



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

ZONING DETERMINATION

April 13, 2022

Owner:

Ken's Foods

1 D'Angelo Drive

Marlborough, MA 01752

Owner's Representative:

William Pezzoni, Attorney – Day Pitney LLP

One Federal Street, 29th Floor, Boston

**RE: 1 D'ANGELO DRIVE PARCEL ID #116-8
PROPOSED ADDITION AND RENOVATION OF EXISTING**

Mr. Pezzoni,

Based upon the information provided on your proposed site plan, prepared by Guerriere & Halnon, Inc., dated 4/12/2022 for a proposed addition and renovation manufacturing facility at property listed above, located in Zoning District Industrial (I) does not comply with Chapter 650, Article 41, Attachment 2, "Table of Lot Area, Yards and Height of Structures", of the City Code of Marlborough. This office offers the following comments:

1. The maximum allowable lot coverage in Chapter 650, Article 41 for Zoning District I is 60%. The proposed lot coverage is 62.6%.
2. The plans show an existing lot coverage of 60.1% and would be consistent with being in compliance with the existing maximum allowable lot coverage and not considered legal pre-existing non-conforming.

Your proposed new construction and renovation will require relief in the form of a Variance issued 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.

**1 D'ANGELO DRIVE
PARCEL ID #116-8
PROPOSED ADDITION AND RENOVATION OF EXISTING**

An appeal from this determination 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 determination 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

Best Regards,

A handwritten signature in blue ink, appearing to read 'Tin Htway', with a long, sweeping horizontal stroke extending to the right.

Tin Htway, CBO
Building Commissioner
Marlborough Building Department



www.gandhengineering.com

Est. 1972

G-6599-7

Whitinsville Office

1029 Providence Road
Whitinsville, MA 01588-2121
Phone: (508) 234-6834
Fax: (508) 234-6723

Milford Office

333 West Street
P.O. Box 235
Milford, MA 01757-0235
Phone: (508) 473-6630
Fax: (508) 473-8243

Franklin Office

55 West Central Street
Franklin, MA 02038-3807
Phone (508) 528-3221
Fax (508) 528-7921

April 12, 2022

City of Marlborough
Zoning Board of Appeals
140 Main Street
Marlborough, MA 01752
Attn: Susan Brown, Board Secretary

**Re: Application for Variance Hearing – Ken’s Foods
1 D’Angelo Drive, Marlborough, MA 01752**

Dear Members of the Board:

As the applicant’s representative, Guerriere & Halnon, Inc. (G & H) hereby submits the Application for a Variance Hearing in accordance with the City of Marlborough’s Procedures/Information in Applying for a Zoning Board of Appeals (ZBA) Hearing.

As part of the submittal G & H has included the following:

- (8) copies of the Application for a Variance Hearing;
- (8) sets of 11x17 plans;
- (2) sets of 24x36 sets of plans;
- Letter of Denial from the Building Commissioner;
- Certified Abutters List;
- Variance Request Filing Fee (Industrial Use) - \$500.00

We trust this meets with your requirements. Please contact us at our Franklin office at (508) 528-3221 if you have any questions or require additional information.

Sincerely,

Guerriere & Halnon, Inc.

Amanda Cavaliere
Franklin Office Manager
Enclosures

G-6599-7



City of Marlborough
Office of the Assessors
140 Main Street
Marlborough, Massachusetts 01752
TDD (508) 460-3610
Phone: (508) 460-3779

COPY

APPLICATION FOR CERTIFIED LIST OF ABUTTERS

March 30, 2022

Date: _____

Property Address: 1 D'Angelo Drive

Assessor Map and Parcel: Map 116 - Parcel 8

Property Owner Name: Ken's Foods

Representative
Applicant Name: Guerriere & Halnon, Inc.
Amanda Cavaliere, Office Manager

Representative
Applicant Phone: 508-528-3221
ACavaliere@GandHEngineering.com

Purpose of Request: Variance Request

Radius: 300-feet

Originating Board or Department: Zoning Board of Appeals

Applicant Signature: *Amanda Cavaliere*

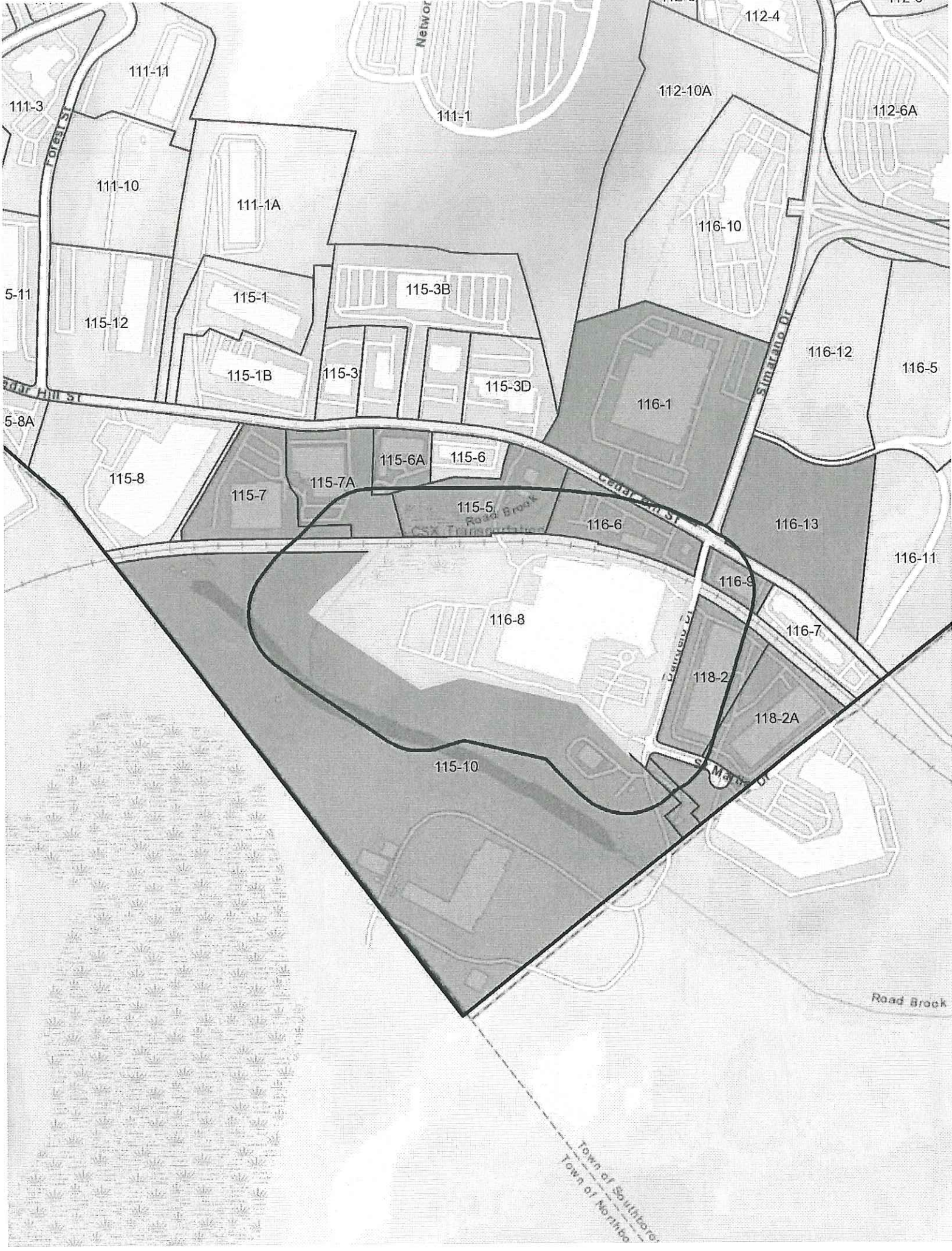
**PLEASE EMAIL COMPLETED LIST TO:
ACAVALIERE@GANDHENGINEERING.COM**

PLEASE ALLOW TEN WORKING DAYS FROM THE DATE OF RECEIPT OF THIS APPLICATION BY THE OFFICE OF THE ASSESSORS FOR COMPLETION

ABUTTERS - 1 D'ANGELO DR., MARLBOROUGH, MA (116-9) 300 FT

Parcel Number	GIS Number	Canra Number	Property Address	Owner Name	Co-Owner Name	Owner Address	Owner Address	Owner City	Owner State	Owner Zip	Use Code
115-10	M_193089_895 888	115-10	84 D'ANGELO DR	METROPOLITAN DISTRICT COMMISSION		251 CAUSEWAY ST STE 900	BOSTON MA	MA	02114-2104	9150	
115-5	M_193089_896 371	115-5	150 CEDAR HILL ST	GROWLEY FRANK A III TR		PO BOX 849	MARLBOROUGH MA	MA	01752	9512	
115-6A	M_192888_896 416	115-6A	214 CEDAR HILL ST	HILL LLC		1881 WORCESTER RD	FRAMINGHAM MA	MA	01701	4010	
115-7	M_192690_896 384	115-7	274 CEDAR HILL ST	HILL STREET LLC		274 CEDAR HILL ST	MARLBOROUGH MA	MA	01752	4010	
115-7A	M_192798_896 384	115-7A	260 CEDAR HILL ST	TV MARLBOROUGH LLC		138 TRABELLO RD	LINCOLN MA	MA	01773	4040	
116-1	M_193265_896 494	116-1	445 SIMARANO DR	METROPOLIS BLOOMFIELD INVESTORS LP		ONE MARKET ST STE 4025	SAN FRANCISCO CA	CA	94105	4000	
116-6	M_193156_896 345	116-6	100 CEDAR HILL ST	SUBURBAN PROPANE LP		240 ROUTE 10 WEST	WHIPPANY NJ	NJ	07981-0206	4020	
116-9	M_193353_896 251	116-9	72 CEDAR HILL ST	CMU REALTY TRUST LLC		72 CEDAR HILL ST #C	MARLBOROUGH MA	MA	01752	4020	
118-2	M_193336_896 098	118-2	50 D'ANGELO DR	D'ANGELO LP		2 MILL AND MAIN PL STE 505	MAYNARD MA	MA	01754	4010	
118-2A	M_193425_896 038	118-2A	24 ST MARTIN DR	24 ST MARTIN DRIVE LLC		C/O MILLER & BISSON	ANDOVER MA	MA	01810	4010	
118-2B	M_193321_895 940	118-2B	34 ST MARTIN DR	MARLBOROUGH TECHNOLOGY PARTNERS LLC		C/O MENLO EQUITIES ASSOCIATES	MENLO PARK CA	CA	94025	4410	
118-3	M_193262_895 956	118-3	86 D'ANGELO DR	CITY OF MARLBOROUGH		140 MAIN ST	MARLBOROUGH MA	MA	01752	9311	

John M. Valade



111-11

111-3

111-10

111-1A

111-1

112-10A

112-4

112-6A

116-10

5-11

115-12

115-1

115-3B

115-1B

115-3

115-3D

116-12

116-5

5-8A

115-8

115-7

115-7A

115-6A

115-6

116-1

115-5

116-6

116-13

116-11

116-8

116-9

116-7

118-2

118-2A

115-10

Road Brook

Town of Southboro
Town of Northboro

214 CEDAR HILL LLC
1881 WORCESTER RD
FRAMINGHAM, MA 01701

SUBURBAN PROPANE LP
240 ROUTE 10 WEST
WHIPPANY, NJ 07981-0206

24 ST MARTIN DRIVE LLC
C/O MILLER & BISSON
1 DUNDEE PARK STE 3
ANDOVER, MA 01810

TV MARLBOROUGH LLC
138 TRAPELLO RD
LINCOLN, MA 01773

274 CEDAR HILL STREET LLC
274 CEDAR HILL ST
MARLBOROUGH, MA 01752

CITY OF MARLBOROUGH
140 MAIN ST
MARLBOROUGH, MA 01752

CMJ REALTY TRUST LLC
72 CEDAR HILL ST #C
MARLBOROUGH, MA 01752

CROWLEY FRANK A III TR
PO BOX 849
MARLBOROUGH, MA 01752

LPCH DANGELO LP
C/O LINCOLN PROPERTY CO
2 MILL AND MAIN PL STE 505
MAYNARD, MA 01754

MARLBOROUGH TECHNOLOGY PA
C/O MENLO EQUITIES ASSOCIATES
2765 SAND HILL RD STE 200
MENLO PARK, CA 94025

METROPOLIS BLOOMFIELD INV
ONE MARKET ST STE 4025
SAN FRANCISCO, CA 94105

METROPOLITAN DISTRICT COM
251 CAUSEWAY ST STE 900
BOSTON, MA 02114-2104



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

Official Use :

Date Received : _____ City Clerk's # _____ ZBA Case # _____

Request for :

Variance Appeal

Information :

Property Address 1 D'Angelo Drive Zoning District I Map# 116 Parcel# 8

Applicant is: Owner Tenant Prospective Purchaser Other Attorney

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

Owner's signature Mark Shaye Date 3/28/2022

Owner's name MARK SHAYE Address 1 D'Angelo Drive

State MA Zip 01752 Phone# 508-597-4236 E-mail mshaye@kensfoods.com

Applicant name Ken's Foods Address 1 D'Angelo Drive, Marlborough

State MA Zip 01752 Phone# 508-597-4236 E-mail mshaye@kensfoods.com

Representative Name: William Pezzoni Company Day Pitney LLP

Address One Federal St. 29th Floor, Boston

State MA Zip 02110 Phone# 617-345-4777 E-mail wpezzoni@daypitney.com

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

See Attached

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).

See Attached

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).

See Attached

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.

Applicant's signature: Mark Shaye
Print name: MARIC SHAYE

Date: 3/28/2022

and/or
Representative's signature: _____
Print Name: William Pezzoni

Date: 4/1/2022

Official Use Only:

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

Signature of the agent of the Zoning Board of Appeals:

Date: _____

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

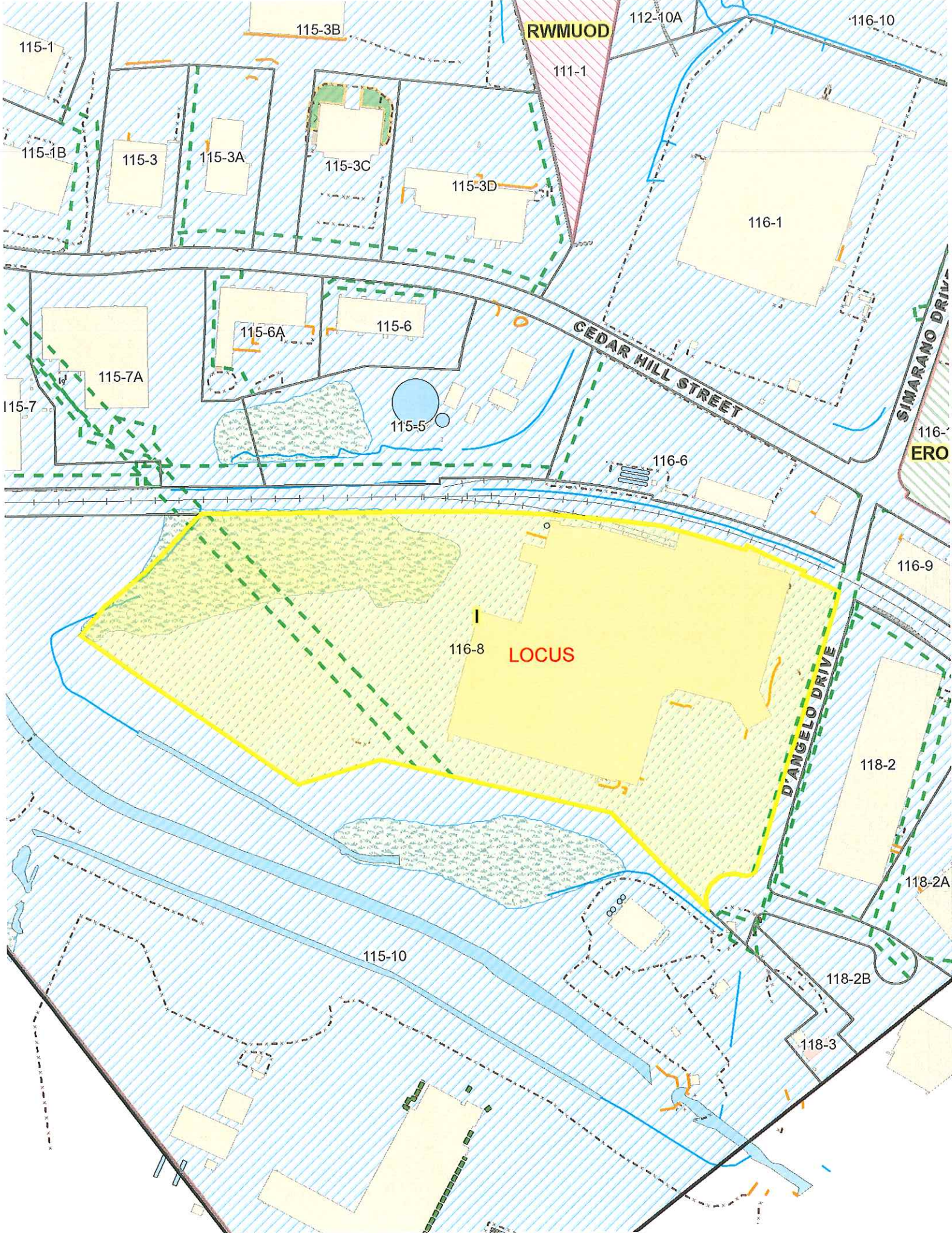
The date and signature of the agent of the Zoning Board of Appeals will serve as certification as to when the **COMPLETE** application packet accompanied by the proper filing fee was filed with this office.

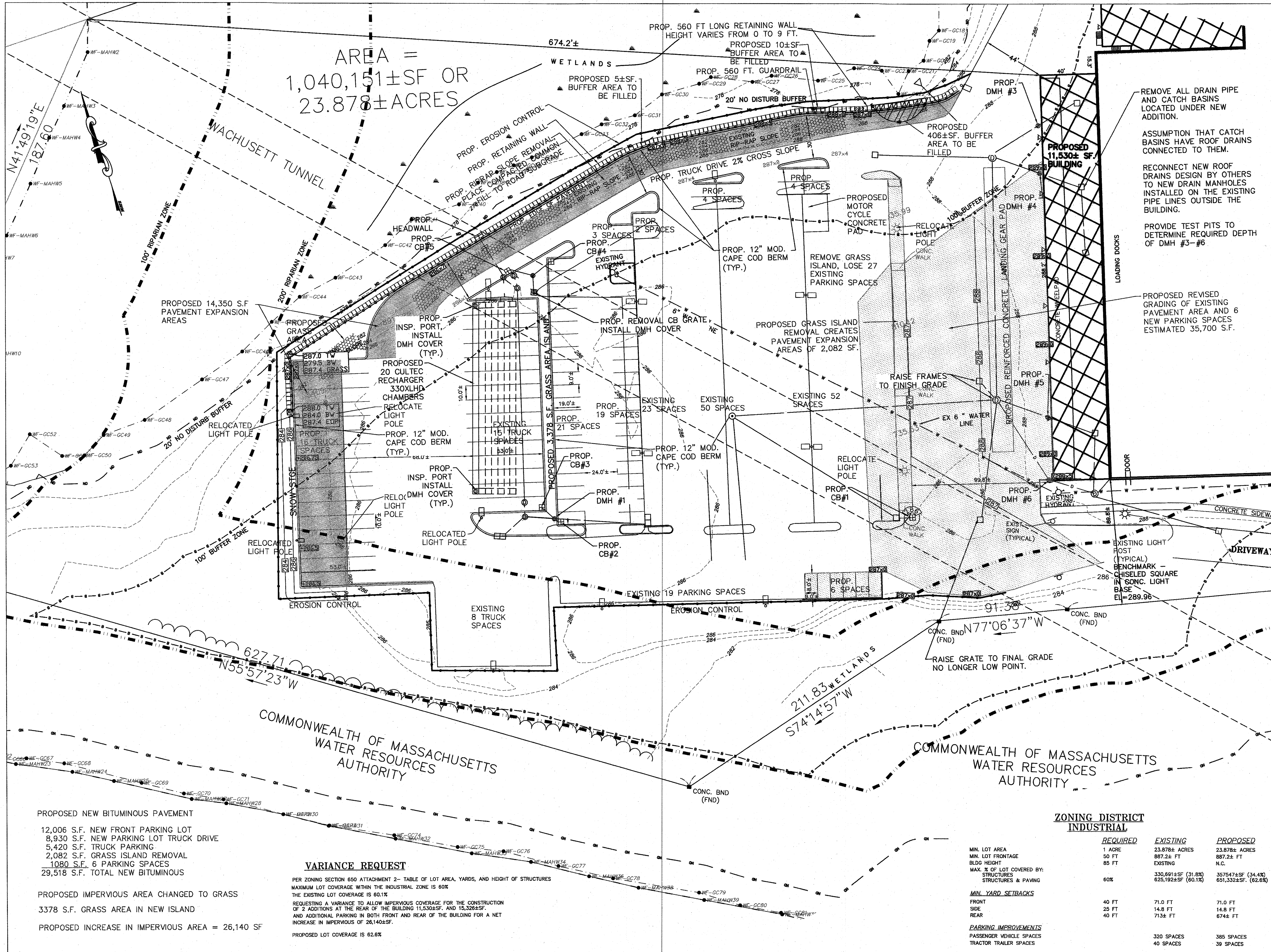
Variance Petition

Attachment for 1 D'Angelo Drive

The Petitioner is restricted to a limited area on the property for expansion or renovation due to the shape of the lot, the fact that the site is impacted and restricted by wetlands and river front regulations, the properties geological makeup, the historical site development of infrastructure and the location of the existing buildings and improvements on the site. The proposed improvements to the operational aspects of the facility to be located within the renovations are necessary to meet required health and safety standards and regulations for product development at the site as well as maintaining its current production and distribution levels. The issues facing development or expansion of this property and its current use are specific to this site and not generally affecting the zoning district. The additional proposed impervious surface of 2.5% and the structural addition to the existing structures will not be substantively noticeable to the public or its health or safety. Furthermore, it is clear that a literal enforcement of this by-law would involve substantial hardship for the petitioner to meet its required federal and state health standards and maintain its manufacturing capacity and the required relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent and purpose of this by-law.

Per Zoning Ordinance Section 650 Attachment 2 – Table of Lot Area, Yards and Height of Structures, the maximum lot coverage within the Industrial I District is 60%. The Petitioner is requesting a variance to allow for an increase in the amount of impervious coverage from 60.1% (existing) to 62.6% (proposed), or a net increase of 2.5%.





AREA =
1,040,151±SF OR
23.878±ACRES

DATE: _____

APPROVED DATE: _____

MARLBOROUGH ZONING BOARD OF APPEALS

BEING A MAJORITY

REMOVE ALL DRAIN PIPE AND CATCH BASINS LOCATED UNDER NEW ADDITION.

ASSUMPTION THAT CATCH BASINS HAVE ROOF DRAINS CONNECTED TO THEM.

RECONNECT NEW ROOF DRAINS DESIGN BY OTHERS TO NEW DRAIN MANHOLES INSTALLED ON THE EXISTING PIPE LINES OUTSIDE THE BUILDING.

PROVIDE TEST PITS TO DETERMINE REQUIRED DEPTH OF DMH #3-#6

PROPOSED REVISED GRADING OF EXISTING PAVEMENT AREA AND 6 NEW PARKING SPACES ESTIMATED 35,700 S.F.

LEGAL NOTES

UTILITIES ARE PLOTTED AS A COMPILATION OF RECORD DOCUMENTS, MARKINGS AND OTHER OBSERVED EVIDENCE TO DEVELOP A VIEW OF THE UNDERGROUND UTILITIES AND SHOULD BE CONSIDERED APPROXIMATE. EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY COMPLETELY AND RELIABLY DEPICTED. ADDITIONAL UTILITIES, NOT EVIDENCED BY RECORD DOCUMENTS OR OBSERVED PHYSICAL EVIDENCE, MAY EXIST. CONTRACTORS (IN ACCORDANCE WITH MASS.G.L. CHAPTER 82 SECTION 40 AS AMENDED) MUST CONTACT ALL UTILITY COMPANIES BEFORE EXCAVATING AND DRILLING AND CALL DIGSAFE AT 1(888)DIG-SAFE(7233).

CONSTRUCTION ON THIS LAND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS, RESERVATIONS, OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE.

OWNER
FRANK A. CROWLEY AND JOSEPH F. SHAY TRUSTEES
MIP REALTY TRUST
MARLBOROUGH, MA 01752
MAP 116 PARCEL 8
BK. 15705 PG. 199
APPLICANT

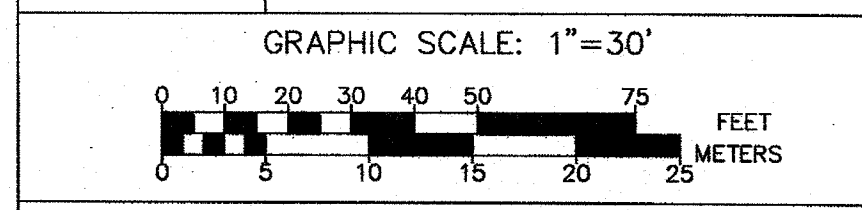
KEN'S FOODS, INC.
PO BOX 849
MARLBOROUGH, MA 01752

VARIANCE REQUEST
KEN'S FOODS
SITE PLAN MODIFICATION
1 D'ANGELO DRIVE
MARLBOROUGH, MASSACHUSETTS

PROPOSED LAYOUT

APRIL 12, 2022

DATE	REVISION DESCRIPTION



Guerriere & Halnon, Inc.
ENGINEERING & LAND SURVEYING
55 WEST CENTRAL ST. PH. (508) 528-3221
FRANKLIN, MA 02038 FX. (508) 528-7921
www.gandengineering.com

PROPOSED NEW BITUMINOUS PAVEMENT

12,006 S.F. NEW FRONT PARKING LOT
8,930 S.F. NEW PARKING LOT TRUCK DRIVE
5,420 S.F. TRUCK PARKING
2,082 S.F. GRASS ISLAND REMOVAL
1,080 S.F. 6 PARKING SPACES
29,518 S.F. TOTAL NEW BITUMINOUS

PROPOSED IMPERVIOUS AREA CHANGED TO GRASS

3378 S.F. GRASS AREA IN NEW ISLAND

PROPOSED INCREASE IN IMPERVIOUS AREA = 26,140 SF

VARIANCE REQUEST

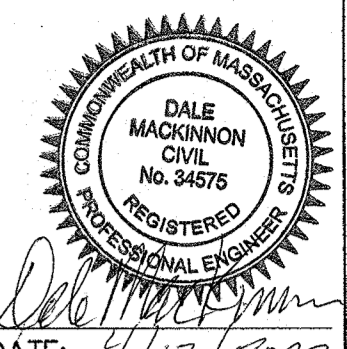
PER ZONING SECTION 650 ATTACHMENT 2- TABLE OF LOT AREA, YARDS, AND HEIGHT OF STRUCTURES
MAXIMUM LOT COVERAGE WITHIN THE INDUSTRIAL ZONE IS 60%
THE EXISTING LOT COVERAGE IS 60.1%

REQUESTING A VARIANCE TO ALLOW IMPERVIOUS COVERAGE FOR THE CONSTRUCTION OF 2 ADDITIONS AT THE REAR OF THE BUILDING 11,530±SF, AND 15,328±SF.
AND ADDITIONAL PARKING IN BOTH FRONT AND REAR OF THE BUILDING FOR A NET INCREASE IN IMPERVIOUS OF 26,140±SF.

PROPOSED LOT COVERAGE IS 62.6%

ZONING DISTRICT INDUSTRIAL

	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA	1 ACRE	23.878± ACRES	23.878± ACRES
MIN. LOT FRONTAGE	50 FT	887.2± FT	887.2± FT
BLDG HEIGHT	85 FT	EXISTING	N.C.
MAX. % OF LOT COVERED BY STRUCTURES & PAVING	60%	330,691±SF (31.8%) 625,192±SF (60.1%)	357,547±SF (34.4%) 651,332±SF (62.6%)
MIN. YARD SETBACKS			
FRONT	40 FT	71.0 FT	71.0 FT
SIDE	25 FT	14.8 FT	14.8 FT
REAR	40 FT	71.3± FT	67.4± FT
PARKING IMPROVEMENTS			
PASSENGER VEHICLE SPACES		320 SPACES	385 SPACES
TRACTOR TRAILER SPACES		40 SPACES	39 SPACES



G-6599-7

DATE: 7/12/2022

APPROVED DATE:
MARLBOROUGH ZONING BOARD OF APPEALS

BEING A MAJORITY

LEGAL NOTES

UTILITIES ARE PLOTTED AS A COMPILATION OF RECORD DOCUMENTS, MARKINGS AND OTHER OBSERVED EVIDENCE TO DEVELOP A VIEW OF THE UNDERGROUND UTILITIES AND SHOULD BE CONSIDERED APPROXIMATE. ANY EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. ADDITIONAL UTILITIES, NOT EVIDENCED BY RECORD DOCUMENTS OR OBSERVED PHYSICAL EVIDENCE, MAY EXIST. CONTRACTORS (IN ACCORDANCE WITH MASS.G.L. CHAPTER 82 SECTION 40 AS AMENDED) MUST CONTACT ALL UTILITY COMPANIES BEFORE EXCAVATING AND DRILLING AND CALL DIGSAFE AT 1(888)DIG-SAFE(7233).

CONSTRUCTION ON THIS LAND IS SUBJECT TO ANY EASEMENTS, RIGHTS-OF-WAY, RESTRICTIONS, RESERVATIONS, OR OTHER LIMITATIONS WHICH MAY BE REVEALED BY AN EXAMINATION OF THE TITLE.

OWNER

FRANK A. CROWLEY AND JOSEPH F. SHAY TRUSTEES
MIP REALTY TRUST
MARLBOROUGH, MA 01752
MAP 116 PARCEL 8
BK. 15705 PG. 199

APPLICANT
KEN'S FOODS, INC.
PO BOX 849
MARLBOROUGH, MA 01752

VARIANCE REQUEST
KEN'S FOODS
SITE PLAN MODIFICATION
1 D'ANGELO DRIVE
MARLBOROUGH, MASSACHUSETTS

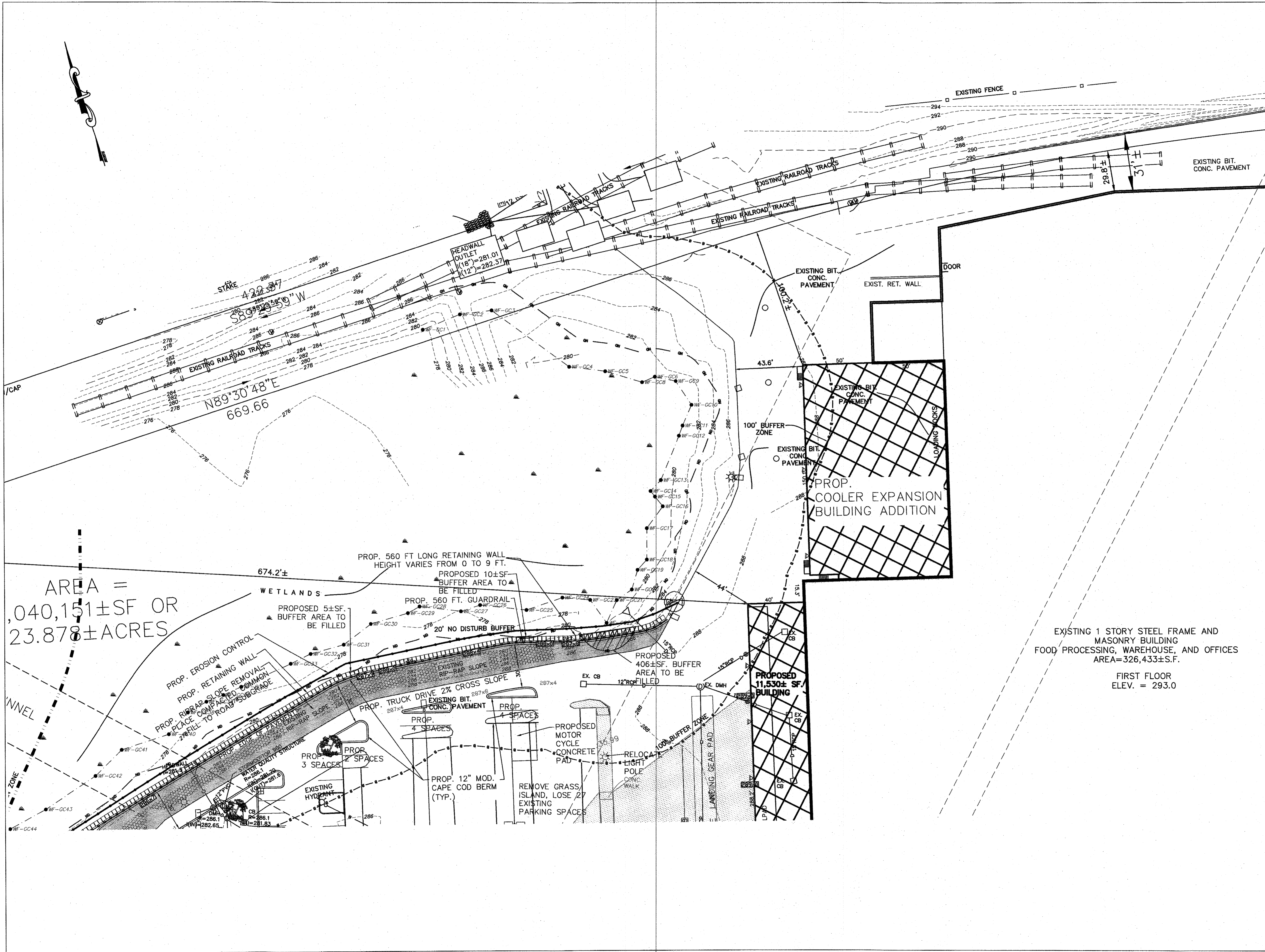
PROPOSED LAYOUT

MARCH 5, 2022

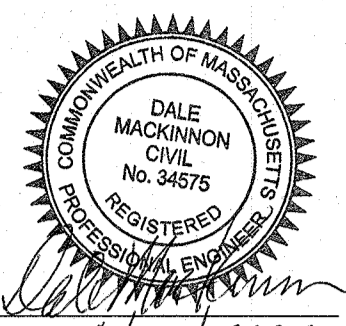
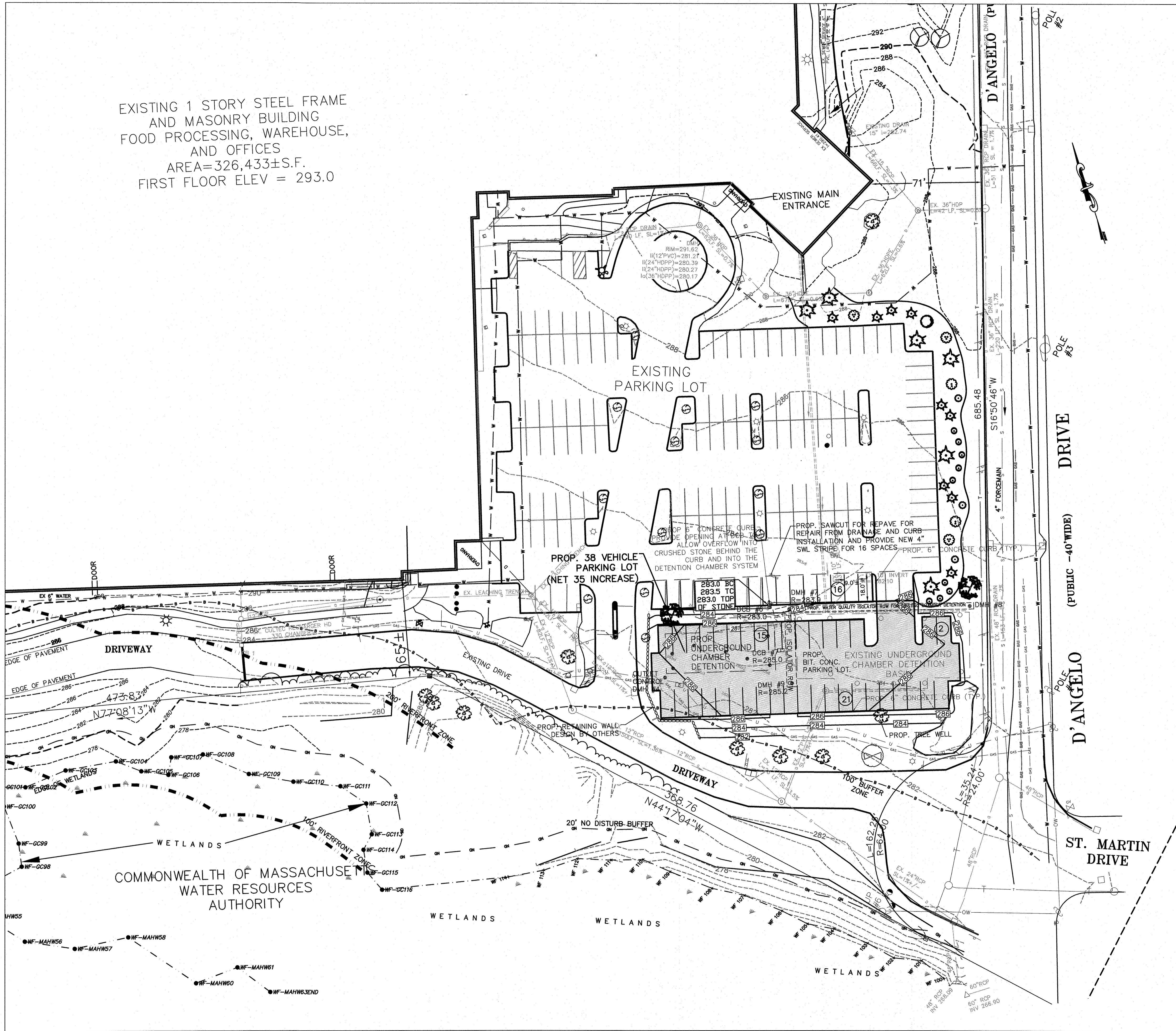
DATE	REVISION DESCRIPTION

GRAPHIC SCALE: 1"=30'

Guerriere & Halnon, Inc.
 ENGINEERING & LAND SURVEYING
 55 WEST CENTRAL ST. PH. (508) 528-3221
 FRANKLIN, MA 02038 FX. (508) 528-7921
 www.gandhengineering.com



EXISTING 1 STORY STEEL FRAME
AND MASONRY BUILDING
FOOD PROCESSING, WAREHOUSE,
AND OFFICES
AREA=326,433±S.F.
FIRST FLOOR ELEV = 293.0



G-6599-7

DATE: 4/12/2022

APPROVED DATE:
MARLBOROUGH ZONING BOARD OF APPEALS

BEING A MAJORITY

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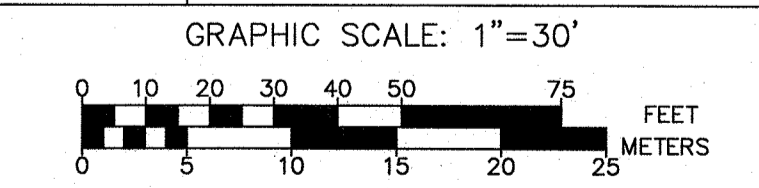
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APRIL 12 2022

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