



**CITY OF MARLBOROUGH  
ZONING BOARD OF APPEALS  
Application for Variance or Appeal Hearing**

**Official Use :**

Date Received : 5-20-2020 City Clerk's # \_\_\_\_\_ ZBA Case # \_\_\_\_\_

**Request for :**

Variance       Appeal

**Information :**

Property Address 45 Maple Street      Zoning District B      Map# 70      Parcel# 274A & 275A

Applicant is:  Owner     Tenant     Prospective Purchaser     Other \_\_\_\_\_

I am the owner of the property and I have knowledge of, and consent to, this application.

Owner's signature \_\_\_\_\_ Date \_\_\_\_\_

Owner's name Marc Resnick, Trustee, Big Man Realty Trust      Address 100 Felton Street, Suite 201

State MA      Zip 02453      Phone# 617-782-7800      E-mail Marc@thebeantowncompanies.com

Applicant name Marc Resnick, Trustee, Big Man Realty Trust      Address 100 Felton Street, Suite 201

State MA      Zip 02453      Phone# 617-782-7800      E-mail Marc@thebeantowncompanies.com

Representative Name: Michelle Baratta, Esq.      Company Beantown Companies, Inc.

Address 100 Felton Street, Suite 201

State MA      Zip 02453      Phone# 617-459-9128      E-mail baratta.beantown@gmail.com

Describe below what is being requested, such as what is the proposed action, relief, or construction on the property.

Petitioner requests a variance from the Zoning Board for the parking and landscaping requirements of §650-48A, §650-48C, §650-17, and §650-18A, allowing them to convert the existing 1st floor offices back into residential units.

Provide below all sections of the Zoning Ordinance (Chapter 650, Article(s), Section(s), Paragraph(s), Subsection(s)) which are pertinent to the Variance (see denial letter).

§650-48A, §650-48C, §650-17, §650-18A

**Variance**

1. What is the soil condition, shape or topography of **YOUR** lot or structure which **DISTINCTLY** affects your lot, as distinguished from other lots in the zoning district which it is located.

See attached.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. What is the **HARDSHIP** that is **CAUSED** by the soil condition, shape or topography of your lot or structure stated above. **PERSONAL INCONVIENCE** is **NOT** a hardship. A hardship imposes a substantial financial penalty or directly affects your use of the land or structure as it is zoned.

See attached.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. State how the variance you are requesting, if granted, will not nullify or detract from the intent or purpose of the Zoning Ordinance.

See attached.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. State how the variance you are requesting, if granted, will not diminish the public welfare or well-being.

See attached.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Appeal**

State the specifics of the Appeal (use additional sheet if necessary).

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Application Packet:**

The applicant shall submit ten (8) copies of the application packet which shall contain sufficient information to illustrate and defend the applicant's case and as a minimum shall consist of the following:

- Completed Zoning Board of Appeals Application Form
- Abutters List certified by the Assessor's Office
- Copy of denial letter from City Official
- Certified Plot Plan prepared and stamped by a Massachusetts Registered Professional Land Surveyor. A mortgage plan is **NOT** a certified plot plan. The certified plot plan shall include:
  - Plan Size 8 1/2" x 11" or 11" x 17"
  - Plans drawn to accurate scale with north arrow
  - Owner names and street addresses of directly abutting lots
  - Name of streets and zoning districts.
  - Bearing and distances of subject property
  - Dimensions and property line setbacks of all structures on subject property
  - Location of driveways, parking areas and other impervious surfaces on subject property
  - Location of walls, curbing, major landscaping, fences on subject property
  - Location of easements, wetlands and floodplains on subject property, if applicable
  - Dimensions and property line setbacks of all proposed work
  - Lot Coverage (area covered by all impervious surfaces) existing and proposed
  - Location and property line setbacks of structures, fences, driveways etc. on abutting lots that are within fifteen (15) feet of subject property lines
- Site plans of subject property showing topography and drainage structures, if regrading of the site or rerouting of runoff is proposed or if property is in Floodplain and Wetland Protection District.
- Architectural plans of new or modified building structure, if applicable.

**Filing Fee:** Filing fees are based upon the proposed **USE** of the property:

- Residential Non--revenue bearing ..... \$130.00
- Residential Revenue bearing ..... \$250.00
- Business, Commercial or Automotive ..... \$375.00
- Industrial, Limited or Full ..... \$500.00
- Special Permit (Flood Plain and Wetland Protection District..... \$450.00

**Hearing Request:** I hereby request a hearing before the Zoning Board of Appeals regarding this application packet and I am aware that two (2) legal ads will be placed in the MetroWest Daily News or the Marlborough Enterprise Weekly newspaper which will be billed directly to me or my representative. I am further aware that I am responsible for sending copies of the Notice of Hearing to all the abutters on the certified list at least fourteen (14) days prior to the hearing date and that I will submit the receipts confirming this mailing to the zoning office seven (7) days prior to the hearing. Finally, I am aware that I am required to record the board's certified decision and the certified plot plan with the Registry of Deeds in order for it to take effect.

ZBA Case # \_\_\_\_\_

Applicant's signature: X \_\_\_\_\_

Date: May 18, 2020

Print name: Marc Resnick, Trustee

and/or

Representative's signature: Michelle Baratta

Date: May 18, 2020

Print Name: Michelle Baratta, Esq.

**Official Use Only:**

Received from applicant, the sum of \$ 250<sup>00</sup> Check # 477

Signature of the agent of the Zoning Board of Appeals:

Susan Brown

Date: 5-20-2020

Susan Brown - Board Secretary  
Department - Zoning Board of Appeals  
140 Main Street  
Marlborough, MA 01752  
Tel# 508-460-3768 E-mail: sbrown@marlborough-ma.gov

The date and signature of the agent of the Zoning Board of Appeals will serve as certification as to when the **COMPLETE** application packet accompanied by the proper filing fee was filed with this office.

### 45 Maple Street Variance Application

1. What is the soil condition, shape, or topography of **YOUR** lot or structure which **DISTINCTLY** affects your lot, as distinguished from other lots in the zoning district which it is located.

The property abuts Maple Street and Maple Terrace. There is a paved parking lot taking up more than half the lot on the Maple Terrace side, and a paved driveway on the other side of the existing building. The driveway is not attached to the parking lot. The property slopes downhill from the Maple Street side towards the back of the property.

There is an existing, 4,864 square foot building on the property that was previously a 6-unit multifamily residence before it was converted to a mixed use building with four residences on the upper two floors and two office units on the first floor.

The paving of the parking area prevents natural seepage of rainwater and increases the volume and speed of water runoff, which results in soil erosion in the adjacent unpaved areas. This large parking area is generally unique to this lot, as is the slope in relation to building and parking.

2. What is the **HARDSHIP** that is **CAUSED** by the soil condition, shape, or topography of your lot or structure stated above. **PERSONAL INCONVENIENCE** is **NOT** a hardship. A hardship imposes a substantial financial penalty or directly affects your use of the land or structure as it is zoned.

The size and shape of the building is such that the owner/Petitioner is under great hardship to use it in any manner other than as a multifamily building.

The topography of the lot as well as the condition of the soil make it impossible for the Petition to comply with both the landscaping requirements and the parking requirements. The Catch-22 is that to create additional parking on this lot would reduce further the existing landscaping, making the property even further out of compliance. If Petitioner instead attempted to reduce the parking in order to add more landscaping and greenspace, the soil condition from the paved area would render that impossible. The slope of the lot is not conducive to changing the orientation of the parking, adding spaces, or connecting the driveway to the parking lot. As residential is the best use of the property, for reasons described further below, a substantial financial penalty has been placed on the Petitioner.

3. State how the variance you are requesting, if granted, will not nullify or detract from the intent or purpose of the Zoning Ordinance.

When this property was originally developed, it was a multi-family six-unit residence. When the previous owner, an accountant, purchased the building in 1974 he obtained permission to convert the first floor to offices for his personal use. This property was not intended to be a multi-use building or have office space with a changing lessee every few years. Allowing Petitioner to convert it back to residential is in line with the original intent and purpose of the Zoning

Ordinance, as well as the original use of the building and the neighborhood surrounding the building.

Currently, the building is four residential units and two commercial units. The commercial units total approximately 1,640 square feet in size. Per §650-48 (5) of the Zoning Ordinance, the first floor commercial space would require at least six parking spaces. As the proposed change is to two residential units, only four parking spaces for those units would be required. Therefore, allowing the Petitioner to convert the first floor to residential units is more in compliance with the Zoning Ordinance than leaving it as offices. Additionally, as of the date of this application, the four existing residential units are using a combined total of five spaces and not the eight spaces the Zoning Ordinance states is needed. It is likely that the remaining three spaces will be more than sufficient for an additional two residential units.

4. State how the variance you are requesting, if granted, will not diminish the public welfare of well-being.

Since the previous owner passed away, the offices on the first floor have remained vacant due to lack of interest. The Petitioner/current owner has marketed them for rental on the commercial market since his purchase of the property in September of 2018 without success, primarily due to the nature of the neighborhood, which is primarily residential. Vacant commercial units such as these are likely to attract vandals and squatters, which pose as a hazard to both the tenants in the building as well as neighbors.

Due to the current worldwide pandemic, businesses are moving to remote work as a way to protect the public welfare and stop the spread of COVID-19. This trend is likely to continue, requiring the need for less office space. On the other hand, due to job losses, a downturn in the economy, a rising divorce rate and rising birth rate, the need for housing, especially affordable housing, is strong. This project is in line with the public welfare and continued trends in the housing market.

Finally, while the Petitioner cannot create more green space on the lot, he is willing to improve upon the existing landscaping for the benefit of the tenants and the community.



*City of Marlborough*  
**BUILDING DEPARTMENT**

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3776 Facsimile (508) 460-3736  
building\_dept@marlborough-ma.gov

JEFFREY COOKE, C.B.O.  
BUILDING COMMISSIONER

PATRICK DAHLGREN  
ASSISTANT BUILDING  
COMMISSIONER

WILLIAM PAYNTON  
LOCAL BUILDING INSPECTOR

RICHARD DESIMONE  
PLUMBING & GAS INSPECTOR

JOHN CAIN  
WIRING INSPECTOR

**ZONING DENIAL**

April 28, 2020

Marc Resnick, Trustee and Registered Agent  
Big Man Realty Trust  
C/O The BeanTown Companies  
100 Felton Street, Suite 201  
Waltham, MA 02453

Mr. Resnick

Your building permit application, BP-2020-000224, to convert the existing 4 family/2 unit commercial-business to a six (6) Family residential dwelling building located at 45 Maple Street, Marlborough, MA Parcel ID 70-274A & 70-275A, located in the Business zoning district (B) is denied as it does not comply with Chapter 650-48 & 650-17, Off-Street parking requirement and Table of Uses of City Code of Marlborough. The zoning ordinance states that your use requested requires relief of the following:

**6-unit apartment building requires 12 parking spaces, you propose only providing 8 spaces.**

650-48A. (7) .... Apartment buildings shall provide two off-street parking spaces for each dwelling unit over and above access roadways and maneuvering.

**You propose 50% compact parking spaces ratio to full size parking spaces**

650-48 C (4) (b) Percentages. Up to 33% of parking spaces may be designed for use by cars smaller than full size, hereinafter called "compact cars".

**You propose a maneuvering aisle width of 16.4 feet required 24/20 feet. Degree of angle not provide on the plan.**

650-48 C (3) Width of Maneuvering aisle chart requires 24- or 20-foot maneuvering aisle (depending on the degree angle of the spaces).

**Your proposed parking lot layout will require vehicles to back out of the parking lot into the public way.**

650-48 C (8) (a) Backing into street. In no case shall parking or loading stalls be so located as to require the backing or maneuvering of vehicles onto the sidewalk or into a public way upon entering or leaving the stall, except for single or two-family houses

**There is no landscape area of sufficient size on your lot to qualify for 650 -18A 9(e).**

650-17 Table of Uses . Multifamily condition (4)

650-18A (4) .... In part..... in addition, has a landscaped area meeting all the requirements of subsection 650-18A(9)(e).

650-18A(9)(e) There shall be landscaped area provided equal to the greatest single floor area of the building (45 Maple St 1<sup>st</sup> floor is +/- 1640 sq. ft.) .... The landscape area shall meet the following requirements:

Continued

- 1] at least 75% of the landscaped area has a grade of less than 8%.
- 2] The width of such landscaped area shall average at least 40 feet and in no case shall be less than 30 feet.
- 3] the landscaped area shall be designed for recreational use by residents.

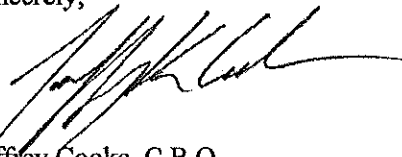
Your proposed conversion to a six-unit apartment building will require zoning relief issued by the Marlborough ZBA.

An appeal from this denial may be taken to the Zoning Board of Appeals by filing a Notice of Appeal with the City Clerk within 30 days of the date of this denial letter. Further information should be obtained from the Board of Appeals secretary, Susan Brown at 508-460-3768.

The code in its entirety may be found at [www.ecode360.com/MA1056](http://www.ecode360.com/MA1056)

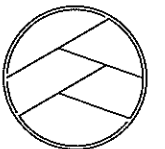
**Please note:** After obtaining the required zoning relief above, please return to this office in order to obtain a letter to proceed to seek a Special Permit (SP) for the Marlborough City council (SPGA) for the expansion of a multifamily structure.

Sincerely,



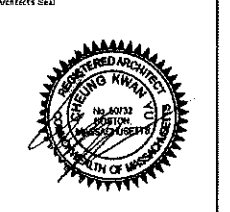
Jeffrey Cooke, C.B.O.  
Building Commissioner  
Zoning Enforcement Officer





PEOPLE ARCHITECTS

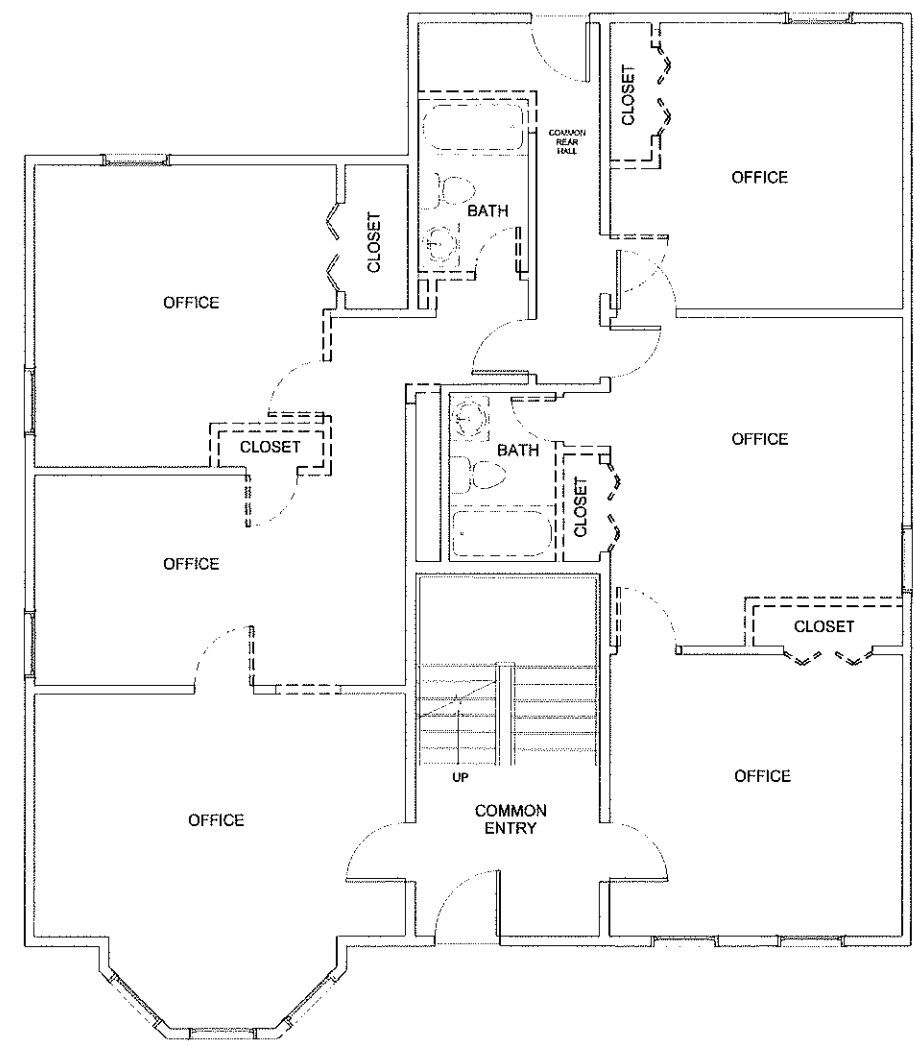
128 E. COOK ST. UNIT 110,  
BOSTON, MA 02111



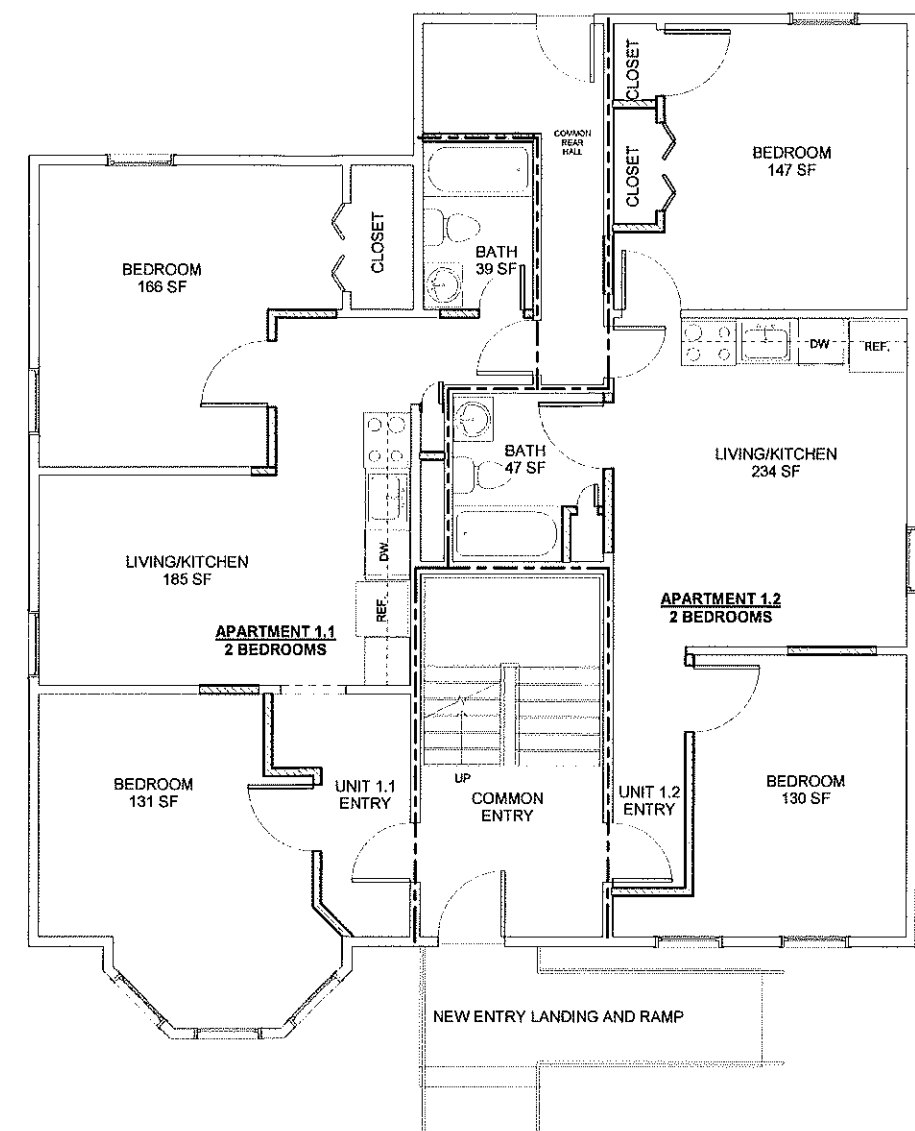
- LEGENDS**
- EXISTING CONSTRUCTION
  - NEW CONSTRUCTION
  - DEMOLITION
  - UNIT DEMISING WALL
  - UNIT ENTRANCE/EXIT
  - SMOKE DETECTOR
  - HEAT DETECTOR
  - SMOKE/CO DETECTOR
  - NEW INTERIOR DOOR SIZE - W x L
  - BATHROOM EXHAUST FAN - DUCT TO EXTERIOR
  - EXIT
  - EMERGENCY LIGHTING
  - PULL STATION
  - FIRE ALARM HORN/STROBE
  - MINI HORN
  - EXTERIOR BEACON

- KEY NOTES**
- A REPLACE PLUMBING FIXTURES - NEW LOW FLOW TOILET, VANITY, SINK, SHOWER AND ENCLOSURE, MEDICINE CABINET AND VANITY LIGHT
  - B INTERIOR PAINTING THROUGHOUT WITH LOW VOC PAINT. COLOR AND FINISH TO BE SELECTED BY OWNER.
  - C REPLACE EXISTING FLOORING THROUGHOUT, TYP
  - D SUPPLY AND INSTALL NEW KITCHEN CABINETS, COUNTERTOP AND APPLIANCES - DISHWASHER, MICROWAVE/HOOD COMBO AND REFRIGERATOR
  - E REPLACE EXISTING DOOR WITH 60 MIN RATED DOOR AND FRAME AND AUTOMATIC CLOSER
  - F GC TO SUPPLY AND INSTALL FIRE ALARM SYSTEM
  - G NEW CAST-IN-PLACE CONCRETE RAMP AND STEP WITH METAL RAILING. OWNER TO PROVIDE SITE SURVEY TO VERIFY DESIGN OF RAMP AND STEPS WITHIN PROPERTY LINE. PROVIDE 48" CLEAR WIDTH BETWEEN METAL RAILING AT RAMP. RAILING SHALL BE PROVIDED ON BOTH SIDES OF RAMP. HANDRAILS SHALL BE PROVIDED IN PAIRS, ONE IN HEIGHT BETWEEN 34" AND 38" AND A LOWER ONE AT HEIGHT BETWEEN 18" AND 20", MEASURED VERTICALLY FROM THE SURFACE OF THE RAMP TO TOP OF HANDRAIL.
  - H REPLACE DOOR AND DOOR HARDWARE. DOOR HANDLE SHALL BE LEVER-OPERATED AND CONFORM TO ADA STANDARDS.

- DRAWING NOTES**
1. WORK AREA EXCLUDES OTHER PORTIONS OF THE BUILDING WHERE INCIDENTAL WORK ENTAILED BY THE INTENDED WORK MUST BE PERFORMED AND PORTIONS OF THE BUILDING WHERE WORK NOT INITIALLY INTENDED BY THE OWNER.
  2. FIRE ALARM CONTRACTOR SHALL SUBMIT SHOP DRAWINGS FOR REVIEW AND APPROVAL BY AUTHORITY HAVING JURISDICTION PRIOR TO SYSTEM INSTALLATION, AND SHALL INCLUDE, BUT NOT BE LIMITED TO, ALL OF THE FOLLOWING: A) A FLOOR PLAN THAT INDICATES THE USE OF ALL ROOMS, B) LOCATIONS OF ALARM-INITIATING DEVICES, C) LOCATIONS OF ALARM NOTIFICATION APPLIANCES, INCLUDING CANDELA RATINGS FOR VISIBLE ALARM NOTIFICATION APPLIANCES, D) LOCATION OF FIRE ALARM CONTROL UNIT, TRANSDUCERS AND NOTIFICATION POWER SUPPLIES, E) ANNUNCIATORS, F) POWER CONNECTION, G) BATTERY CALCULATIONS, H) CONDUCTOR TYPE AND SIZE, I) VOLTAGE DROP CALCULATIONS, J) MANUFACTURERS' DATA SHEETS INDICATING MODEL NUMBERS AND LISTING INFORMATION FOR EQUIPMENT, DEVICES AND MATERIALS, K) DETAILS OF CEILING HEIGHT AND CONSTRUCTION, L) THE INTERFACE OF FIRE SAFETY CONTROL FUNCTIONS, M) CLASSIFICATION OF THE SUPERVISING STATION.
  5. ELECTRICAL CONTRACTOR TO PROVIDE EMERGENCY POWER TO MEANS OF EGRESS LIGHTING AND EXIT SIGNS. EXACT LOCATION SHALL BE DETERMINED IN THE FIELD BY ARCHITECT.
  6. ALL DIMENSIONS ARE TO FACE OF FINISHES UNLESS OTHERWISE NOTED.
  7. IT'S THE ARCHITECT'S INTENT TO ACCURATELY SHOW PROPOSED CONDITIONS AS WELL AS THE EXISTING CONDITIONS FOR THE PROJECT. HOWEVER, FIELD CONDITIONS MAY VARY AND IT IS THEREFORE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY FIELD CONDITIONS AND IMMEDIATELY REPORT ANY MAJOR DISCREPANCIES OR OMISSIONS TO THE ARCHITECT.



② Level 1 - EXISTING / DEMOLITION PLAN  
1/4" = 1'-0"



① Level 1 Proposed  
1/4" = 1'-0"

DRAWN BY: IM  
REVIEWED BY: CKY

DATE	DESCRIPTIONS
11/07/2018	ISSUE FOR PERMIT
2/26/2019	REV. 1
4/26/2019	ADDENDUM 1

PROJECT TITLE  
INTERIOR RENOVATION

CLIENT  
THE BEANTOWN COMPANIES

PROJECT ADDRESS  
45 MAPLE ST.,  
MARLBOROUGH, MA

TITLE  
FIRST FLOOR PLAN

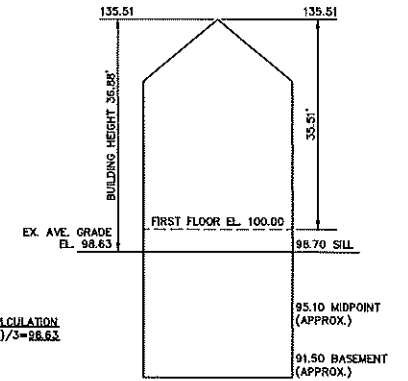
DRAWING NO.  
A1.00

ISSUE FOR PERMIT / ZBA  
JULY 24, 2019

219175.dwg (2/2019) © 2019 VTP ASSOCIATES, INC.

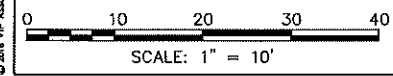
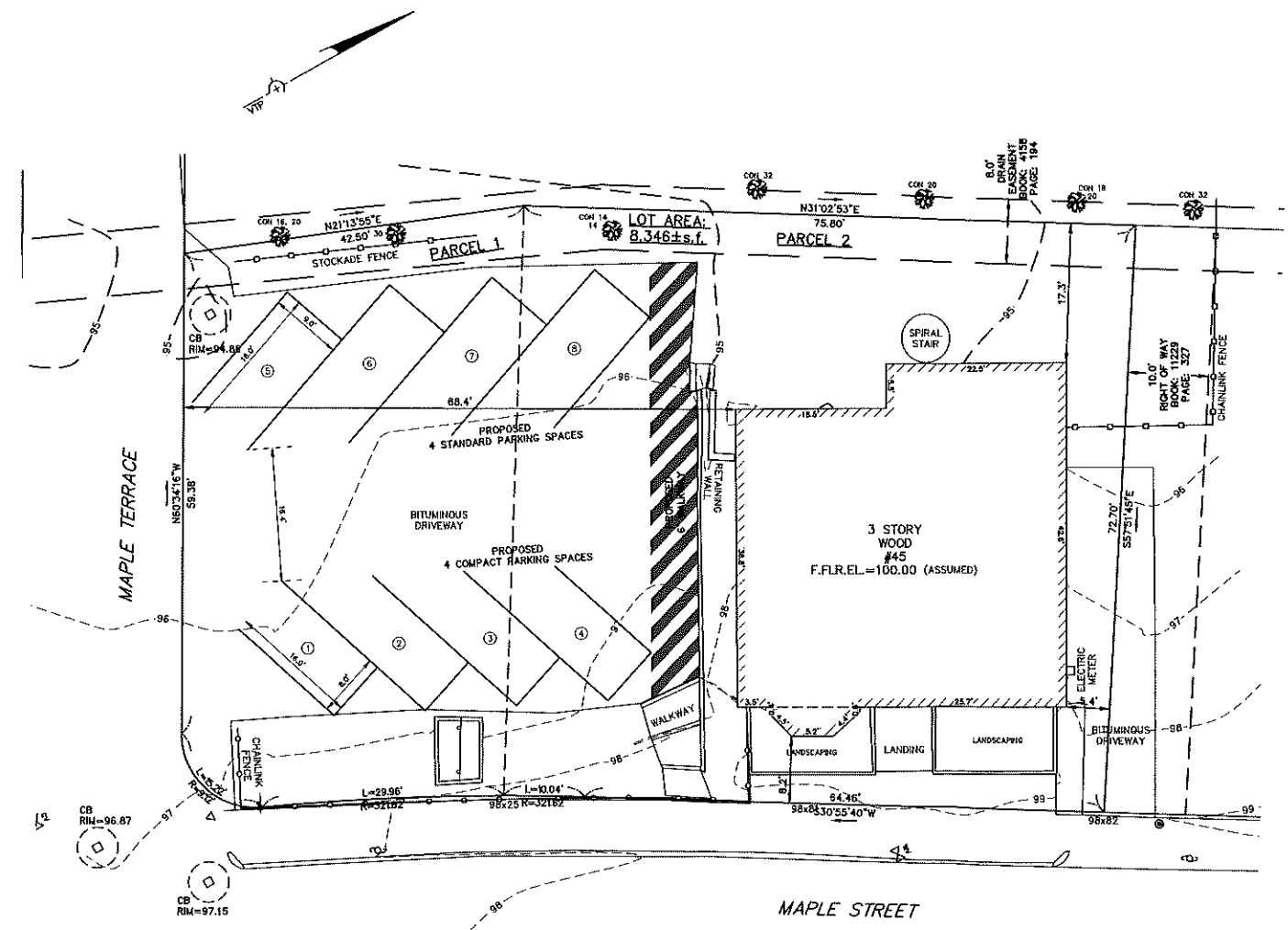
**LEGEND**

- BUILDING
- PROPERTY LINE W/ BEARING DISTANCE S81°28'34"E 118.23'
- CONTOUR -70
- STOCKADE FENCE
- CHAINLINK FENCE
- PICKET FENCE
- SEWER LINE S
- DRAIN LINE D
- WATER LINE W
- GAS LINE
- GAS VALVE
- WATER VALVE
- DRAIN MANHOLE
- SEWER MANHOLE
- CATCH BASIN
- UTILITY POLE
- LIGHT POLE
- DECIDUOUS TREE DEC. 22'
- CONIFEROUS TREE CON. 12'
- FIRE HYDRANT



ZONING CHART		
MARLBOROUGH, MASSACHUSETTS		
ZONE: B	SUBMISSION: EXISTING	
REGULATION	REQUIRED	EXISTING
LOT AREA	5,000s.f.	8,346±s.f.
LOT FRONTAGE	50.0'	94.42'
FRONT SETBACK	50.0'	8.2' *
SIDE SETBACK	25.0'	5.4' *
REAR SETBACK	-	17.3'
BUILDING HEIGHT	52'	36.88'
AVERAGE GRADE	-	98.63
LOT COVERAGE	80.0%	61.9%

\*DOES NOT MEET REQUIREMENTS



**TOPOGRAPHIC SITE PLAN  
MARLBOROUGH, MASSACHUSETTS**

SHOWING PROPOSED CONDITIONS AT  
#45 MAPLE STREET  
SCALE: 1in.=10ft. DATE: DECEMBER 18, 2019



PROJECT: 219175  
**VTP**  
ASSOCIATES  
INC.

LAND SURVEYORS - CIVIL ENGINEERS, 132  
ADAMS STREET 2ND FLOOR SUITE 3  
NEWTON, MA 02458  
(617) 332-8271