



TOWN OF HARWICH
732 Main Street, Harwich, Massachusetts 02645

ZONING BOARD OF APPEALS
Notice of Appeal/Application and Petition for Public Hearing, ("APPLICATION")

This Application *does not* apply to Comprehensive Permits.

Please refer to the Rules and Regulations of the Town of Harwich Board of Appeals for documentation requirements.

This original completed and signed notice of this Application, along with a certified abutters list and twelve (12) copies of all plans, sketches, statements, site plans or other supporting documents per the attached checklist must be presented to the Building Department prior to being filed with the Town Clerk. The required documentation, **ALL** of which must be submitted on the date of filing, is listed on this Application. **THE RULES AND REGULATIONS ("RULES") OF THE TOWN OF HARWICH BOARD OF APPEALS APPLY TO ALL APPEALS AND APPLICATIONS AND SHOULD BE CONSULTED BEFORE FILING AN APPEAL OR APPLICATION TO ENSURE COMPLIANCE WITH THEM.**

To the Zoning Board of Appeals, Harwich, MA:

- (We, I) hereby petition your Board for a public hearing on the request for action checked below:
- Appeal from decision of or refusal of permit application by the Building Inspector, Selectmen or Planning Board or other administrative officer or officers.
- Application for a Variance from requirements of the Harwich Zoning By-Law.
- Application for a Special Permit that is subject to Board of Appeals approval.

I/we am/are the owner[s]/agent of the property involved in this petition, which is located in Harwich, MA at the following address:

32 Deer Run Said property is further described on
Assessor's Map # 35 - P1-2-0 and Parcel # CH-1+RM located in the _____ Zoning District as shown on the attached plan.

Describe Petition/Appeal: see attached

Relief requested - Cite specific Bylaw Section(s):
see attached correspondence from Building Commissioner

Signature of Owner (or Agent) [Signature] City for JOHN CANDUCCI Date 9/22/2022
(Written authorization by the owner must accompany an Application signed by agent.)

Owner Name John Canducci Phone No. 508-432-1643

Mailing Address: 9R Sunrise Ave, Plymouth, MA 02360

Agent Name: William D. Crowell Esq. Phone No. 508-432-1643

Mailing Address: 466 Main St. P.O. Box 1850 Harwich Port MA 02646

Has a petition previously been submitted for this property (Y/N) (N)

If yes, the date of original hearing _____ Petition No. _____ Decision _____

For Appeal Only:

Reason for Denial: _____

Denial From: _____ Date of Denial: _____

Within 14 days following any Board decision, the Board will file its decision with the Town Clerk. A building permit will not be issued during the appeals period, until 21 days after the Board of Appeals decision has been filed with the Town Clerk or if an appeal to that decision has been filed during that time. It is the **applicant's responsibility** to have the decision recorded at the Barnstable County Registry of Deeds or Land Court, whichever may be applicable, and to present copies of that recording to the Town Clerk and to the Building Department with all Building Permit application requirements.

Please be advised that incomplete Applications may result in a delay in processing your appeal/Application and may result in a denial by the Board without consideration of the merits of the appeal/Application. **IT IS YOUR RESPONSIBILITY TO REVIEW THE RULES THAT APPLY TO YOUR APPEAL/APPLICATION AND TO MAKE SURE BEFORE FILING THAT YOUR APPLICATION/APPEAL COMPLIES WITH THOSE RULES.** The burden of proof is on the petitioner, not on the Town. If you do not understand the criteria, legal counsel should be sought. Either the petitioner or his/her agent is required to appear at the hearing to present the Application.

All applicants for hearing before the Board of Appeals must complete this Application and submit along with it the supporting documentation listed herein to the Building Department for review and subsequent filing with the Town Clerk. The Building Department accepts Applications during posted hours. You are strongly encouraged to submit your Application to the Building Department well in advance of the filing deadline to allow adequate time for staff review for completeness. All information, including the applicable fee made payable to the Town of Harwich, must be submitted with the Application.

Please submit the following, sorted and grouped into twelve (12) packets along with one (1) Certified Abutters List (Available from the Assessors Department. A separate application and fee is required):

- ✓ **The original Application (additional stamped copies can be provided at a nominal fee):**
 - Signed by the owner or agent.
 - If signed by an agent, a letter of authorization signed by the owner must also be included.
- ✓ **A typewritten narrative to explain the project, the purpose for this Application and the relief requested, with citations to the applicable provisions of MGL and the Harwich Zoning Bylaws.**
- ✓ **The original and eleven (11) copies of a Certified Plot Plan with topographical information plan (not septic plans) not more than five (5) years old (total of 12 copies):**
 - 8½" x 11" or larger. *Larger plans must be folded.*
 - Scale no greater than 1" = 50'
 - Original stamped and signed by a Professional Engineer (as allowed by law), or a Professional Land Surveyor.
 - Certified Plot Plan must indicate:
 - the locus;
 - the parcel or parcels of land involved;
 - the existing building or buildings;
 - the proposed building or buildings and/or additions to, or alterations of existing buildings with all dimensions set forth;
 - the location of the septic;
 - the Town of Harwich zoning requirements applicable to the property, as well as existing and proposed dimensions for: frontage, front, sides, and rear setback distances, building height(s), building stories, building and site coverage and parking requirements (if any);
 - all perimeter dimensions (existing and proposed);
 - location and width of abutting and on-site street and drives, parking, existing topography;
 - a grading plan, areas of proposed and retained vegetation, distinction between upland and wetland.
 - Building Plans drawn to scale:
 - Floor layout (for existing structure and proposed additions and/or alterations)
 - Proposed front, side, and rear elevations
- ✓ **Certified Abutters List**
- ✓ **Check made payable to "Town of Harwich" for \$315.00.**

APPLICATION CHECKLIST ADDENDUM

This Addendum must be completed in full by the Applicant and is a part of the Application.

Name of Applicant: John Carlucci

Address of Property: 32 Deer Run

Zoning District: CH-1 + RM

Is the property Located in any Special District(s)/Overlay District(s) established by the Town of Harwich or the State of Massachusetts: Yes No

If Yes, specify District(s): _____

Year Structure(s) Built: n/a

Name/Address of Engineer/Architect: n/a

William D. Crowell, Esq.
466 Main St., Box 185
Harwich Port, MA 02646

Name/Address of Attorney: _____

	Required by Bylaw	Existing	Proposed
Lot Area	CH+RM 40,000	20,465	20,465
Frontage	" " 150	115	115
Front Yard Setback	" " 25	N/A	> 25'
Side yard Setback	" " 20	N/A	> 20'
2 nd Side Yard Setback	" " 20	N/A	> 20'
Rear Yard Setback	" " 20	N/A	> 20'
Building Coverage	CH-30% RM-20%	N/A	< 30%
Site Coverage	CH-70% RM-35%	N/A	< 70%
Building Height	< 30'	N/A	< 30'
If this is an Application for an Accessory Apartment, in addition to the above:			
A. Net Floor Area of the Principal Dwelling			
B. Net Floor Area of the proposed Accessory Apartment			

Form of Relief Requested: Variance

If the Applicant is requesting a Variance, state the hardship which the Applicant believes justifies this form of relief in accordance with MGL Chapter 40 and the Harwich Zoning Bylaw:

By signing and submitting this Application, you hereby authorize the members of the Board of Appeals, or its agent, to conduct a site visit of the exterior of your property for an inspection of the property involved in this petition, should they deem it appropriate.

The Board of Appeals is entitled to rely on the information contained in this Application. Therefore, the undersigned certifies that the information provided in this Application, and all submitted plans and other documentation, is true and accurate to the best of my knowledge and belief.

Applicant's Signature: _____

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal stroke and a diagonal stroke extending downwards and to the right.

Date: 9/22/2022

Owner's Signature: _____

Date: _____

Canducci – 32 Deer Run

The Petitioner is seeking a variance from the minimum lot size requirement and the minimum frontage requirement for the property located at 32 Deer Run. The Petitioner purchased said property as a vacant lot for \$185,000.00 on September 11, 2008 (see copy of enclosed deed and Land Court Plan 17251-B). Also enclosed is a copy of a Septic Design Plan by Sweetser Engineering dated July 28, 2003 that was approved by the Board of Health on February 24, 2006, (Permit Number 06-30 that was issued pursuant thereto), a Deed Restriction limiting the proposed dwelling to two bedrooms by the Board of Health recorded as Document Number 925,727 on June 19, 2003 at the Barnstable County Registry of Deeds and a copy of the first floor plan for the proposed dwelling by Living Designs dated August 11, 2003. Finally, enclosed are current Plans, undated, for the proposed dwelling to be constructed by the Petitioner. Said dwelling will be slightly smaller than the dwelling shown on said Septic Design Plan, but in any event, will meet current front (25') and side (20') set-backs.

Enclosed is a copy of the Denial Letter by the Building Commissioner dated September 19, 2022 indicating that the subject lot must contain 40,000 square feet and have 150 continuous feet of road frontage. Also enclosed is a copy of the minutes of the Harwich Planning Board Meeting dated October 15, 1991 indicating in paragraph 6. that "all lots have the required area and frontage." The Planning Board voted unanimously to approve said Plan which was duly recorded in Plan Book 483 page 98 (copy enclosed).

Unfortunately, the requirements for a single-family residential dwelling in the CH-1 district at the time of the approval of said Plan by the Planning Board required 40,000 square feet of area and 150 feet of frontage, although a commercial structure in said zone at that time only required 20,000 square feet of area and 100 feet of frontage as well as side and rear setbacks of 10 feet and front setback of 25 feet.

Obviously, there was confusion by both the Town of Harwich and the prior owner in 2003 and thereafter with the Petitioner regarding the applicable zoning requirements for a single-family residence as opposed to a commercial structure on the subject lot. It is also worth noting that all other surrounding lots have been built upon. The Petitioner has a financial hardship as he would now like to construct his desired dwelling on said lot, substantially as originally planned, has spent \$185,000 to purchase the same and has paid approximately \$28,000 in real estate taxes for the last 14 years and cannot build his retirement home on said lot, as planned, without variances for the same by this Board.

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QUITCLAIM DEED
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WALDEN CORPORATION, a Massachusetts Corporation with its principal place of business at
451 Main Street, Harwich, Massachusetts 02645,

for consideration paid, and in full consideration of ONE HUNDRED EIGHTY-FIVE
THOUSAND AND 00/100 Dollars (U.S. \$185,000.00)

grant to JOHN CANDUCCL, Individually, of 9R Sunrise Avenue, Plymouth, Massachusetts 02360

with *quitclaim covenants* the following property in Barnstable County, Massachusetts.

LOT 2
Land Court Plan 17251-B

Property Address: 991 Route 28, Harwich, Massachusetts 02645

For title, see Certificate of Title No. 163065.

In witness thereof, the said WALDEN CORPORATION has caused its corporate seal to be hereto
affixed and to be signed in its name and behalf

Walden Corporation

By:


Robert B. Dunphy, President and Treasurer

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE LAND COURT REGISTRY
Date: 09-11-2008 @ 03:22pm
Ct1#: 1317 Doc#: 1097685
Fee: \$421.80 Cons: \$185,000.00

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE LAND COURT REGISTRY
Date: 09-11-2008 @ 03:22pm
Ct1#: 1317 Doc#: 1097685
Fee: \$632.70 Cons: \$185,000.00

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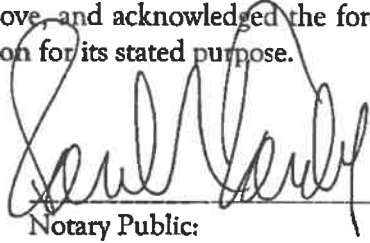
Barnstable, ss.

OFFICIAL
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September 11, 2008

On this 11th day of September, 2008, before me, the undersigned notary public, personally appeared Robert B. Dunphy, President and Treasurer, and proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photograph image, oath or affirmation of a credible witness known to me who knows the above signatory, or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing instrument to be the free act and deed of Walden Corporation for its stated purpose.

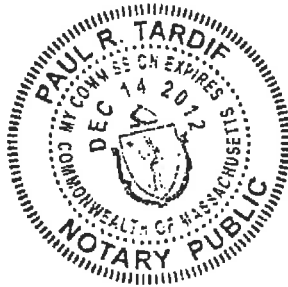


Notary Public:

My Commission Expires:

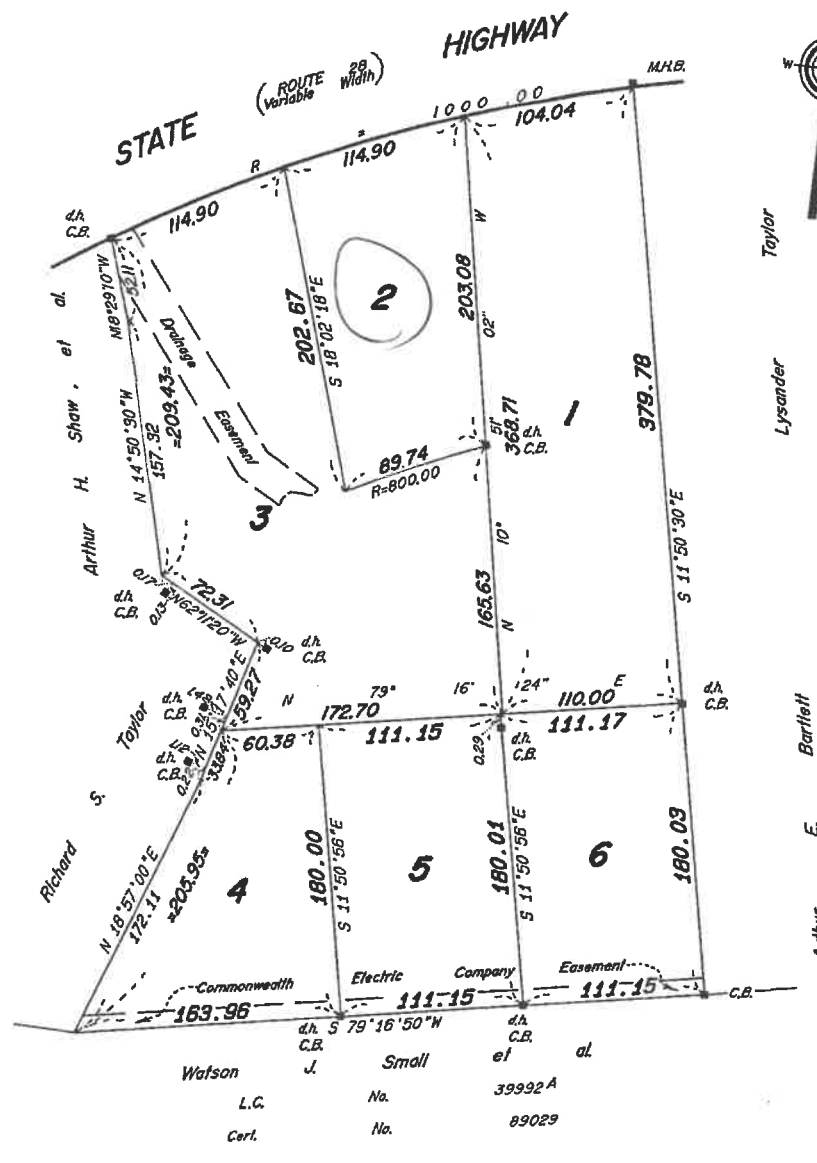
12-14-12

AFFIX SEAL HERE



17251B

NOT AN OFFICIAL COPY
SUBDIVISION PLAN OF LAND IN HARWICH OFFICIAL COPY
Moran Engineering Inc., Surveyors
MAY 6 1991
NOT AN OFFICIAL COPY



Subdivision of Lots A and B
Shown on Plan 17251-A
Filed with Cert. of Title No. 6077
Registry District of Barnstable County
Separate certificates of title may be issued for land
shown hereon as Lots 1 through 6
By the Court.

Charles Crowley
Recorder.

April 14, 1992
SR 57-121

Abutters are shown as
on original decree plan.
Copy of part of plan
filed in
LAND REGISTRATION OFFICE
April 14, 1992
Scale of this plan 80 feet to an inch
Louis A. Moore, Engineer for Court

N O T D E E D R E S T R I C T I O N O T
A N A N

Notice is hereby given of the approval by the Town of Harwich Board of Health of a deed restriction for the property located at 991 Route 28, shown on the Town Assessor's records on Map 35 as Lot P1-2-R. This property is shown on Land Court Plan 17251-B as Lot 2 and is owned by Walden Corp., a Massachusetts corporation with a mailing address of 218 Blue Rock Road, South Yarmouth, Massachusetts 02664. For title, see Certificate of Title No. 163065.

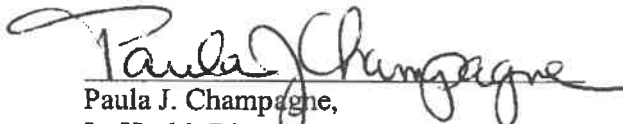
A L O F F I C I A L
C O P Y C O P Y


The property is hereby restricted to a maximum of two (2) bedrooms, as defined in 310 CMR 15.000: THE STATE ENVIRONMENTAL CODE, TITLE 5 and the Town of Harwich Board of Health regulations.

Executed as a sealed instrument by Paula J. Champagne, Health Director for the Town of Harwich, and by Robert B. Dunphy, Jr., as President and Treasurer of Walden Corp., this 19 day of June, 2003.

TOWN OF HARWICH
By:

WALDEN CORP.
By:



Paula J. Champagne,
Its Health Director

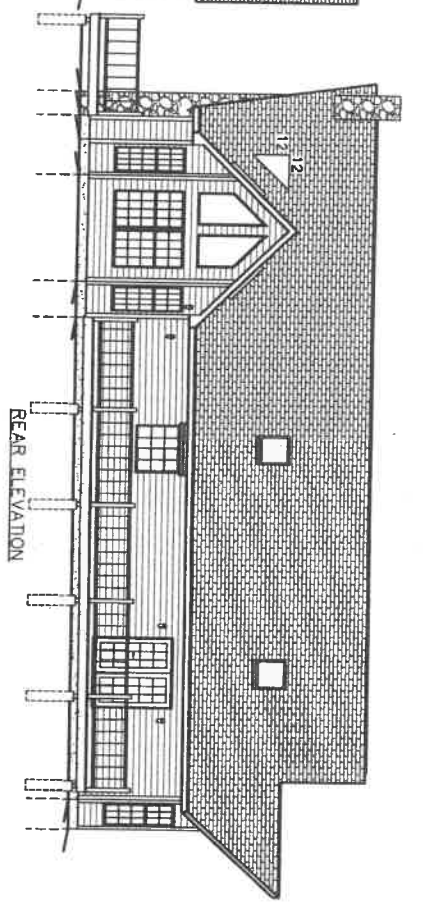
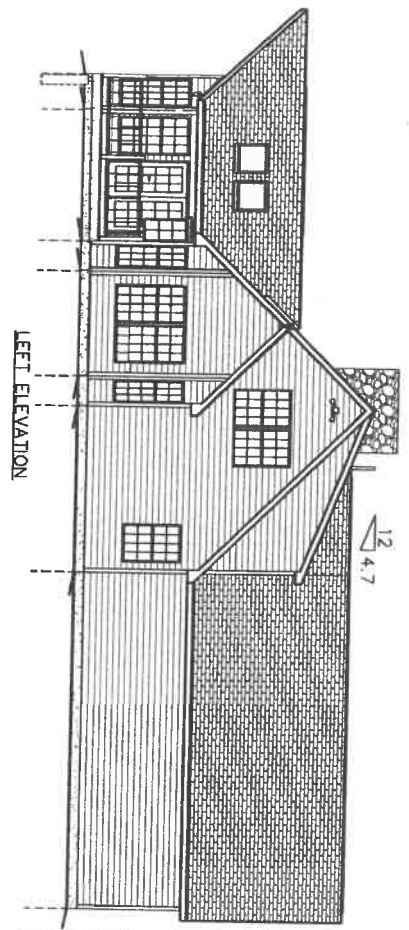
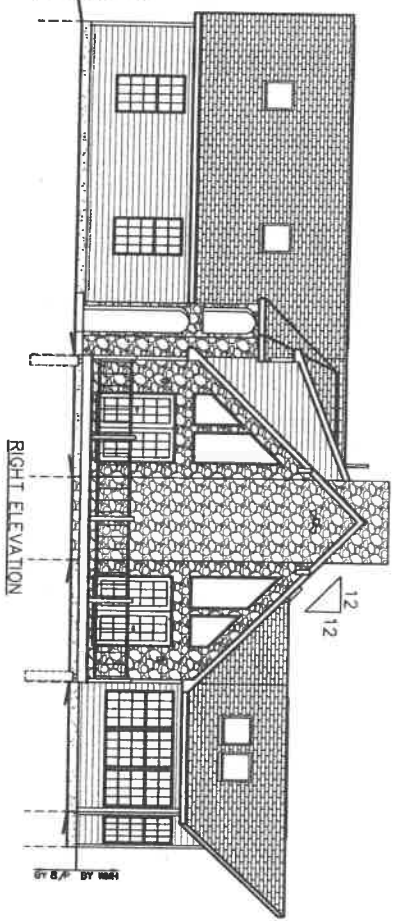
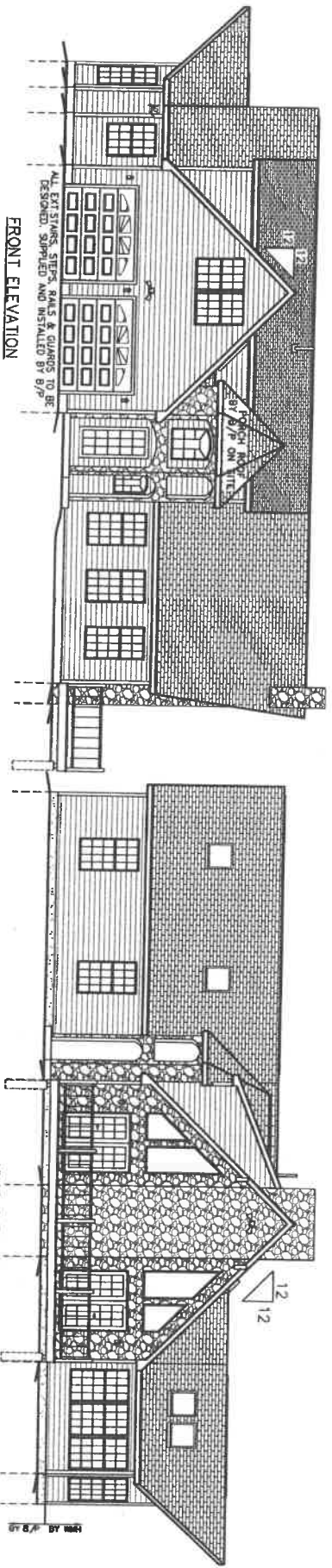

Robert B. Dunphy, Jr.,
its President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

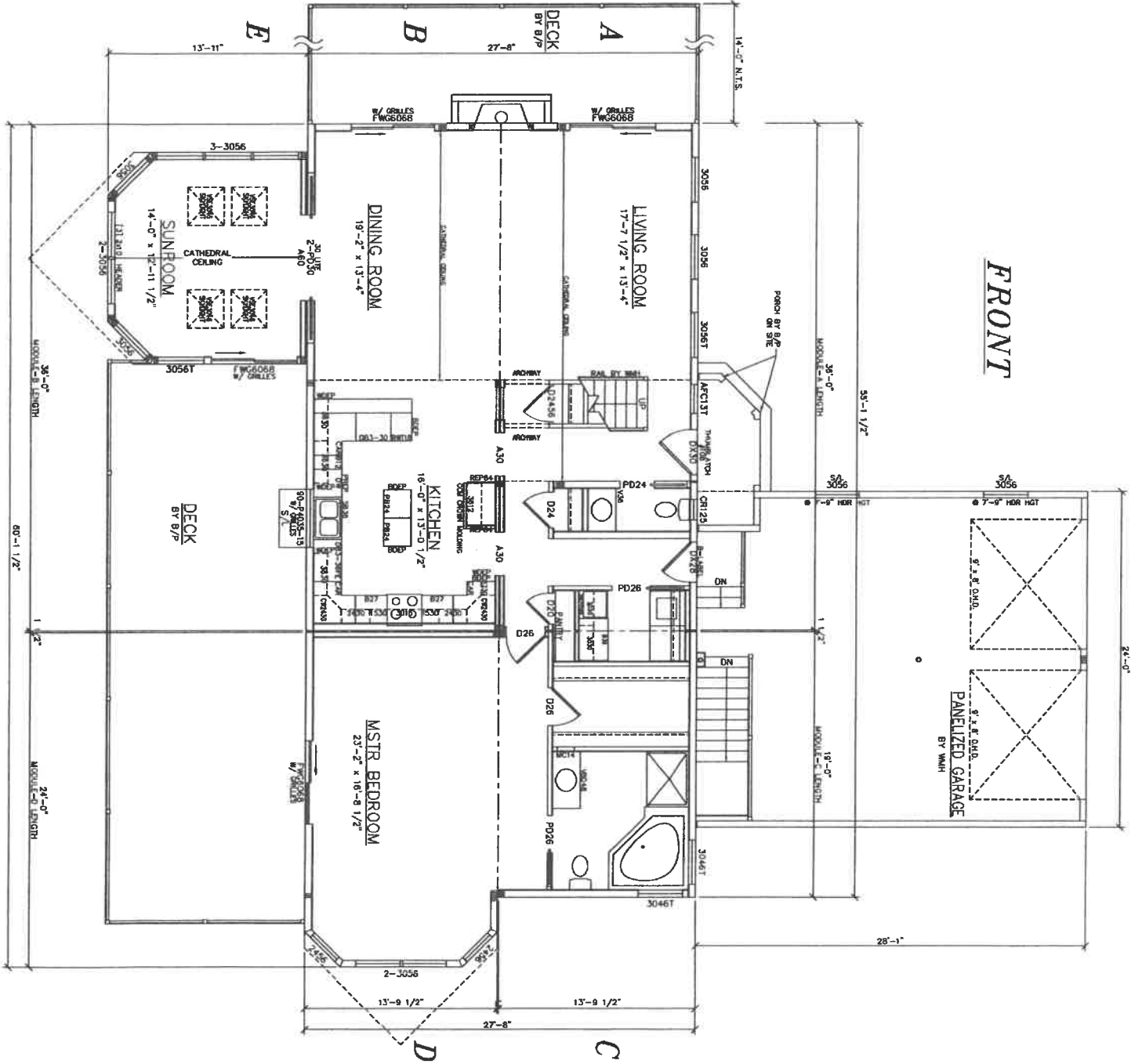
Barnstable, ss.

Then personally appeared the above-named Robert B. Dunphy, Jr., President and Treasurer of Walden Corp., and acknowledged the foregoing instrument as his free act and deed, and the free act and deed of Walden Corp., this 19 day of June, 2003.


Notary Public Steven A. Ross
My commission expires:
2/25/05



FRONT



TOWN OF HARWICH
Building Department
732 Main Street
Harwich, MA 02645



Telephone: (508) 430-7506

Fax: (508) 430-4703

By First Class Mail

September 19, 2022

John Canducci
9R Sunrise Ave
Plymouth, MA 02360

Re: Zoning Relief Required
Building Permit Application No. BLD-23-000399
32 Deer Run, Harwich, MA. 02645 (Assessor's Map 35-P1-2)
Zoning District CH-1

Dear John Canducci:

Thank you for providing the site plan as part of the Building Permit application for the single-family dwelling on 32 Deer Run.

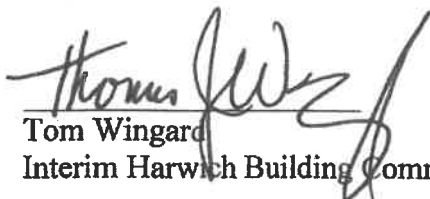
In accordance with Town of Harwich Zoning Regulations §325-21, *Table 2, Area Regulations*, the minimum lot area for a single-family dwelling, in the CH-1 Zoning District, is 40,000 square feet. 32 Deer Run has 20,573 sq. ft. of lot area. The required frontage for a single-family dwelling is 150 continuous feet. 32 Deer Run has approximately 115 continuous ft. 32 Deer Run is deficient in 2 facets of the minimum area requirements for a single-family dwelling.

I deny the issuance of a Building Permit for a single-family dwelling based on this information.

You may appeal my decision to the Harwich Zoning Board of Appeals, in accordance with MGL 40A section 10 – Variances.

Please feel free to contact the Building Department to discuss further, as necessary.

Respectfully,


Tom Wingard
Interim Harwich Building Commissioner

Cc: File

HARWICH PLANNING BOARD MEETING

Tuesday, October 15, 1991

6:30 P.M.

Hearing Room B - Town Hall

Members present: Ken Mason, Bruce Jussila, Bob Widegren, Mary Beth Cuddy,
Phil Eagan, Roy Mennell, Cherian Armstrong (8:00 P.M.)

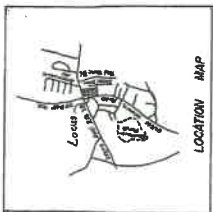
Members absent: Bob Gersh, Paul Doane

Planning Board sympathies are extended to member Bob Gersh on the loss of his wife.

1. Attorney Mary Beth Cuddy's office has taken on Dr. Fennell as a client so as to avoid conflict of interest she will not vote or take part in any presentations by them.
2. Master Plan Work. Existing land use both residential & non-residential - discussed. Accessory apartments reviewed. Only 15 applied for since 1984. Nitrate loading should be calculated also - to determine the buildability of accessory apartments on certain lots. Older buildings should be considered also, so as to maintain the village character. 792 multi-family units in Town - now. Not too much potential for more - per Mike. Density & site coverage problems in Campground area discussed due to additions and conversions from seasonal to year-round use trends. Bucks Pond area is also a high density problem which should be addressed.

Table VI-9 - discussed. Column headings are confusing & need to be revised. Footnotes could be added. Allowed coverages should be stated.
3. Minutes from September 17, 1991. Bob made motion to approve. Roy seconded. Unanimous to approve.
4. Bassett - Adequacy-of-Access. Town Engineer report states it is not adequate. Fire Dept. report does not support adequacy. Police Dept report read. Not adequate for emergency vehicles & not approved. Brush has to be cleared & road widened & heightened. Line of sight exiting road is a problem also. Motion by Bob to deny adequacy-of-access. Bruce seconded. Unanimous to approve.
5. ANR PLAN - Roger Munsey. Moran Engineering representing. Property located off Kendrick Road. Lot lines for Lot #2 & 3 being changed. Lot #3 to be acquired by adjoining Lot. Roy made motion to approve - with stipulation that Lot #3 be stamped as unbuildable. Phil seconded. Unanimous to approve.
6. ANR PLAN - William Zoino. Moran Engineering representing. 7 Lots at Route 28 & Uncle Venies Road. All Lots have the required area & frontage. Bruce made motion to sign plan. Bob seconded. Unanimous to approve.
7. ANR PLAN - William Zoino. Moran Engineering representing. 6 Lots at Route 28 & Uncle Venies Road. Land Court Plan motion by Roy to approve. Bruce seconded. Unanimous to approve.
8. Informal Discussion - Arthur Bloomer. Attorney Robert Hall spoke to Board regarding development of a miniature golf course on Route 39 (next to East Harwich Post Office). Special permits applied for - from Bd. of Appeals. Larry Wilcox stated zoning compliances, (as noted on plan).

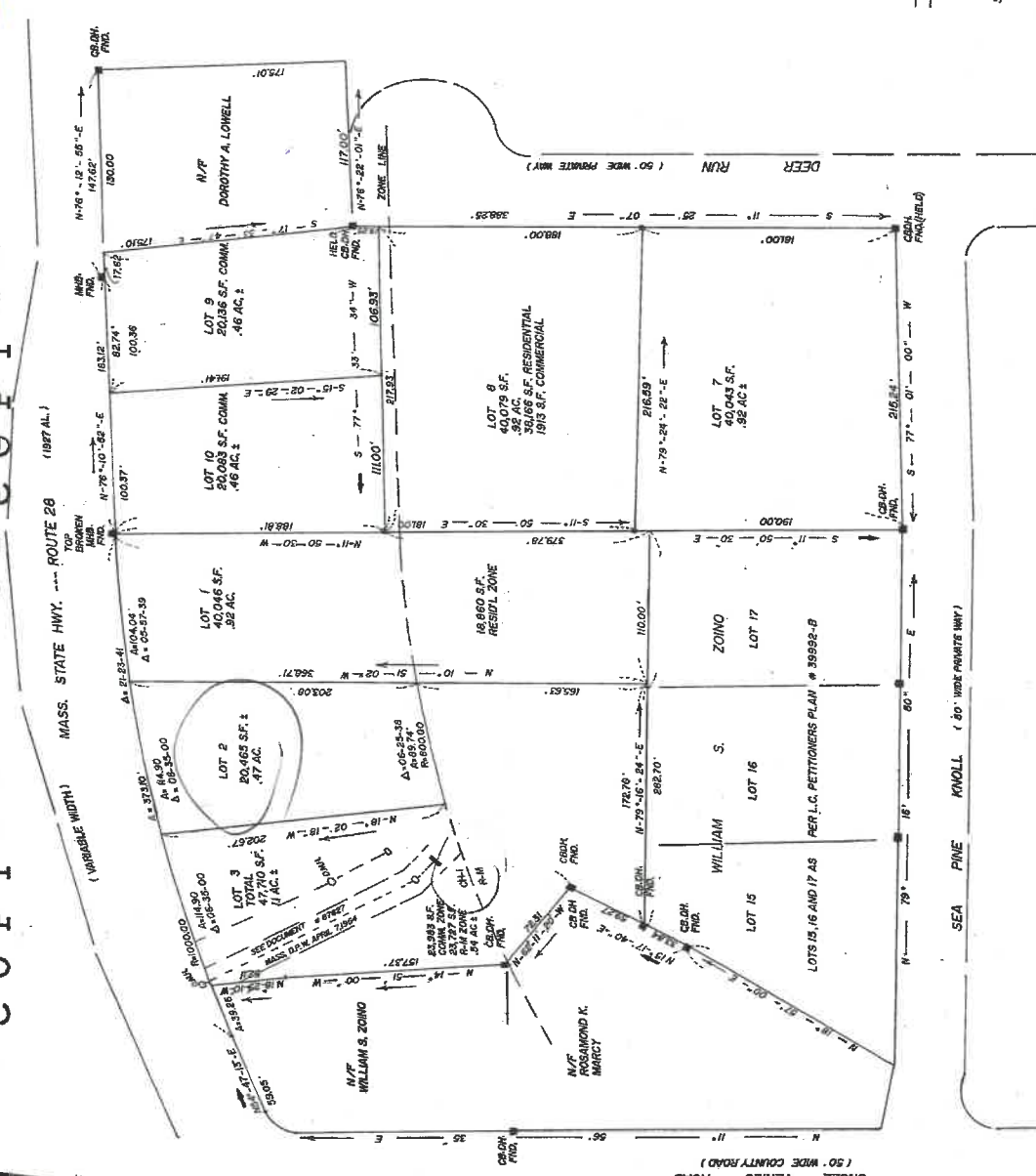
BOOK 483-98 OF ENANTIAL OF ENANTIAL



ASSESSORS MAP 38
PARCELS P, P-1, P-2, P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10, P-11, P-12, P-13, P-14, P-15, P-16, P-17, P-18, P-19, P-20, P-21, P-22, P-23, P-24, P-25, P-26, P-27, P-28, P-29, P-30, P-31, P-32, P-33, P-34, P-35, P-36, P-37, P-38, P-39, P-40, P-41, P-42, P-43, P-44, P-45, P-46, P-47, P-48, P-49, P-50, P-51, P-52, P-53, P-54, P-55, P-56, P-57, P-58, P-59, P-60, P-61, P-62, P-63, P-64, P-65, P-66, P-67, P-68, P-69, P-70, P-71, P-72, P-73, P-74, P-75, P-76, P-77, P-78, P-79, P-80, P-81, P-82, P-83, P-84, P-85, P-86, P-87, P-88, P-89, P-90, P-91, P-92, P-93, P-94, P-95, P-96, P-97, P-98, P-99, P-100

DEED REFERENCE BK. 3018 PG. 129
CERT. # 670165
PLAN REFERENCE L.C. PLAN 17281-A
PL. BK. 59 PG. 49

REV. 8/15/10



PLAN OF LAND
IN
HARWICH, MASS.

PREPARED FOR: WILLIAM S. ZOINO
PLAN BY: MORAN ENGINEERING, INC.
941 MAIN STREET
S. HARWICH, MASS. 02661

SCALE 1" = 40' DATE



I hereby certify that this plan has been prepared in conformity with the rules and regulations of the Registrars of Deeds of the Commonwealth of Massachusetts.

James S. Morris
PROFESSIONAL LAND SURVEYOR

483-98

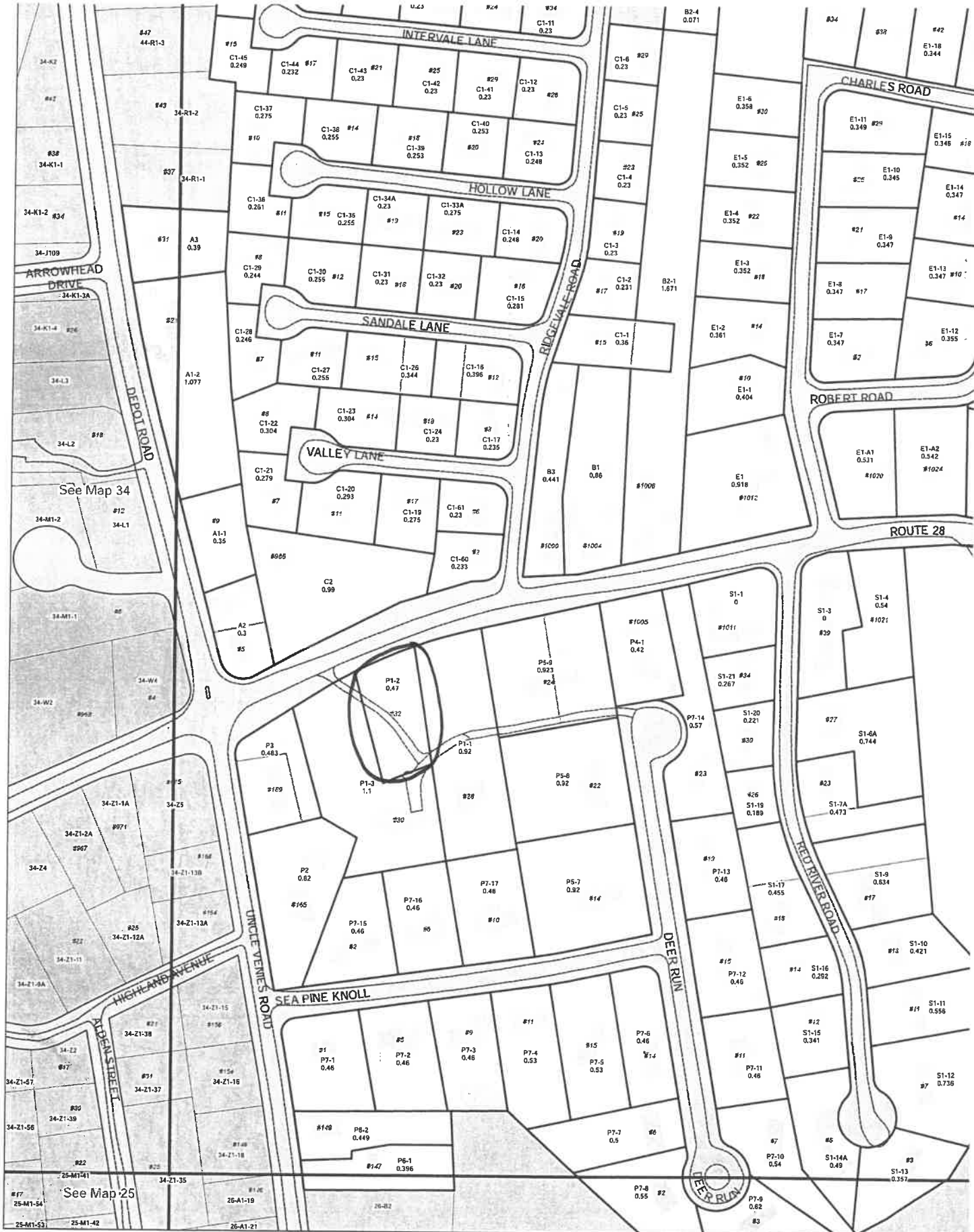
HARWICH PLANNING BOARD
APPROVAL UNDER SUBDIVISION CONTROL
LAW NOT REQUIRED

James S. Morris

DATE: 10/15/10

10/15/10

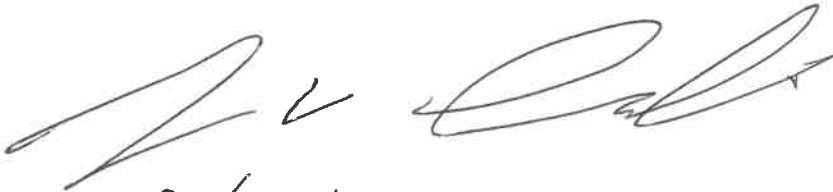
483-98



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 Division: MapInfo® Commercial Solutions
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 800.292.4540 - www.cai-tech.com

Note:
 These maps are not intended for use in conveyancing or for engineering design purposes. The Town of Harwich and its representatives shall not be held liable for any reuse of this information.

I, John Canducci – owner of 32 Deer Run– hereby authorize hereby authorize William D. Crowell, Esq. to represent me before the Town of Harwich Board of Appeals regarding the same.

A handwritten signature in black ink, appearing to read "John Canducci". The signature is fluid and cursive, with a large initial "J" and a distinct "C" for "Canducci".

9/21/2022