Three

the developer will install or fund sidewalk installations on the existing Fairview Street in coordination with the Highway Department and the Board of Selectmen;

2 - the cul-de-sac at the end of Road A will be teardrop-shaped starting at station 5+00;

3 - boundary markers at lot line intersections with the right-of-way, other than those required for changes in right-of-way direction, may be iron pins, 5/8 inch diameter minimum, three (3) foot length minimum;

4 - waive the requirement for the 150 foot landing zone at the intersection of the private drive and Underwood Street. The landing zone shall maintain a two (2) percent grade for no less than seventy-five (75) feet from Underwood Street;

5 - waive the requirement for maximum eight (8) percent slope on the common drive right-of-way. The slope of the common drive shall be as shown on the existing drawings.

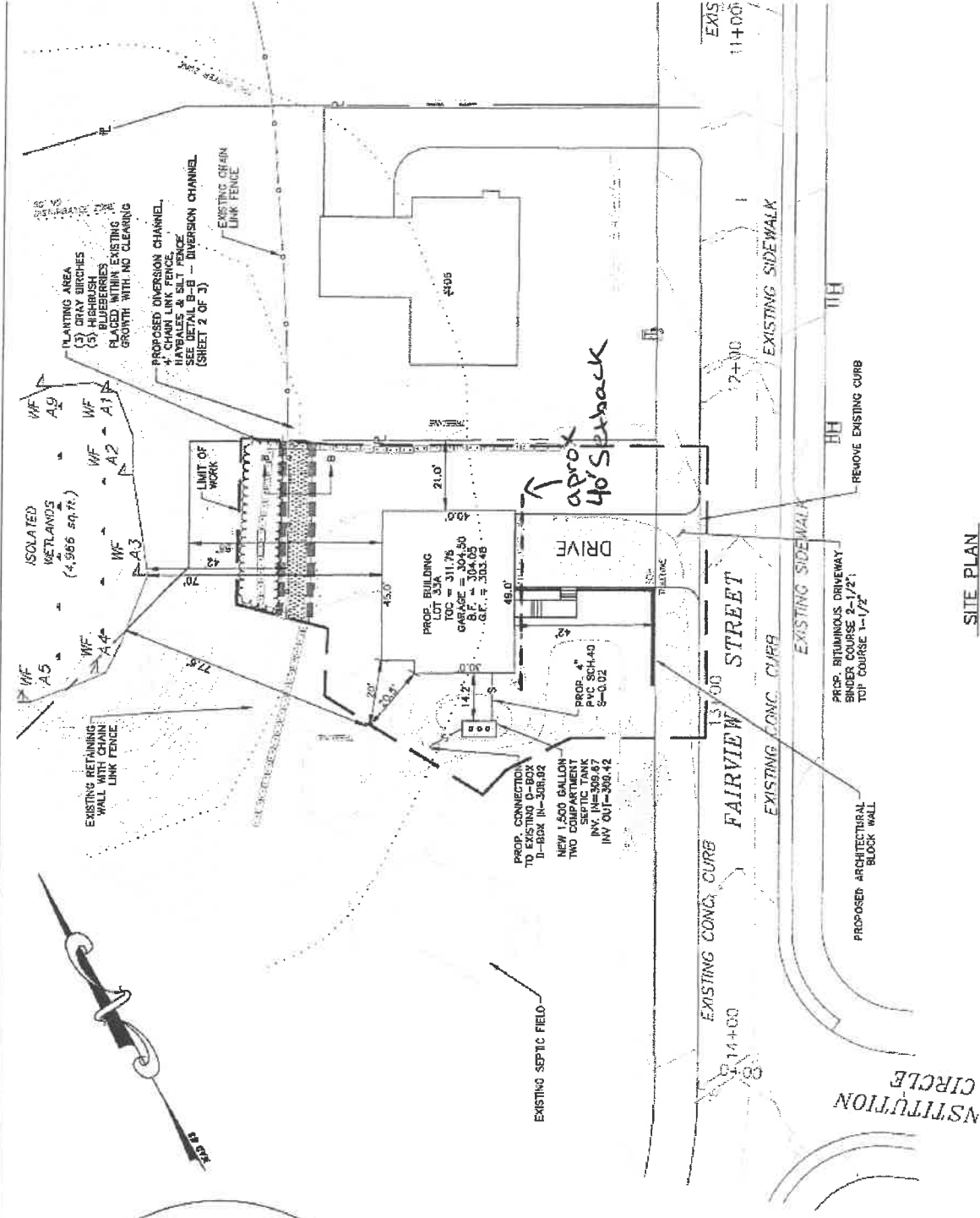
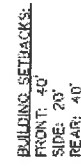
The above modifications must be made to the definitive plan and be submitted, with the appropriate number of copies, to the Planning Board prior to the signing of the plans by the Board. Also, the signature of the Town Clerk, signifying that no appeal has been requested must be obtained prior to the signing.

The Planning Board requests your cooperation in notifying said Board when such plan has been filed in the Registry of Deeds at Cambridge or the Land Court, giving Plan, Book and Page number, or Certificate Number if filed in the Land Court, with date of such recording. Failure to record may result in rescission of the subdivision.

Very truly yours,
HOLLISTON PLANNING BOARD

William K. Fenton /KA
William K. Fenton, Clerk

cc: Town Clerk ✓
Board of Health
R. Westcott
Selectmen
Highway Dept.
GCC Assoc.
Con Com
Building Inspector



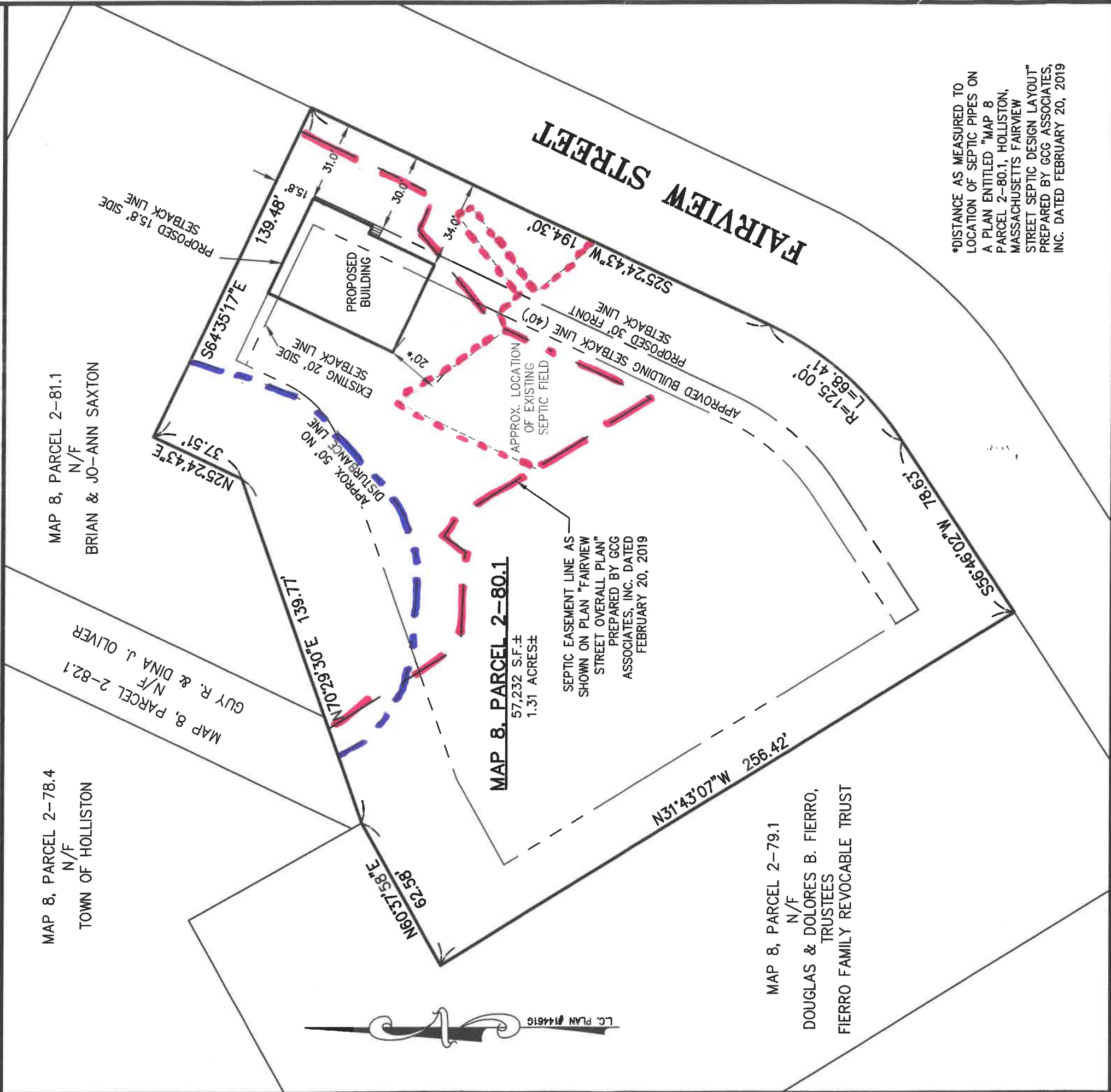
SITE PLAN



Andrews Survey & Engineering, Inc.
Land Surveying - Civil Engineering - Site Planning

P.O. Box 312, 104 Mendon Street
Uxbridge, Massachusetts 01569
P: 508-278-3897 F: 508-278-2289

ZONING BOARD OF APPEALS PLAN OF 0 FAIRVIEW STREET HOLLISTON, MASSACHUSETTS FOR PHILLIPS LUXURY HOMES



MAP 8, PARCEL 2-80.1

DEED REF: LAND COURT DOC. #983215
PLAN REF: LAND COURT PLAN #14461G

ZONE: AGRICULTURAL-RESIDENTIAL B*

FRONT: 40 FEET

SIDE: 20 FEET

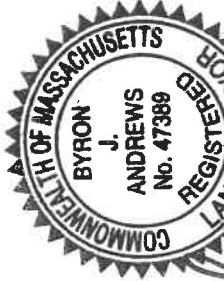
REAR: 40 FEET

*AS SHOWN ON RECORD PLAN PB. 25503, PG. 414

DATE: MAY 10, 2021

SCALE: 1" = 40'

JOB NO. 2021-091
PLAN NO. S-4096



Byron J. Andrews
BYRON J. ANDREWS, PLS
5/10/21