

FILE COPY

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

Official Use :

Date Received : 3-16-2022 City Clerk's # _____ ZBA Case # 1490-2022

Request for :

[X] Variance [] Appeal

Information :

Property Address 65 Oakcrest Ave Zoning District A-2 Map# 44 Parcel# 51A

Applicant is: [X] 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 [Signature] Date 3/9/2022

Owner's name Robert Gauthier Address 65 Oakcrest Ave Marl. State MA Zip 01752 Phone# 508-259-7420 E-mail gauthier2@gmail.com

Applicant name Robert + Aura Gauthier Address 65 Oakcrest Ave Marl. State MA Zip 01752 Phone# 508-259-7420 E-mail aura@auragauthier.com

Representative Name: _____ Company _____

Address _____

State _____ Zip _____ Phone# _____ E-mail _____

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

We are seeking a variance to the setback requirements by 4.6 ft. in order to put a portico over our existing entryway. The footprint of the home and the entry will not change.

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).

Chapter 650 Article 41

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 sheet

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 sheet

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 sheet

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

See attached sheet

Appeal

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

See attached sheet

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.

The lot is older than the rule requiring a minimum of 18,000 sq. ft. for single family dwelling lots, thus, our home was built before the present required setback rules and thus there is a 4.6 foot non-conformity for the setback. The original stairs, as built over sixty years ago were narrow and steep. In order to make them safer we have made them wider and not so steep. This would not be an issue for homes built after the 18,000 sq. ft. rule went into effect. Our lot is only 10,000 sq. ft. which makes it uniquely difficult to maintain a safe entry way while staying within a "conforming" set back. Adding a roof/portico, as proposed, over the door does not increase the present setback as it is now. Indeed, a strict adherence to the rule would ultimately prevent us from ever making any improvements safety or otherwise to the front of our home.

Furthermore, the home is North facing, which means the front does not get sufficient sun and it is often damp in the front as a result. This causes issue with rot and causes the landing and stairs to often be slippery, which is another safety concern we hope to alleviate with a roof/ portico over the door.

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.

In addition to the statements in response to No. 1 above, not having a roof/ portico over the front door to our home has allowed significant rot to the area over the years causing us significant expense. We have had to replace the shingles, sill and the door more than once in the time we have lived here. The North facing aspect of the house means wetness from rain, snow and other precipitation is slow to dry which causes rot. Additionally, after any precipitation because of the North facing aspect of the house, the landing is more likely to remain wet and be slippery risking injury to those entering or exiting our home.

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

The portico over the front door will not increase the footprint of the home. It will simply provide a shelter for the front door landing protecting the home and those entering and exiting the home. The variance will not nullify or detract from the purpose of the ordinance. On the contrary, the variance will support the purpose by encouraging the appropriate use of the land and make the front entry safer, free from rot and more

aesthetic. As stated previously, the footprint of the home won't change and, thus, there is no impact to anything other than the positive impact to those entering and exiting the home or admiring its increased aesthetics. The purpose of the ordinance is to promote and conserve the health and general welfare of the inhabitants. This variance will do that by making our home safer to enter and exit. The ordinance is also to secure safety from fire, confusion or congestion – there can be no argument that a portico over the existing front entry would somehow prevent the secure safety from fire, confusion or congestion. The ordinance is also to facilitate the adequate provision of transportation, water, sewerage and other public services – The proposed portico would have zero impact to any public services – this is a private home seeking to add a shelter over an existing entryway. Again, this promotes the purpose that specifically is to encourage the most appropriate use of land. What is more appropriate than allowing a homeowner to better their property by allowing them to have a dry and safe entry to their single family home, which was built before the present set back requirements were put into place.

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

The portico over the front door will not increase the footprint of the home. It will simply provide a shelter for the front door landing protecting the home and those entering and exiting the home. The variance will not diminish the public welfare or well-being and indeed improves it by preventing rot which could harm someone entering the house and reduce the risk of falls as described above in response to Nos. 1 & 2. Furthermore, it will improve the aesthetics of the house and neighborhood. See also response to No. 3 above.

Appeal

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

The appeal is to seek a variance to the setback requirement for a portico to be placed over our existing entryway as per the attached plans.

Application Packet:

The applicant shall submit ~~an~~ (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.

Applicant's signature: *Aura Gauthier*

Date: 3/9/2022

Print name: Robert + Aura Gauthier

and/or

Representative's signature: _____

Date: _____

Print Name: _____

Official Use Only:

Received from applicant, the sum of \$ 132⁰⁰ Check # _____

Signature of the agent of the Zoning Board of Appeals:

Susan Brown

Date: 3-16-2022

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.



City of Marlborough

BUILDING DEPARTMENT

140 Main Street
Marlborough, MA 01752
Tel. (508) 460-3776 Facsimile (508) 460-3736
building_dept@marlborough-ma.gov

TIN HTWAY
BUILDING COMMISSIONER

LAURENT "LARRY" LEMIEUX
PLUMBING & GAS INSPECTOR

JOHN CAIN
WIRING INSPECTOR

WILLIAM PAYNTON
BUILDING INSPECTOR

ETHAN LIPPITT
BUILDING INSPECTOR

MICHAEL LEEDS
BUILDING INSPECTOR

ZONING DENIAL

February 23, 2022

Property Owner:
Robert Gauthier
65 Oakcrest Avenue
Marlborough, MA 01752

Building Permit # BP-2022-000129

**RE: 65 OAKCREST AVENUE, PARCEL ID #44-51A
PROPOSED CONSTRUCTION OF A NEW 5'x7' FRONT PORTICO**

Mr. Gauthier,

Based upon the information provided on your permit application the plot plan prepared by Jarvis Land Survey, Inc, dated 11/5/2021, to construct a new 5'x7' front portico at the property listed above, located in Zoning District (A-2) does not comply with Chapter 650, Article 41, "Table of Lot Area, Yards and Height of Structures", of the City Code of Marlborough. This office offers the following comments:

1. The property is a lawful pre-existing non-conforming lot in regard to lot area and lot frontage.
2. The minimum lot area required is 18,000 sq.ft. The existing lot area is 10,001 sq.ft,
3. Minimum allowed lot frontage is 120 feet. The existing lot frontage is 100 feet
4. The minimum front yard setback in Chapter 650, Article 41 for Zoning District A-2 is 30 feet.
5. The existing front yard setback is 30.1 feet. The proposed front yard setback is 25.4 feet, creating a new non-conformity of 4.6 feet.
6. Your proposed new construction will require relief in the form of a Variance issued

65 OAKCREST AVENUE-PROPOSED FRONT PORTICO

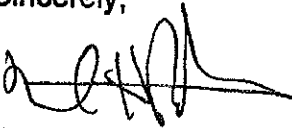
by the Zoning Board of Appeals. Detailed plans showing the existing conditions and the proposed construction will be required with your application to the ZBA.

You have the right to appeal this determination to the Zoning Board of Appeals as stated in the City Code section 650-57.

An appeal from this denial may be taken to the Zoning Board of Appeals by filing a Notice of Appeal with the Zoning Board of Appeals 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

Sincerely,

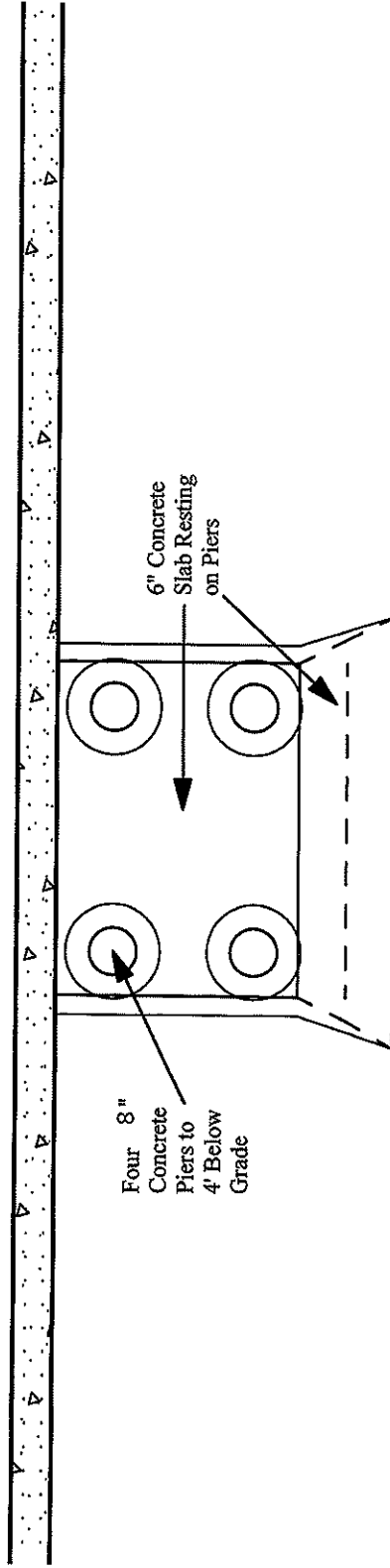


William Paynton
Local Building Inspector
City of Marlborough, MA
(508)460-3776

wpaynton@marlborough-ma.gov

www.Marlborough-MA.gov

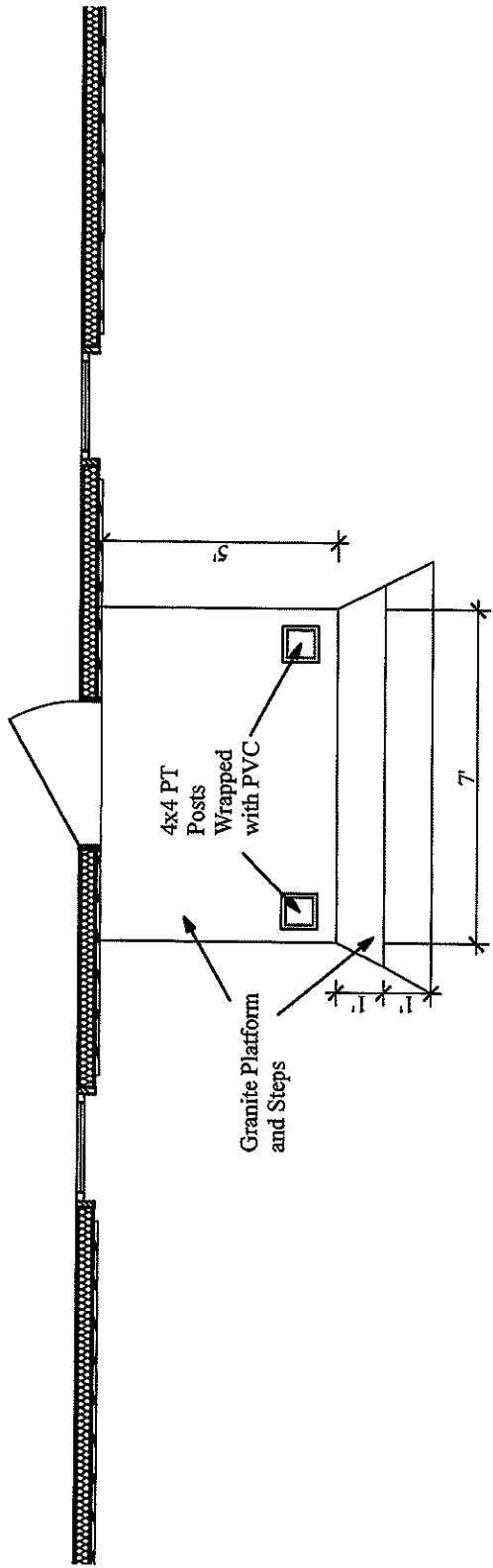
Existing House



Portico Foundation Plan



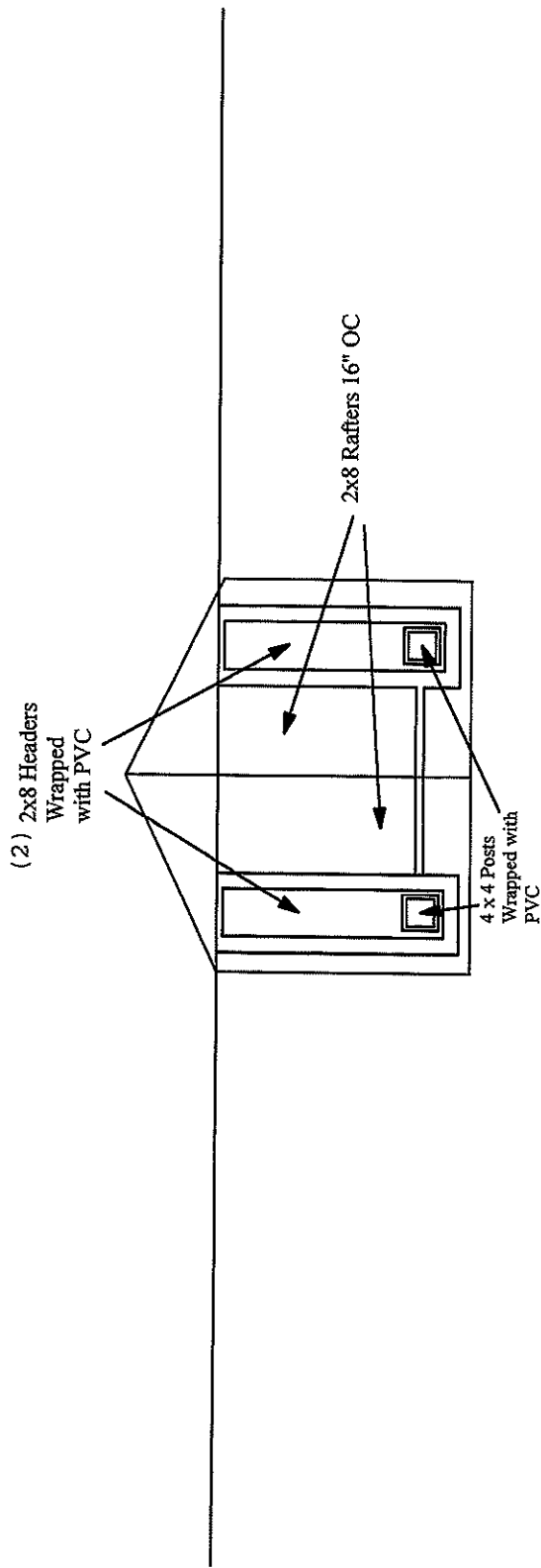
Michael J. Berry PE



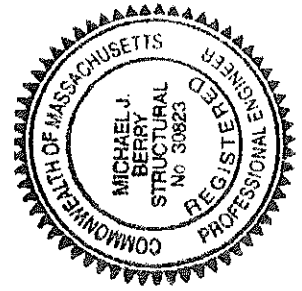
Portico Steps Above Grade



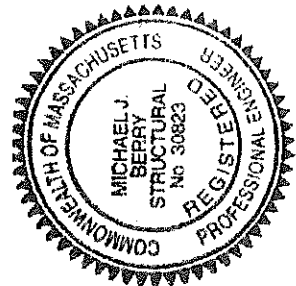
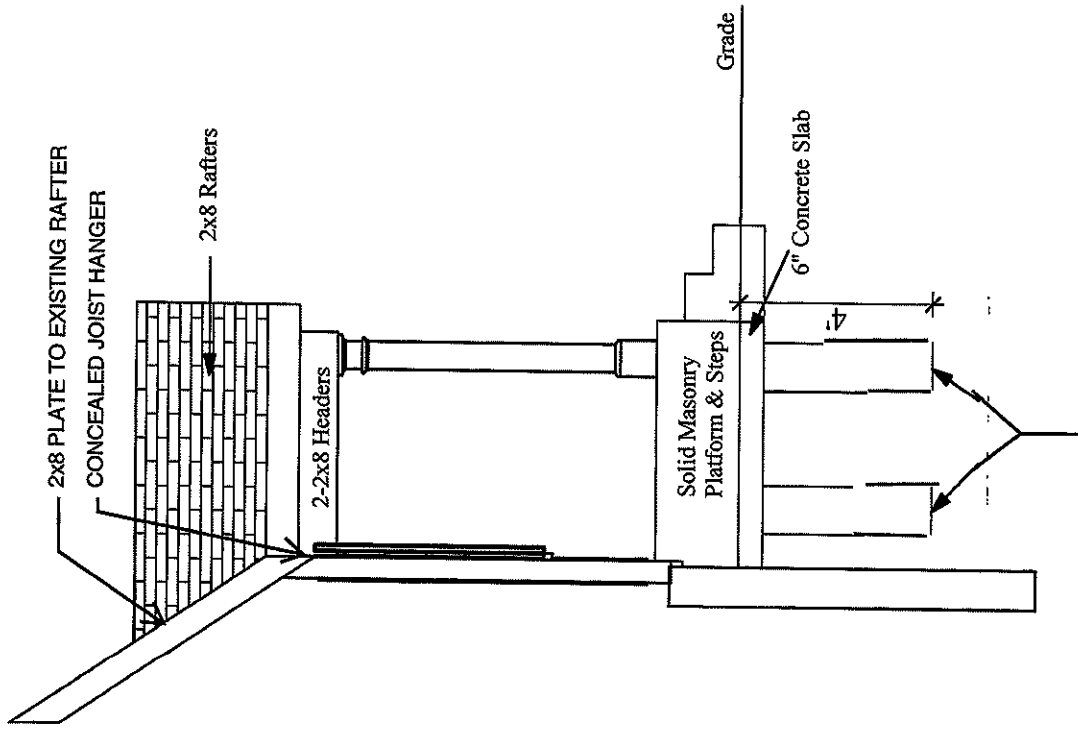
Michael J. Berry PE



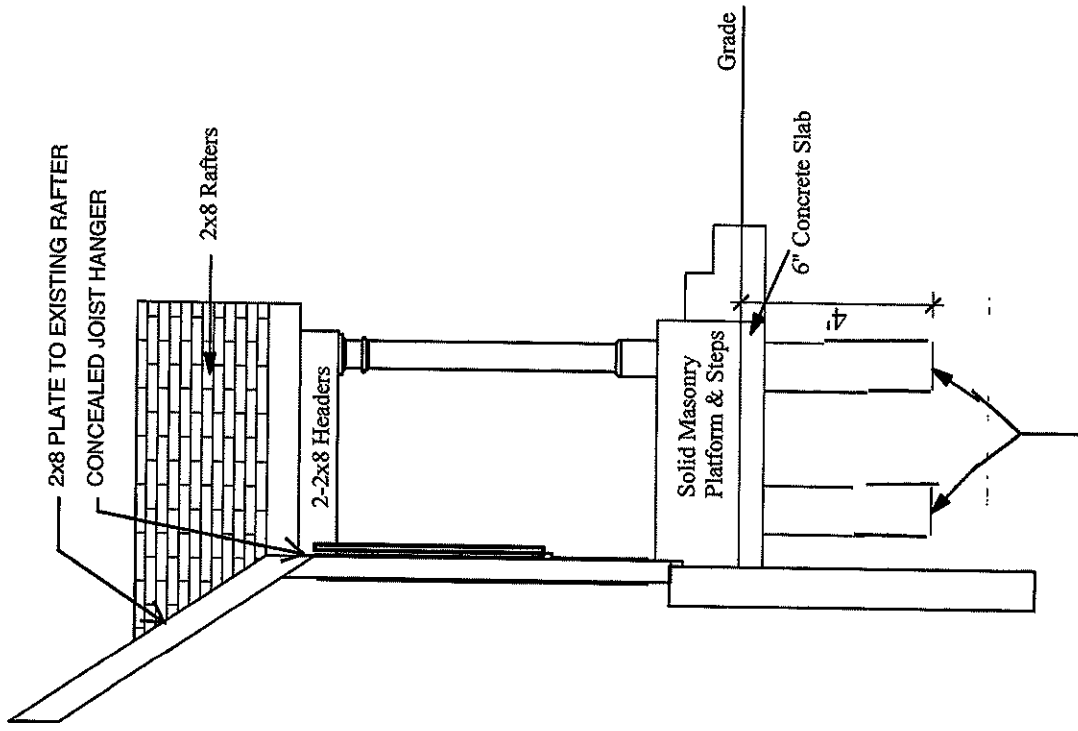
Roof Framing



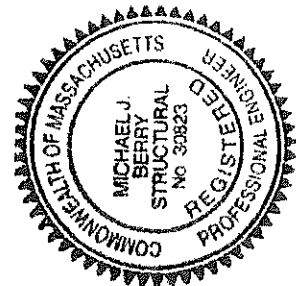
Michael J. Berry, P.E.



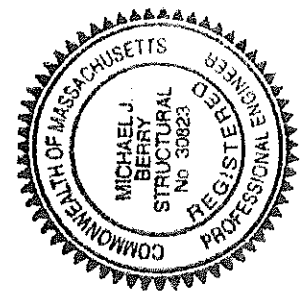
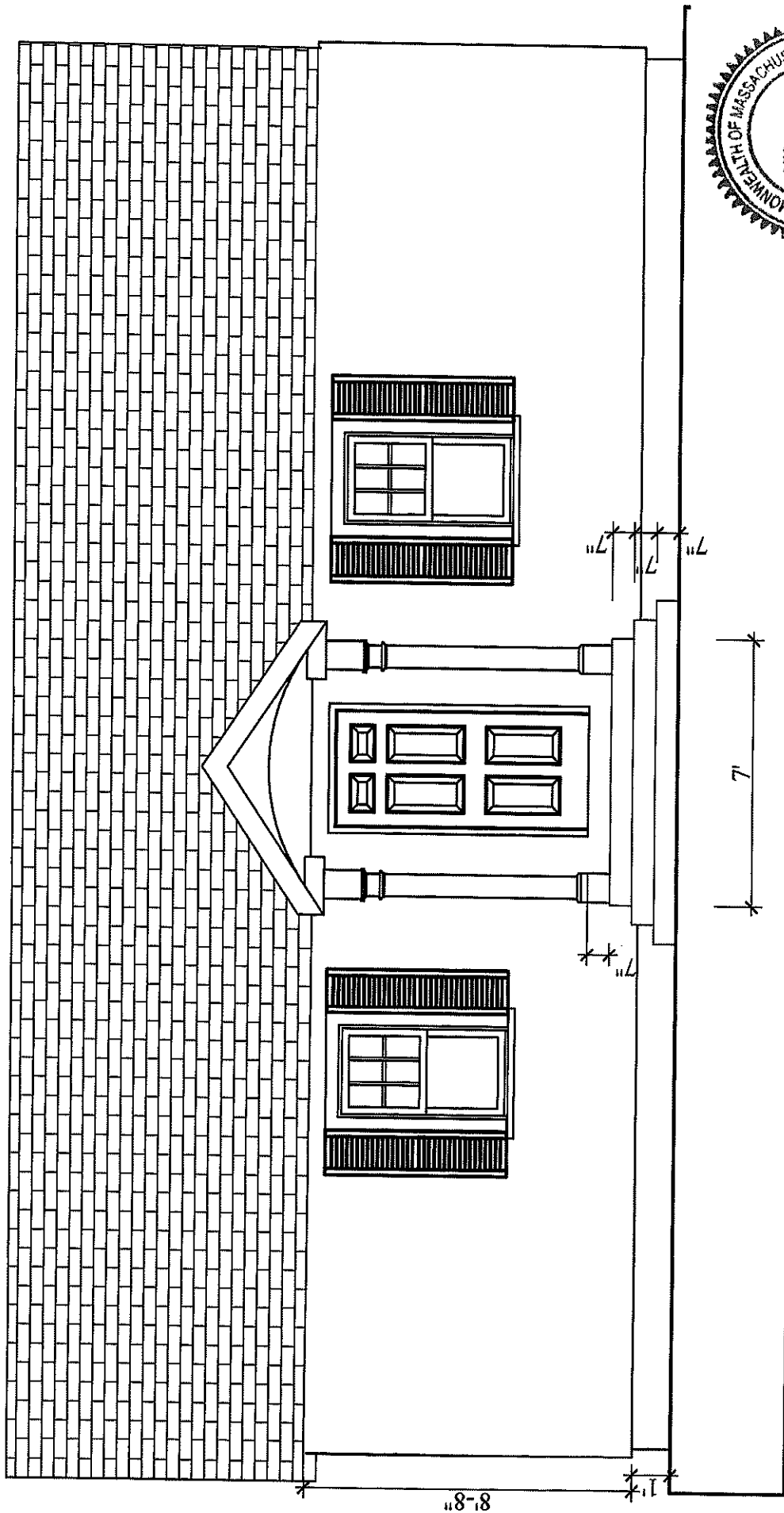
Michael J. Berry PE



8" CONCRETE PIERS
w/#6 REBAR DOWLED
AND EPOXY 4" IN SLAB



Michael J. Berry PE



Michael J. Berry PE

**PLAN SHOWING PROPOSED COVERED PORCH
 PREPARED FOR
 ROBERT J. & AURA M. GAUTHIER
 65 OAKCREST AVENUE
 MARLBOROUGH, MASSACHUSETTS**

**JARVIS LAND SURVEY, INC
 29 GRAFTON CIRCLE
 SHREWSBURY, MA 01545
 TEL. (508) 842-8087
 FAX. (508) 842-0661
 KEVIN@JARVISLANDSURVEY.COM**

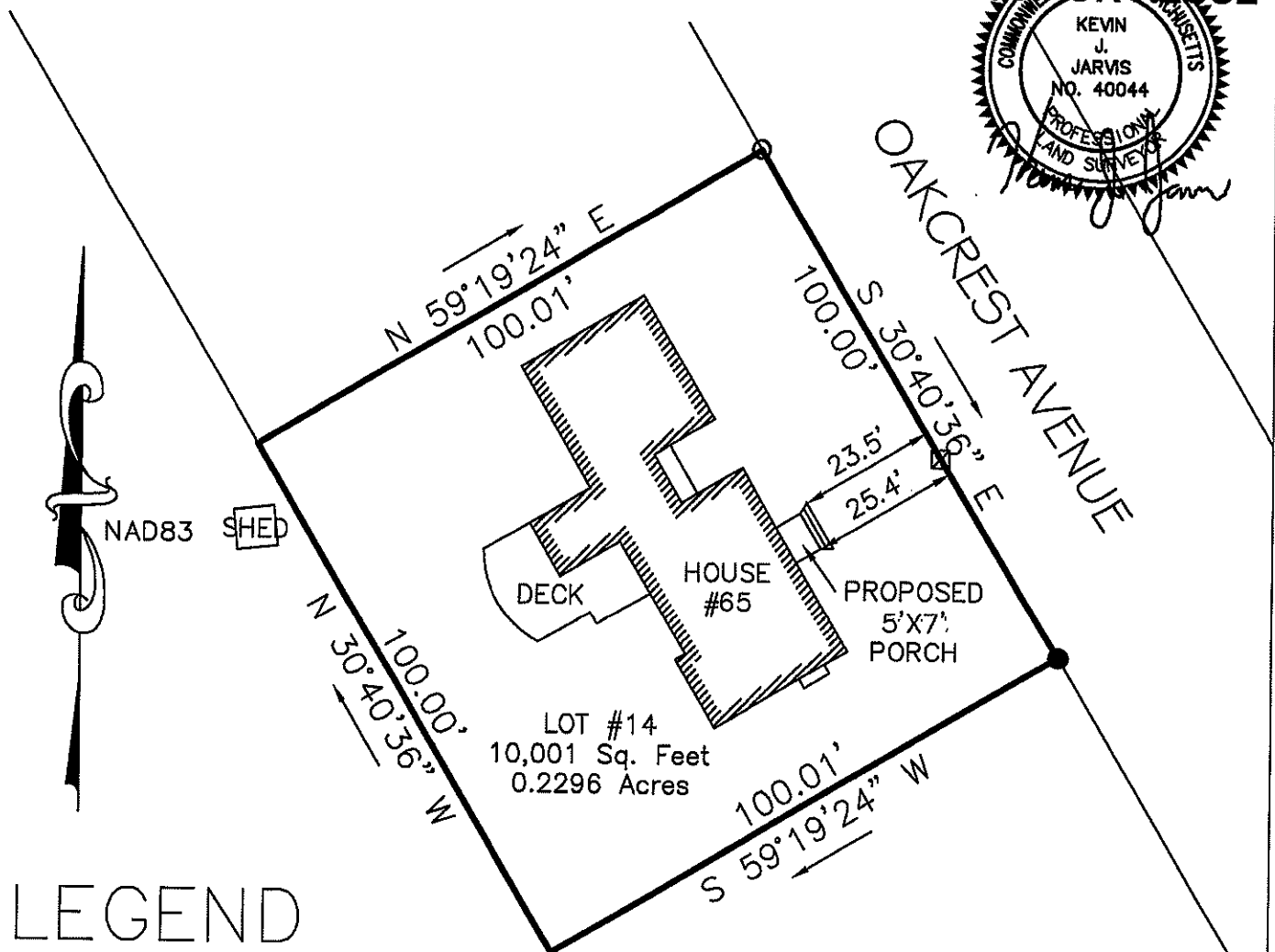
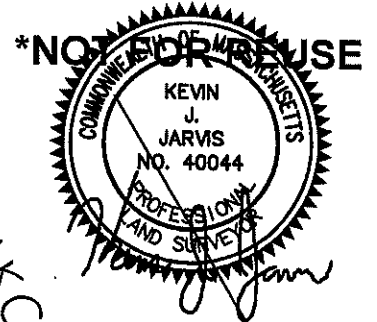
**NOVEMBER 5, 2021
 SCALE: 1 INCH = 30 FEET**

*** THE SURVEYOR RETAINS COPYRIGHT TO THE PLAN OF SURVEY, AND RE-USE OF THIS PLAN IS NOT ALLOWED WITHOUT PERMISSION FROM THE SURVEYOR.**

1. THIS PLAN HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT AND IS SUBJECT TO THE FINDINGS SUCH A REPORT MIGHT DISCLOSE.
 2. THIS PLAN HAS NOT BEEN PREPARED FOR RECORDING PURPOSES.
 3. THE LICENSED MATERIAL CONTAINS VALUABLE PROPRIETARY INFORMATION BELONGING EXCLUSIVELY TO JARVIS LAND SURVEY, INC. THE LICENSED MATERIAL AND THE INFORMATION CONTAINED THEREON ARE COPYRIGHTED INSTRUMENTS OF PROFESSIONAL SERVICES AND SHALL NOT BE USED, IN WHOLE OR IN PART, FOR ANY PROJECT OTHER THAN THAT FOR WHICH THEY WERE CREATED, WITHOUT THE EXPRESS WRITTEN CONSENT OF JARVIS LAND SURVEY, INC. YOU AGREE NEVER TO REMOVE ANY NOTICES OF COPYRIGHT, NOR TO REPRODUCE OR MODIFY THE LICENSED MATERIAL.

**ASSESSORS MAP 44
 LOT 51A**

11-5-2021



LEGEND

These standard symbols will be found in the drawing.

- IRON PIPE FOUND
- ⊠ STAKE SET
- IRON ROD SET

