



Attorneys at Law
15 West Street
Mansfield, Massachusetts 02048
Main - 508-339-0781
Fax - 508-339-0500
Mail Address - Mansfield
www.valanzolalaw.com

1 Lincoln Street, 24th Floor,
Boston, MA 02111

HAND DELIVERED

July 29, 2021

Town Clerk
Foxboro Zoning Board of Appeals
40 South Street
Foxborough, MA 02035

RE: 227 Cocasset Street, Foxboro, MA / Map 95, Parcel 008

Dear Sir/Madam,

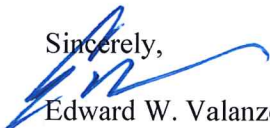
This office represents Maurice and Sharon Brodeur, who reside at 217 Cocasset Street, Foxboro, Massachusetts. My clients are filing an Administrative Appeal with the Zoning Board of Appeals. Enclosed please find:

1. Application including Exhibits A – I (8 copies)
2. Copy of Assessor's map (8 copies)
3. Email communications with Building Inspector regarding his promise to act. He has refused to do so. See Exhibit "F".
4. Certified Abutter's list
5. Check for \$150 for the filing fee.

Please schedule this matter for hearing with the Zoning Board of Appeals at the next scheduled hearing, which I understand will be held on August 19, 2021.

Please let me know if you require any additional information.

Sincerely,



Edward W. Valanzola

Enclosures EWW/sm

21Z-8



BOARD OF APPEALS
TOWN OF FOXBOROUGH

40 SOUTH STREET
MASSACHUSETTS
02035

RECEIVED
TOWN CLERK

2021 JUL 29 P 2:58

FOXBOROUGH, MA 02035

APPLICATION FOR BOARD OF APPEALS HEARING

Name of Applicant: Maurice + Sharon Brodeur Tel # 774-719-0275 *c/o Atty Edward Valanzola*
Mailing Address: 217 Cocasset St. Foxboro Email: ed@vlawgrp.com
Location of Property Subject of the Hearing: 227 Cocasset St Foxboro MA
Assessors Map #: 95 Parcel #: 008 Zoning District: R 40

Is the property located in any zoning overlay district? No Yes If yes, please identify overlay district _____

Owner of Subject Property (if different than applicant): Lepardo Antonetta A. Trustee
Address of Owner (if different than applicant's address): PO Box 345 Foxboro MA 02035

Were previous decisions rendered on the subject property?: No Yes If yes, please

Provide copy of decision(s). August 30, 2003 ZBA decision + May 19, 2005 Special Permit

***NATURE OF APPLICATION (complete appropriate hearing request):**

1. Request for a **SPECIAL PERMIT** under Section _____ of the Zoning By-Laws to allow _____

2. Request for a **VARIANCE** from Section _____ of the Zoning By-Laws to allow _____

3. An **ADMINISTRATIVE APPEAL** in accordance with Section 10.2.2 of the Zoning By-Laws (explain): see Exhibit "A" attached hereto and incorporated herein.

4. **OTHER** (i.e. Comprehensive Permit, Finding or Sign Bylaw - Chapter 213 Signs)
Explain: _____

*If necessary, attach additional description page(s).

Edward Valanzola, Attorney for
I, Maurice + Sharon Brodeur as applicant, hereby request a hearing before the
Foxborough Zoning Board of Appeals as referenced in the above application.

Applicant's Signature: By their Attorney, EKV Date: 7/28/21

***If applicant is other than owner of subject property, owner must sign authorization below.**

I, _____ as owner of subject property, hereby authorize the
applicant, _____, to act on matters before the Foxborough
Zoning Board of Appeals as referenced in the above application.

Subject Property Owner's Signature: _____ Date: _____

Official Use Only

Tax Collector's Release

The above referenced applicant is applying for a permit from the Zoning Board of Appeals and is
in good standing with respect to any taxes, fees, assessments, betterments or other municipal
charges as recorded with the Treasurer's Office.

Tax Collector or Agent's Signature: _____ Date: _____

Town Clerk Receipt

The above referenced application has been received and recorded with the Town Clerk.

Town Clerk or Agent's Signature: [Signature] Date: 7-29-21

INSTRUCTIONS FOR APPLICATION FILING: INCLUDE EIGHT (8) COPIES EACH.

- ✓ 1. Completed application with all signatures affixed.
- ✓ 2. Copy of assessor's map showing parcel subject to hearing.
- H/A 3. Plot Plan, certified by land surveyor or civil engineer showing proposed work (Mortgage survey plans will not be accepted).
- N/A 4. Construction plans showing building elevations with dimensions (if applicable).
- ✓ 5. If an administrative appeal, include denial letter or zoning determination from the Building Commissioner or other Town Official (if applicable).
- ✓ 6. Abutter's List (within 300 feet of subject property), certified by the Town Assessor.
- ✓ 7. Any additional documentation relevant to the hearing.
- ✓ 8. Appropriate fees (See Fee Schedule)

FILING AND ADVERTISING FEES

(a) A filing fee shall be made payable to the "Town of Foxborough" as follows:

Application Type	Filing Fee*
(i) Single and Two-Family Special Permits (including home occupations), Variances and Findings	\$150
(ii) Multi-Family Special Permits, Variances and Findings	\$200 plus \$75 for each unit in excess of 2
(iii) Non-Residential Special Permits, Variances and Findings	\$300
(iv) Signs	\$200
(v) Appeals of Building Commissioner/ Zoning Enforcement Officer	\$150
(vi) Comprehensive Permits	As determined in accordance with Section 5.03 of the Foxborough Zoning Board of Appeals Rules and Regulations

** Each request within an application is subject to and requires payment of the filing fee that is applicable thereto. For example, an application requesting both a special permit and a variance for a non-residential use would require payment of a \$600 filing fee.*

(b) An advertising fee shall be made payable directly to The Sun Chronicle (or such other locally-distributed newspaper in which the Board designates the required hearing notice to be advertised) in such amount as is required thereby.

EXHIBIT "A" TO APPLICATION FOR BOARD OF APPEALS HEARING
RE: 227 COCASSET STREET, FOXBORO, MA

RECEIVED
TOWN CLERK

2021 JUL 29 P 2:58

FOXBOROUGH, MA 02035

Exhibit list:

- A - This supplement to application
- B - 8/30/03 ZBA decision
- C - 5/19/05 Pl. Bd, SP
- D - 10/30/20 & 11/18/20 violation notices to owner
- E - 12/9/20 request for zoning enforcement
- F - 6/24/21 2nd request for enforcement action
- G - 6/15/21 Bay Colony letter
- H - 7/14/21 Bay Colony letter
- I - OHI Engineering Report

This office represents Maurice R. Brodeur and Sharon L. Brodeur, owners of 217 Cocasset Street, Foxboro, Massachusetts. My clients' property directly abuts the Oiltime Property.

In 2003 the owner of the Oiltime Property filed an application with the Board of Appeals requesting a finding that to tear down the existing structure and to construct a new structure so that it could update and improve its facilities as well as consolidate some of its equipment (mainly oil trucks) indoors. On August 30, 2003 the Board of Appeals decision was filed with the Town Clerk (the "ZBA Decision"). The Board of Appeals decision (See **Exhibit "B"**) states that the applicant proposed to construct a one story 4,750 square foot metal building and that the rear portion of the new building "will be mainly for the indoor parking of fuel trucks (presently 6) with a capacity for 8 trucks." According to the decision, "The need to have the trucks indoors is the main reason for the expansion of the overall size of the petitioners building. Also, Oil Time expects to be able to store other business related materials inside as well be able to improve the overall appearance of the property." The Board of Appeals determined that "the proposed extension, reconstruction and alteration will not be substantially more detrimental than the existing non-conforming structure and use to the neighborhood".

On May 19, 2005, a Special Permit and Finding decision (the "SP Permit & Finding") of the Town of Foxborough Planning Board was signed by the Town Planner (See **Exhibit "C"**). Prior to acting on the Special Permit, the Planning Board made findings that the proposed use "is not substantially more detrimental than the pre-existing use of the site as a retail oil distribution facility". The board determined that the existing use of the site was a retail oil distribution facility. The Planning Board voted unanimously to approve the site plan with 22 enumerated conditions and findings. Some of the pertinent conditions/findings are as follows:

5. The Special Permit and finding are specifically to allow the use of the site for retail fuel oil distribution, on site propane retail sales, and on site spring water retail sales.
8. There shall be no outdoor storage of vehicles and materials except for the Oil Time oil and propane delivery business.
16. The applicant or successors are required to maintain the drainage system in accordance with the Operation and Maintenance Plan for Stormwater BMP's. Failure to maintain the drainage system will be considered a violation of this approval.

20. The applicant must file a Notice of Intent and comply with the Order of Conditions issued by the Conservation Commission. Therefore, a final release of the performance guarantee may not occur until the applicant obtains a Certificate of Compliance from the Conservation Commission.

On October 30, 2020 and then again on November 18, 2020, the Building Commissioner Zoning Enforcement Officer for the town sent notices to the owner of record of the Oiltime Property, wherein he stated that “there appears to be an additional unpermitted business – Sitework Specialist – operation at the property.” The notices further provide that: “This additional use appears to violate your Planning Board Approvals from May 2005.” In the notice he states further that the complainant also claims that condition #16 is not being adhered to. See **Exhibit “D”**.

On December 9, 2020 applicant’s attorney sent correspondence, including exhibits, to Mr. Ringler and to Ms. Duncan requesting enforcement action. See **Exhibit “E”**.

The Planning Board held an “informal hearing” on January 14, 2021, in which the applicants and their attorney participated. The property owner was allowed until May 31, 2021 to remedy the zoning violations. The applicants appreciate that the property owner has remedied some of the violation, but there remain a number of violations.

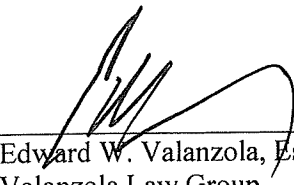
On June 24, 2021 applicant’s attorney emailed Mr. Ringler again requesting him to take enforcement action. See **Exhibit “F”**. Mr. Ringler responded the next day and wrote: “Thank you for your time and your thoughts. I will begin enforcement action.” See Exhibit “D”. Later on June 25th Mr. Ringler sent a 2nd email stating: “I will be out of our office 28th and 29th. I will put it together Wednesday morning without fail as I do not believe all P.B. conditions have been met.” See Exhibit “D”.

The continued violations of the 2003 ZBA Decision, the 2005 SP Permit & Finding, and applicable town by laws, at the Oiltime Property, include but are not limited to the following:

1. The RV Trailer is still on the property (applicants’ attorney was told on a few occasions by Mr. Ringler that it would be removed). More recently he has stated that it is not going to be removed because he was told it is registered to Oil Time or used by the Oiltime employees. This is not a vehicle used by an oil company in the course of its business.
2. A Siteworks dump truck (siteworks signs on truck removed) is still on the property; Again, doesn't matter how it is registered and what sign they put on the truck, a dump truck, that was used in the Siteworks business cannot suddenly be repurposed and claimed it is used in the oil business. It is simply not credible to suggest the dump truck is used in the oil business. See condition 8 above: “There shall be no outdoor storage of vehicles and materials except for the Oil Time oil and propane delivery business”
3. Old Steel construction beams have been placed along the property line. These serve no purpose for the oiltime business.
4. It was not until the letter dated June 15, 2021 from Bay Colony Group, that the applicants received a response regarding the detention area and swale and if they are functioning properly. See “**Exhibit “G”**”. Bay Colony's June 15, 2021 letter does not describe correctly what should be there. It should be a detention area and swale along the back. The correspondence describes a storm water basin. The zoning enforcement officer has been asked to have the town engineer or other town officials independently verify the status of the detention area and swale and not rely solely on the property owner’s engineer, especially when the Bay Colony refers a “storm water basin”. This should have been inspected by the town months ago.

5. The applicant has had no response about the outstanding order of conditions until receiving a copy of the July 14, 2021 correspondence from Bay Colony Group. See **Exhibit "H"**. All violations had to be resolved by May 31, 2021. Applicant's attorney and their engineer, OHI Engineering have provided numerous communications to Mr. Ringler, including a report from OHI Engineering dated April 16, 2021. See **Exhibit "I"**. Months continue to pass, deadlines ignored and only this month Mr. Buckley states that the "*construction of the slab for the water dispensing system*" has not yet been completed. He states that it will be "*completed in the next week or so, weather permitting.*" It has been more than 6 months since the informal Planning Board hearing and the property owner's agreement to rectify everything by May 31, 2021. There is still no Certificate of Compliance from the Conservation Commission.
6. See OHI Engineering report **Exhibit "I"**. See #2, Grades on the 227 Cocasset property appear to be 2-4' higher than shown on the 2005 plans submitted to the Planning Board. The grades need to be restored to what is shown on the 2005. This appears to be causing water run-off onto the applicant's property (this and the complete failure of the property owner to maintain the swale and detention area as required by the SP and Operation and Maint. Plan). Mr Buckley disputes the applicants position in his July 14th correspondence (Exhibit "E"), yet he provides no basis or plans to support his position. Further, the town should independently verify the grades and the effect on the applicant's property.
7. Storage Containers are on the Property. 2 orange containers were placed at the site in the last few years. These are not allowed by the special permit.
8. The applicant's attorney has been told that the buffer area has been loamed/seeded or otherwise created. The loam that was spread and grass seed do not act as a buffer/set back. There are already tire tracks on the new loam. Vehicles continue to drive up to and park near the property line. The purpose of the buffer between a commercial property and a residential property is to provide some distance and noise reduction so as to minimize any nuisance and business operations that are being operated at the Property. While the 2005 Plan shows the buffer and trees (the trees would prevent vehicles from driving closer to the residential property.) the applicant and the Property owner agreed that a fence would provide more privacy and keep people from coming onto the applicant's property. However, this agreement between the parties had nothing to do with the 20' buffer. The buffer provides distance / setback from the residential property. The buffer must still be maintained in a manner (fence, etc) that will keep vehicles and other equipment out of it and away from the residential property boundary.
9. Oiltime trucks continue to park outside overnight. See the ZBA decision. The Board of Appeals decision (See **Exhibit "B"**) states that the applicant proposed to construct a one story 4,750 square foot metal building and that the rear portion of the new building "will be mainly for the indoor parking of fuel trucks (presently 6) with a capacity for 8 trucks." According to the decision, "The need to have the trucks indoors is the main reason for the expansion of the overall size of the petitioners building. Also, Oil Time expects to be able to store other business related materials inside as well be able to improve the overall appearance of the property."
10. There is a gray construction trailer on the Property that should be removed.
11. The landscaping spray tank should be removed from the Property.

Maurice R. Brodeur & Sharon L. Brodeur
By their attorney



Edward W. Valanzola, Esq.
Valanzola Law Group
15 West Street, Mansfield, MA 02048
P – 508-339-0781
F – 508-339-0500
E - ed@vlawgrp.com



RECEIVED BOARD OF APPEALS
TOWN OF FOXBOROUGH

RECEIVED
TOWN CLERK

2021 JUL 29 P 2:58
MASSACHUSETTS
02035

2003 SEP 18 PM 1:59

FOXBOROUGH, MA 02035

August, 2003 FOXBOROUGH, MA 02035	Case # 03-19
Name of Petitioner:	Oil Time
Nature of Petition:	Petitioner seeks a finding pursuant to Section 10.01f of the Zoning by-law for reconstruction and expansion of a pre existing non conforming structure and use at 227 Cocasset Street

A public hearing on the above petition was held on Wednesday August 20, 2003 in Room 12 at the Lewis School on Mechanic Street at 8:00 P.M. after notification by publication in The Foxboro Reporter, notice by posting on the Notice Bulletin Board in the Town Hall and by mail to the abutters, all as required by law. Members of the Board present and acting on the petition were:

David J. Brown, Chairman
Barnett Ovrut, Vice Chairman
Coleen Downs Dinneen, Clerk

The petitioner was represented by Attorney John Michelmore. The petitioner's operations have been at this location in the R-40 Zoning District for many years and most likely pre dates Foxboro's Zoning By-law which was established in 1952. The use is that of a fuel oil heating delivery service as well the repair and maintenance of heating equipment at customer locations. Oil Time also refills propane tanks used by consumers on such things as cooking grills and camping equipment. The petitioner would like to update and improve its facilities as well consolidate some of its equipment (mainly oil delivery trucks) indoors. The property in question is shown on a plan of landed titled "Oil Time Inc 227 Cocasset Street, Foxborough, MA prepared by Bay Colony Group Inc on May 1, 2003" (Exhibit A). The property is shown as lot A and as an area 75,532 sq. ft, It is accessed by a driveway from Cocasset as is generally situated behind a dwelling at 225 Cocasset Street which is not part of this track of land or part of Oil Times operations.

The present structure is old and not suitable for expansion or improvement to meet Oil Time's present needs. Oil Time proposes tear down the present structure and construct a one story 4750 sq ft (50'x95') metal building basically on the site of the existing office and service department building. The front portion of the building (1000 sq. ft.) will house the offices and as well space for parts and service equipment with a mezzanine storage space above the office. The rear portion will be mainly for the indoor parking of fuel trucks (presently 6) with a capacity for 8 trucks. Presently the trucks are outside. The need to have the trucks indoors is the main reason for the expansion of the overall size of the petitioners building. Also Oil Time expects to be able to store other business related materials inside as well be able to improve the overall appearance of the property.

EXHIBIT

"B"

In conjunction with this project Oil Time expects to file for a site plan review with the Planning Board and also because of its location relative to the Howard Brook filings will also be made with the Conservation Commission.

Direct abutters and other nearby abutters appeared and spoke in favor of this petition indicating that this project would greatly improve the aesthetics of the area.


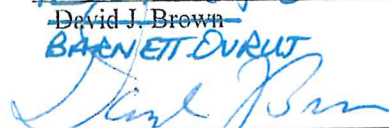
The Board having given due consideration to petitioners proposal has determined by a vote of 3-0 to find that this proposed extension, reconstruction and alteration will not be substantially more detrimental than the existing non-conforming structure and use to the neighborhood.


This Decision shall be of no effect until recorded in the Norfolk County Registry of Deeds after certification by the Town Clerk as required by MGL, Chapter 40A, Section 11. Any appeals shall be made pursuant to MGL, Chapter 40A, Section 15.

The foregoing is a true copy of Decision 03-19 issued by the Board of Appeals of Foxborough, Massachusetts. Copies of this decision have been filed with the Town Clerk and the Planning Board.

Dated:-----
APPEALS

FOXBOROUGH ZONING BOARD OF


~~David J. Brown~~
BARNETT OVRUT

~~Barnett Ovrut~~
DAVID J. BROWN


Coleen Dinneen



TOWN OF FOXBOROUGH
TOWN CLERK
Planning Board

40 South Street
Foxborough, Massachusetts 02035

2005 MAY 19 PM 12:07
(508)543-1250
(508)543-1235 Fax

FOXBOROUGH, MA 02035

May 19, 2005

A. Marie Crimmins, Town Clerk
Foxborough Town Hall
40 South Street
Foxborough, MA 02035

Re: SITE PLAN APPROVAL, SPECIAL PERMIT, AND FINDING GRANTED TO:

Anthony Lepardo
227 Cocasset Street
Foxborough, MA 02035

For a new building at:

227 Cocasset Street

Ms. Crimmins:

Please file the following decision by the Planning Board ("the Board") pursuant to the requirements of Massachusetts General Laws (MGL) Chapters 40A, Section 9.

The Board, acting in its capacity as the Special Permit Granting Authority (SPGA) as authorized by Section 11.05 of the Foxborough Zoning By-Laws ("the By-Laws"), hereby grants the Special Permit request made by the above applicant. In addition pursuant to Section 9.01 Site Plan Review of the Foxborough Zoning By-Laws (the By-Laws), the following decision voted on by the Planning Board is hereby filed with your office. Please make this available for viewing to the general public upon request.

The application was submitted on April 20, 2005 under Section 9.09 Water Resource Protection District (WRPD), G.3.d that requires a Special Permit and Finding to alter, reconstruct, or extend pre-existing non-conforming, non residential uses, and Section 9.09 Water Resource Protection District (WRPD), I.1. that requires a Finding that the proposed alterations or extensions are not substantially more detrimental to the water resources than the existing, non-conforming structure or use. The application was also previously submitted under Article 9.01 Site Plan Review on March 21, 2005.

At a regularly scheduled meeting on May 5, 2005 the Foxborough Planning Board granted Site Plan Approval, a Special Permit, and a Finding to the above applicant to construct a

"Oil Time"

- 1 -

May 19, 2005

EXHIBIT "C"

new 4,750 square foot (s.f.) retail fuel distribution building along with the necessary site improvements. The unanimous vote (4:0) to approve the Site Plan Review application was taken after proper notification and a public hearing that was opened on March 31, 2005, and continued until May 5, 2005 after which it was closed, all according to the By-Law. The unanimous vote (5:0) to approve the application for a Special Permit and Finding was taken after proper notification and a public hearing that was opened and closed May 5, 2005, all according to the By-Law

Attorney John Michelmore, and William Buckley, Jr. P.E. of Bay Colony Group appeared before the Board with the applicant, Anthony Lepardo. The site is a 78,532 Sq. Ft. parcel located at 227 Cocasset Street within the Agricultural & Residential (R-40) zoning district. The proposed site improvements and structures are shown on a plan dated March 13, 2005, last revised May 4, 2005, as drawn by Bay Colony Group, Foxborough, MA and is by reference considered a part of this approval.

Discussion

William Buckley Jr., from the Bay Colony Group, Inc., appeared before the Board and explained that the site is currently used as an oil supply business and has been since the 1940's. The site also contains a propane storage tank used for on site filling of customer propane tanks used for grills, campers, etc. The plans also show a 10 x 10 concrete pad previously approved by the Conservation Commission for the installation of a site for retail spring water sales. Mr. Buckley noted that the new building would replace two existing old buildings currently located on the site. Site improvements involve the removal of debris and an old greenhouse and the construction of off-street parking spaces, drainage, lighting, and landscaping. Mr. Buckley explained that the proposal would be a significant improvement to the site.

The Board primarily discussed drainage, grading, landscaping, and the site operations with the applicant and his engineer. Mr. Buckley explained that the existing oil tanks and propane tank would remain. All other buildings and debris would be removed from the site. The front parking lot would be paved.

Mr. Buckley then explained that the drainage for this lot would be directed into a detention basin. Two swales that run along the sides of the property will direct the stormwater from site into the drainage basin. The Town Planner and Site Inspector submitted comments primarily on drainage system. The applicant addressed these comments on the revised plans.

The Board also discussed landscaping requirements with the applicant. The area of particular concern was the west side property line where the property abuts a single family home. The applicant has proposed to plant trees to screen the home from the business use.

The public comment on this application, primarily concerned the screening and buffering at the rear of the property and the drainage and septic systems.

Mr. Michelmore explained that the site required variance from the Zoning Board of Appeals to allow the reconstruction of the pre-existing non-conforming use. The variance was required as the property is now located within a residential zoning district. The variance was granted at the Zoning Board of Appeals meeting held on September 18, 2003.

After further discussion relating to the site's proximity to Howard Brook the Planning Board determined that the site also requires a Special Permit and Finding under the Water

Resource Protection District (WRPD) regulations. Therefore the applicant submitted the additional Special Permit Application on April 20, 2005. The Hearing was opened concurrently with the already opened and continued the site plan review public hearing. At this hearing no abutters were present and the board did not have any additional concerns after reviewing the revised plans. After closing the public hearing the Board decided to act separately on the two applications.

FINDINGS

Prior to acting upon the Special Permit request, the Board made the Findings (as noted below) that the proposed use is not substantially more detrimental than the pre-existing use of the site as a retail oil distribution facility. Further, the Board made the Finding that the improvements (1) comply with the applicable requirements of the Special Permit regulations; and (2) that the petition for the Special Permit is in harmony with the general purposes of the Zoning By-Laws.

- ◆ The Board has determined that the existing use of the site is a retail oil distribution facility and that the proposed use is sufficiently similar to the existing use of the site.
- ◆ The Board finds that the site improvements will reduce the noise, fumes and improve the aesthetics to the abutting neighborhood.
- ◆ The improvements to the drainage system and the requirement for long-term maintenance will have a beneficial effect on water quality entering the Howard Brook.

After closing the Public Hearing, the Board voted unanimously to approve the site plan with the following conditions:

1. A performance guarantee in the amount of \$ 5,000.00 shall be provided to the Planning Board prior to the issuance of a Building Permit. This shall secure the construction of the detention basin, slope stabilization, landscaping, drainage, pavement installation, and striping. This shall be in the form of an Irrevocable Letter of Credit not to expire prior to September 1, 2006, or a passbook account.
2. The applicant shall pay the required inspection fee prior to any site work occurring on the property or the issuance of a Building Permit.
3. A representative from the Planning Board shall review and approve the limits of clearing **prior to** the removal of the trees. The intent of this provision is to ensure that as many mature trees as possible are retained on the site.
4. A variance has been approved to allow the reconstruction of the pre existing non conforming use and was issued on September 18, 2003. Any conditions of this variance shall also be considered conditions of this approval.
5. This Special Permit and finding are specifically to allow the use of the site for retail fuel oil distribution, on site propane retail sales, and on site spring water retail sales.
6. The hours of operation shall be limited from 7:00 am to 7:00 p.m.

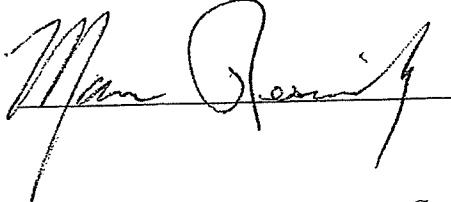
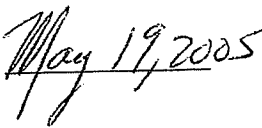
7. Parking lot lights shall be on a timer and shall shut off when the business is closed. The use of a button to turn on lights by an employee after this hour shall be allowed.
8. There shall be no outdoor storage of vehicles and materials except for the Oil Time oil and propane delivery business.
9. Oil delivery vehicles shall be parked inside the building at night.
10. The applicant shall install signs indicating the traffic flow around the site and the parking spaces reserved for customers.
11. All signage shall be approved and permitted by the Foxborough Inspection Department.
12. Upon completion of the building to the satisfaction of the Building Commissioner, the applicant may request the issuance of a temporary occupancy permit. A final occupancy permit may only be granted upon completion of a final satisfactory inspection of the site to ensure completion of all work shown on the approved plans and stated within this approval.
13. All site work, including slope stabilization, paving, and landscaping shall be completed by September 1, 2006.
14. The vegetative screening to be installed on the site shall be maintained. Failure to do so will be considered a violation of this approval.
15. The drainage system shall be functional (re: detention basin completed, soil stabilized, swales grassed, etc.) prior to any occupancy permit being issued for the structure.
16. The applicant or successors are required to maintain the drainage system in accordance with the Operation and Maintenance Plan for Stormwater BMP's. Failure to maintain the drainage system will be considered a violation of this approval.
17. The Planning Board reserves the right to require that the infiltration basin be fenced after construction if it is determined by the Board that the basin is holding water and presents a safety hazard.
18. Should the Planning Board have concerns with the level of lighting, intensity of the lights, or lighting spillage onto abutting properties or the street, the Board reserves the right to require the applicant to adjust the level of lighting, the type of lighting fixtures or the location of individual lights.
19. A temporary occupancy permit may not be issued until the base course of asphalt is placed on all areas to be paved (driveways, parking areas, sidewalks, etc...), the drainage system is completed and functional, and all off site roadway or other improvements required for public safety are completed. A temporary occupancy permit may only be issued after an inspection by the Town Planner.
20. The applicant must file a Notice of Intent and comply with the Order of Conditions issued by the Conservation Commission. Therefore, a final release of the performance guarantee may not occur until the applicant obtains a Certificate of Compliance from the Conservation Commission.

21. Any proposed change(s) from the approved plans deemed substantive by any Town Official or any future changes in the use (or in the intensity of an existing use), shall be submitted for review to the Planning Board. The Board shall determine if there is a need for a public hearing and shall then act accordingly on the change(s). Approved revisions shall be illustrated on plans and submitted.
22. The conditions of this Special Permit & Site Plan Approval shall be added to the final set of approved plans submitted to the Board for signatures.

Where applicable, these conditions shall be complied with prior to the Planning Board endorsing the approved Site Plan. The Plan shall be provided to the Board for endorsement with the required changes and additions.

Any Appeals to this decision shall be made pursuant to MGL, Chapter 40A, Section 17. They shall be taken within twenty (20) days of the filing of this decision with the Town Clerk.

I, Marc Resnick, Foxborough Town Planner, do hereby certify that the above "Special Permit & Finding" authorizing the reconstruction of an existing retail fuel distribution facility at 227 Cocasset Street has been voted by the majority of the Foxborough Planning Board (5:0), and "Site Plan Approval" voted by the majority of the Foxborough Planning Board (4:0), at its regularly scheduled meeting on May 5, 2005.

SIGNED:  DATED: 

cc: Anthony Lepardo
Bay Colony Group, Inc.
Fire Department
Building Commissioner
Board of Selectmen
Police Department

Conservation Commission
Highway Department
Board of Assessors
Town Counsel
Board of Health
Board of Water & Sewer Commissioners

RECEIVED

MAY 13 2005

FOXBORO PLANNING DEPARTMENT

RECEIVED

OPERATION AND MAINTENANCE PLAN FOR STORMWATER BMPs

BMP Owner: **2021 JUL 29 8 27 58** **Oiltime, Inc.** **Post-construction**
Party of Plan Responsibility: **Oiltime, Inc.** **Oiltime, Inc.**
FOXBOROUGH, MA 02035

Operation and Maintenance

- Item 1: During construction, **weekly or biweekly** inspection of erosion control hay bales and silt fences should be conducted by a qualified staff of the responsible party or an independent sediment and erosion control expert hired by the responsible party. Any displaced hay bales or broken siltation fences should be restored or repaired immediately. All silt fences and hay bales shall be installed as shown on the approved site plan.
- Item 2: The infiltration basin should be inspected **before and after** rain storms, if the basin is filled with sediment to half of its depth, it shall be cleaned up with a backhoe or similar machine. **After the construction is completed**, the infiltration basin shall be inspected three times a year: once after leaf fall, once before the arrival of hurricane season, the third in the early or mid spring after the snow melt and road sweeping. Any debris and excessive sediment should be cleaned out as necessary during the construction phase. The parking lots will be swept twice a year: one before hurricane season, the other in the spring after snow melt.
- Item 4: A stone pad shall be installed at the entrance to the project and shall be inspected **weekly** and replenished if siltation is impeding the cleaning of truck tires.

Accidental Spill Plan

In case of an accident in the roadway or driveways, where significant gasoline or other petroleum products are released, the following procedure must be followed.

- Step 1. **Immediately** notify the **Foxborough** Fire Department, **Foxborough** Board of Health and the Mass. Department of Environmental Protection (DEP). **Foxborough** is in the Southeast Region of DEP, and their main office is presently at 20 Riverside Drive, Lakeville, MA 02347, and their phone number is (508) 946-2700.
- Step 2. If any of those three agencies so direct, a clean up firm shall be immediately contacted. If the materials have remained trapped in the detention basin then it shall be pumped out. If the volume of the spill is such that materials have flowed out of the basin, then corrective actions may have to be extended beyond. For an oil release in excess of on-site storage capacity, a floating boom shall be used to prevent oil release from spreading in any receiving area. For materials that are partially soluble in water, e.g., components of gasoline, then DEP or clean-up firm recommendations shall be followed. These might include, but are not limited to (1) pumping out the sediment forebay and/or the entire detention basin, (2) pumping groundwater from under the basin through a portable activated charcoal filter system, (3) air stripping, or (4) excavation of an interceptor trench to allow air stripping in the downgradient soils. Since the technology of containment and control is steadily advancing, clean-up and recovery technology shall be specified on site just after the spill.

Mosquito Control in Sumps

In general, mosquito breeding occurs in standing water that lasts five days or more. The infiltration basin during high groundwater season may have standing water. Thus mosquito control may be needed. In case of mosquitoes breeding in the basin, there are many methods available to control them including biological control and chemical control. Biological controls are preferred since the biological controls specifically target mosquito larvae and are harmless to humans, unlike many chemicals even at standard doses. It is not recommended any chemicals be used. The following is the recommended biological control.

Bacillus thuringiensis israeliensis (Bti) is an effective control for mosquitoes and flies and is widely used in various forms in U.S. This is a bacterium, which kills larvae of target insects. Commercial Bti is considered safe to add to drinking water (WRRRI 1989) and is available at most hardware stores.

Summary

The maintenance steps outlined above are sufficient to prevent sediment accumulation from affecting the long-term performance of the BMP system. If maintenance is not conducted, then the infiltration basin will be filled up with sediment, which will impede the function of stormwater treatment. Routine maintenance is the most cost-effective in the long run. These procedures shall be considered as part of the design of the system, and failure to follow them shall constitute a failure on the part of the owner to properly maintain the system.



RECEIVED
TOWN CLERK

JUL 29 P 2 2020

TOWN OF FOXBOROUGH

Inspections Department

Mark Dupell

Building Commissioner/Zoning Enforcement Officer

40 South Street

Foxborough, MA 02035

Telephone: (508)543-1206/Facsimile: (508) 543-6278

FILE COPY

Antonetta Lepardo
P.O. Box 345
Foxborough, Ma. 02035

October 30, 2020

Assessors ID: 095 / 008

Re: **Complaint- 227 Cocasset St. Foxborough, Ma.**

Dear Property owner,

Please be advised,
this office has received a complaint regarding the above mentioned property / business and a site visit has confirmed this complaint, as there appears to be an additional unpermitted (via Site Plan, Special Permit, Finding from PB) business -**Sitework Specialist**- operation at the property.

This additional use appears to violate your Planning Board Approvals from May 2005.
For your reference I have attached a copy of same, please note conditions #8, 21.

The complainant also claims that condition # 16 is not being adhered to.

Kindly address this matter forthwith. Thank You in advance for your cooperation.
Feel free to contact me if you believe these assertions are incorrect.

Respectfully,

Mark Dupell

Building Commissioner
Zoning Enforcement Officer

Cc:
William Keegan- Town Manager
Paige Duncan- Planning Director
OilMan- 227 Cocasset St. Foxborough, Ma. 02035
File: 227 Cocasset St.

EXHIBIT

"D"



10/2



TOWN OF FOXBOROUGH

Inspections Department

Mark Dupell

Building Commissioner/Zoning Enforcement Officer

40 South Street

Foxborough, MA 02035

Telephone: (508)543-1206/Facsimile: (508) 543-6278

Antonetta Lepardo
P.O. Box 345
Foxborough, Ma. 02035

Nov 18, 2020

Assessors ID: 095 / 008

Re: Complaint- 227 Cocasset St. Foxborough, Ma.- **2nd Notice**

Dear Property owner,

Please be advised,
this office has received a complaint regarding the above mentioned property / business and a site visit has confirmed this complaint, as there appears to be an additional unpermitted (via Site Plan, Special Permit, Finding from PB) business -**Sitework Specialist**- operation at the property.

This additional use appears to violate your Planning Board Approvals from May 2005.
For your reference I have attached a copy of same, please note conditions #8, 21.

The complainant also claims that condition # 16 is not being adhered to.

Please respond in writing to this office or Planning Department / Board within 10 days of the date of this notice to avoid enforcement actions by this office.

Thank You in advance for your cooperation.

Respectfully,

Mark Dupell

Building Commissioner
Zoning Enforcement Officer

Cc:
William Keegan- Town Manager
Paige Duncan- Planning Director
OilMan- 227 Cocasset St. Foxborough, Ma. 02035
Sitework Specialist-227 Cocasset St. Foxborough, Ma. 02035
File: 227 Cocasset St.

D

EXHIBIT
B''

2022



Attorneys at Law
15 West Street
Mansfield, Massachusetts 02048
Main - 508-339-0781
Fax - 508-339-0500
Mail Address - Mansfield
www.valanzolalaw.com

745 Atlantic Avenue, 8th Floor,
Boston, MA 02111

Via Federal Express & Facsimile 508-543-6278

December 9, 2020

Barry Ringler, Building Commissioner
& Zoning Enforcement Officer
Town of Foxborough
40 South Street
Foxborough, MA 02035

Paige Duncan
Planning Director
Town of Foxborough
40 South Street
Foxborough, MA 02035

RE: 227 Cocasset Street, Foxborough, Massachusetts (the "Overtime Property") / Oilman, Inc. - Overtime

This office represents Maurice R. Brodeur and Sharon L. Brodeur, owners of 217 Cocasset Street, Foxboro, Massachusetts. My clients' property directly abuts the Overtime Property. See **Exhibit "A"**.

In 2003 the owner of the Overtime Property filed an application with the Board of Appeals requesting a finding that to tear down the existing structure and to construct a new structure so that it could update and improve its facilities as well as consolidate some of its equipment (mainly oil trucks) indoors. On August 30, 2003 the Board of Appeals decision was filed with the Town Clerk (the "ZBA Decision"). The Board of Appeals decision states that the applicant proposed to construct a one story 4,750 square foot metal building and that the rear portion of the new building "will be mainly for the indoor parking of fuel trucks (presently 6) with a capacity for 8 trucks." According to the decision, "The need to have the trucks indoors is the main reason for the expansion of the overall size of the petitioners building. Also, Oil Time expects to be able to store other business related materials inside as well be able to improve the overall appearance of the property." The Board of Appeals determined that "the proposed extension, reconstruction and alteration will not be substantially more detrimental than the existing non-conforming structure and use to the neighborhood".

Edward W. Valanzola, Esq. | 774-719-0275 | ed@vlawgrp.com
Matthew A. Valanzola, Esq. | 774-284-4731 | matt@vlawgrp.com
Sarah Belanger, Esq. | 508-339-0781 x 3 | sarah@vlawgrp.com

EXHIBIT

11 1/2
E

Barry Ringler, Building Commissioner
& Zoning Enforcement Officer
Paige Duncan
Planning Director
December 9, 2020
Page Two

On May 19, 2005, a Special Permit and Finding decision (the "SP Permit & Finding") of the Town of Foxborough Planning Board was signed by the Town Planner. Prior to acting on the Special Permit, the Planning Board made findings that the proposed use "is not substantially more detrimental than the pre-existing use of the site as a retail oil distribution facility". The board determined that the existing use of the site was a retail oil distribution facility. The Planning Board voted unanimously to approve the site plan with 22 enumerated conditions and findings. Some of the pertinent conditions/findings are as follows:

5. The Special Permit and finding are specifically to allow the use of the site for retail fuel oil distribution, on site propane retail sales, and on site spring water retail sales.
8. There shall be no outdoor storage of vehicles and materials except for the Oil Time oil and propane delivery business.
16. The applicant or successors are required to maintain the drainage system in accordance with the Operation and Maintenance Plan for Stormwater BMP's. Failure to maintain the drainage system will be considered a violation of this approval.
20. The applicant must file a Notice of Intent and comply with the Order of Conditions issued by the Conservation Commission. Therefore, a final release of the performance guarantee may not occur until the applicant obtains a Certificate of Compliance from the Conservation Commission.

On October 30, 2020 and then again on November 18, 2020, the Building Commissioner Zoning Enforcement Officer for the town sent notices to the owner of record of the Oiltime Property, wherein he stated that "there appears to be an additional unpermitted business – Sitework Specialist – operation at the property." The notices further provide that: "This additional use appears to violate your Planning Board Approvals from May 2005." In the notice he states further that the complainant also claims that condition #16 is not being adhered to. See **Exhibit "B"**.

Recently, my clients requested documents from the town pursuant to G.L. c. 66, §10. Numerous documents were produced, however, there is no appeal to the notice from the town first sent on October 30, 2020, and there is no Certificate of Compliance to the Order of Conditions. A Certificate of Compliance is also not recorded with the Norfolk County Registry of Deeds. If these documents exist, please provide them to me.

The violations of the 2003 ZBA Decision, the 2005 SP Permit & Finding, and applicable town by laws, at the Oiltime Property, include but are not limited to the following:

- a. A business named "Sitework Specialist" is operating a trucking and excavation business on the Oiltime Property. A photograph of the sign in front of the Oiltime Property is attached hereto as **Exhibit "C"**. This use is not permitted by, and is in direct violation of, the 2003 ZBA Decision, the 2005 SP Permit & Finding and by applicable town by laws.
- b. Mulch, contained in large stone retaining walls, is being stored at, and sold from, the Oiltime Property. These piles appear to increase the water backup onto my clients' property. See **Exhibit "D"**.

c. Large piles of loam/fill are being brought to, and stored at the Oiltime Property and along the property line, as part of the excavation business. Trucks also remove loam/fill from these piles. The loam/fill piles cause water to drain onto my clients' property. Noise and dust come from the Oiltime Property, especially when the trucks are dumping and the tailgates are slammed to remove all dirt and mulch and also when dirt/fill and mulch are moved at the Oiltime Property. Again, see Exhibit "D".

d. Trucks, and an excavator and other equipment used by the trucking and excavation business are being stored at the Oiltime Property. See **Exhibit "E"**

e. The loam-sifting machine and earth moving equipment on the Oiltime Property, when running, are extremely loud and run continuously for extended periods of time.

f. The terms of the 2005 Special Permit restrict the operation of the oil distribution business from 7AM to 7PM. Both the oil business, and the unlawful trucking and excavation business, often take place outside these hours. See condition 6 to the 2005 SP Permit & Finding.

g. A certificate of Compliance has not been obtained from the Conservation Commission and recorded at the Registry of Deeds.

h. The loam and mulch piles that abut my clients' property cause water to drain onto my clients' property resulting in watery, muddy conditions along the property line. These piles and all excavation work by Sitework Specialist along the property line and at the site are in violation of the Operation and Maintenance Plan ("OMP") for Stormwater BMP's, which is attached to the 2005 SP Permit & Finding.

x i. There is an aqua-colored PVC pipe emanating from the ground at the Oiltime Property and a basin dug out around that pipe. The basin extends over the property line onto my clients' property. It backs up and ponds during rain, providing a breeding ground for mosquitoes. To address this health hazard, my clients have had to apply mosquito-larva inhibitors during spring and summer in this area to reduce EEE-hazard. The OMP requires inspections before and after rainstorms and "if the basin is filled with sediment to half of its depth, it shall be cleaned up with an (sic) backhoe or similar machine". The OMP also requires mosquito control. The amount of water that drains onto my clients' property indicates that the requirements of the 2005 SP Permit & Finding and the OMP are not being followed. In fact, the loam/fill and mulch piles also contribute to the drainage system not working effectively.

It is hereby requested that The Town of Foxborough Zoning Enforcement Officer and the town Planning Director take immediate action and require the owner of the Oiltime Property to bring the property into compliance with the SP Permit & Finding, ZBA Decision and all applicable town by-laws. I look forward to receiving a written response from you regarding your intentions and course of action.

You have previously provided documents to my clients. Pursuant to M.G.L. Ch. 66, section 10, I am formally requesting that you make for inspection or copying, within 10 days of your receipt of this notice, the following additional documents/ public records:

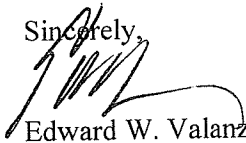
1. All documents that evidence, relate to or are in connection with all responses to and communications about, the October 30, 2020 and November 18, 2020 notices from the Zoning Enforcement Officer to Antonetta Lepardo, including but not limited to (i) email (none were produced previously) and facsimile communications, (ii) written communications, (iii) notes from meetings and conferences, (iv) communications between everyone acting on behalf of, or

Barry Ringler, Building Commissioner
& Zoning Enforcement Officer
Paige Duncan
Planning Director
December 9, 2020
Page Four

employed by the Town of Foxborough, (v) all communications with the owners (or those acting on their behalf) of the Oiltime Property, and (vi) all documents and communications having anything to do with permitting the Sitework sign or the business operated by Sitework at the Oiltime Property, such as but not limited to permits, licenses and grants of authority.

This notice is sent to you without constituting a waiver of, or prejudice to, all claims or rights my clients have, including but not limited to pursuing their rights under G.L. c. 40A, as well as claims against the owner of the Oiltime Property.

Sincerely,



Edward W. Valanzola

EWV/sm
Enclosures

cc: Conservation Commission *via facsimile only* 508-543-1251
Clients



Brodeur
House

Abutter





TOWN OF FOXBOROUGH

Inspections Department

Mark Dupell

Building Commissioner/Zoning Enforcement Officer

40 South Street

Foxborough, MA 02035

Telephone: (508)543-1206/Facsimile: (508) 543-6278

FILE COPY

Antonetta Lepardo
P.O. Box 345
Foxborough, Ma. 02035

October 30, 2020

Assessors ID: 095 / 008

Re: Complaint- 227 Cocasset St. Foxborough, Ma.

Dear Property owner,

Please be advised,
this office has received a complaint regarding the above mentioned property / business and a site visit has confirmed this complaint, as there appears to be an additional unpermitted (via Site Plan, Special Permit, Finding from PB) business **-Sitework Specialist-** operation at the property.

This additional use appears to violate your Planning Board Approvals from May 2005.
For your reference I have attached a copy of same, please note conditions #8, 21.

The complainant also claims that condition # 16 is not being adhered to.

Kindly address this matter forthwith. Thank You in advance for your cooperation.
Feel free to contact me if you believe these assertions are incorrect.

Respectfully,

Mark Dupell

Building Commissioner
Zoning Enforcement Officer

Cc:
William Keegan- Town Manager
Paige Duncan- Planning Director
OilMan- 227 Cocasset St. Foxborough, Ma. 02035
File: 227 Cocasset St.



10/2



TOWN OF FOXBOROUGH

Inspections Department

Mark Dupell

Building Commissioner/Zoning Enforcement Officer

40 South Street

Foxborough, MA 02035

Telephone: (508)543-1206/Facsimile: (508) 543-6278

Antonetta Lepardo
P.O. Box 345
Foxborough, Ma. 02035

Nov 18, 2020

Assessors ID: 095 / 008

Re: Complaint- 227 Cocasset St. Foxborough, Ma.- 2nd Notice

Dear Property owner,

Please be advised,
this office has received a complaint regarding the above mentioned property / business and a site visit has confirmed this complaint, as there appears to be an additional unpermitted (via Site Plan, Special Permit, Finding from PB) business -**Sitework Specialist**- operation at the property.

This additional use appears to violate your Planning Board Approvals from May 2005.
For your reference I have attached a copy of same, please note conditions #8, 21.

The complainant also claims that condition # 16 is not being adhered to.

Please respond in writing to this office or Planning Department / Board within 10 days of the date of this notice to avoid enforcement actions by this office.

Thank You in advance for your cooperation.

Respectfully,

Mark Dupell

Building Commissioner
Zoning Enforcement Officer

Cc:
William Keegan- Town Manager
Paige Duncan- Planning Director
OilMan- 227 Cocasset St. Foxborough, Ma. 02035
Sitework Specialist-227 Cocasset St. Foxborough, Ma. 02035
File: 227 Cocasset St.



202

Oilman, Inc.

508-698-2900

OILMANONLINE.COM

SITework

SPECIALIST

TRUCKING • EXCAVATION

508-698-8300

227

EXHIBIT





tabbles

EXHIBIT
"D" 10/2



EXHIBIT
"D" 2012



EXHIBIT
"E" 10/2

tabbles

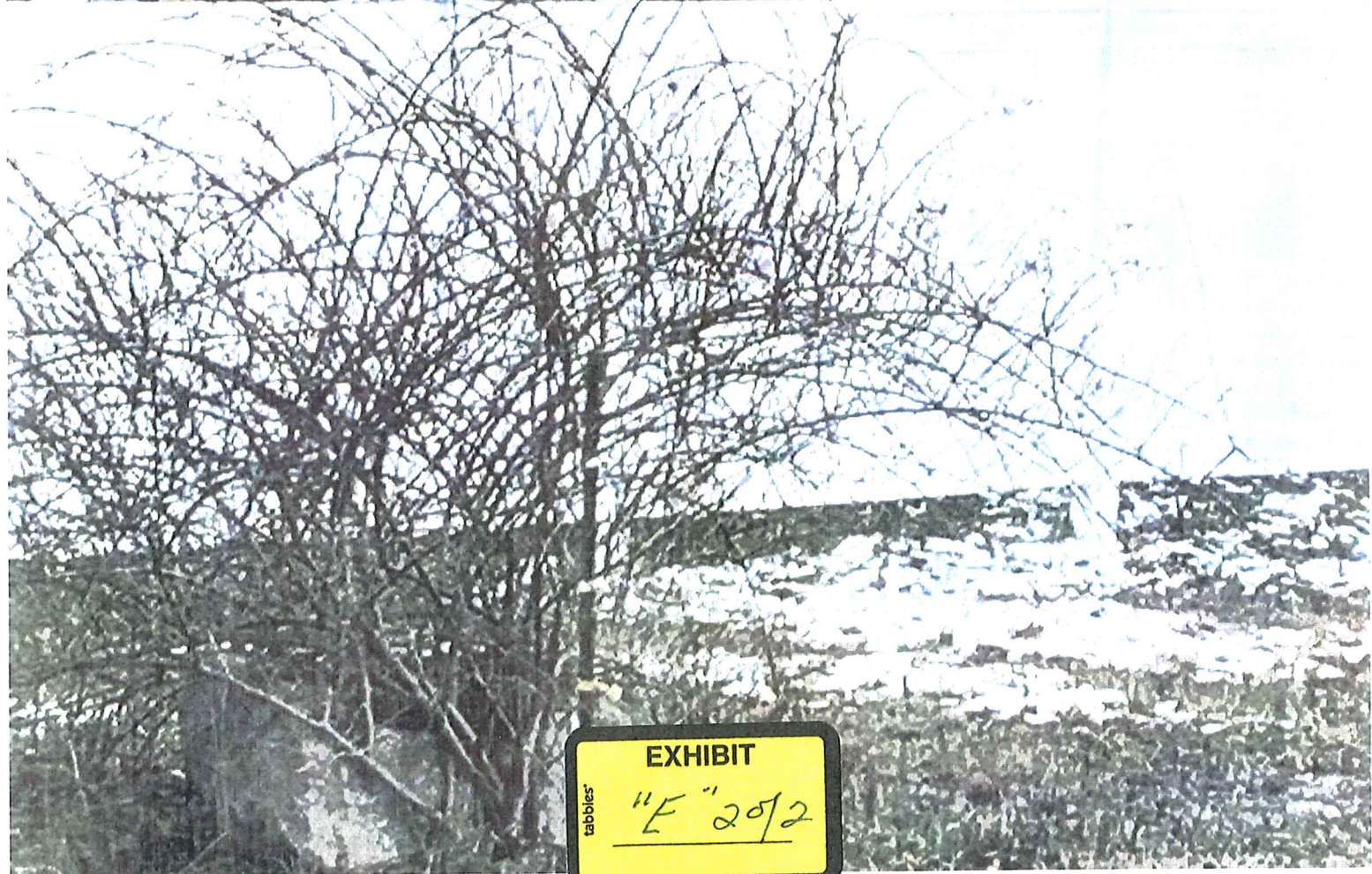


EXHIBIT
"E" 2012

tabbles

RE: Continued violations 227 Cocasset Street Foxboro

Barry Ringler <BRingler@foxboroughma.gov>

Fri 6/25/2021 12:30 PM

To: Edward Valanzola <ed@vlawgrp.com>

I will.....Although you might remember, I will be out of our office 28th & 29th. I will put it together Wednesday morning without fail, as I do not believe all P.B., conditions have been met.

Thank you and your client for giving me room to try to make all this work!

Barry T. Ringler
Town of Foxborough
Building Commissioner
bringler@foxboroughma.gov
Office: 508] 543-1206

From: Edward Valanzola <ed@vlawgrp.com>

Sent: Friday, June 25, 2021 12:26 PM

To: Barry Ringler <BRingler@foxboroughma.gov>

Subject: Re: Continued violations 227 Cocasset Street Foxboro

Thank you for your time and effort on this Barry. Please send me a copy of your violation/enforcement letter you will be sending to them. Enjoy the weekend! ed

Edward W. Valanzola, Esq.

Mansfield, MA

15 West Street, Mansfield, MA 02048

Direct: 774-719-0275

P: 508-339-0781

F: 508-339-0500

E: ed@vlawgrp.comvalanzolalawgroup.comBoston, MA:

One Lincoln Street, 24th Floor

Boston, MA 02111



#1 Attorney - Readers Choice Awards - 2016 & 2018 Wicked Local,
Mansfield News & 2016 Regional South Readers Gold

PRIVILEGED AND CONFIDENTIAL: The information contained in this electronic message and any attachments are confidential property and intended only for the use of the addressee. Any interception, copying, accessing, or disclosure or distribution of this message is prohibited, and sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please notify the sender immediately and purge the message you received.

DISCLAIMER REGARDING ELECTRONIC TRANSACTIONS: If this communication relates to the negotiation of a contract or agreement, any so-called electronic transaction or electronic signature statutes shall not be deemed to apply to this communication; contract formation in this matter shall occur only upon the mutual delivery or exchange of manually-affixed original signatures on original documents.

From: Barry Ringler <BRingler@foxboroughma.gov>

Sent: Friday, June 25, 2021 12:23 PM

To: Edward Valanzola <ed@vlawgrp.com>

Subject: RE: Continued violations 227 Cocasset Street Foxboro

Ed,

Thank you for your time and your thoughts.

I will begin enforcement action.

Happy Friday!

Barry T. Ringler
Town of Foxborough
Building Commissioner
bringler@foxboroughma.gov

EXHIBIT "F"

Office: 508] 543-1206

From: Edward Valanzola <ed@vlawgrp.com>
 Sent: Thursday, June 24, 2021 10:56 AM
 To: Barry Ringle <BRingle@foxboroughma.gov>
 Subject: Continued violations 227 Cocasset Street Foxboro

Barry, see photo below from yesterday. This is not a buffer. They put down some loam and seed and are driving over it. Trucks are still parked outside at night. A construction trailer is in the back of the building now.

My clients are not interested in me meeting with the attorney and you. We have repeatedly described all of the violations for months. The property owner is not taking the violations seriously and some of the responses from Attorney Spillane you shared with me yesterday are baseless and comical.

Here is the list of violations from my June 10th email and my additional comments as a follow up to our call yesterday. We respectfully request that you take enforcement action on each one:

1. The RV Trailer is still on the property (I was told a week ago by you it would be removed). You told me yesterday that now it is NOT going to be removed after you said they told you it would. It doesn't matter if the vehicle is registered to Oil Time or used by the employees. This is not a vehicle used by an oil company.
2. A Siteworks dump truck is still on the property; Again, doesn't matter how it is registered and what sign they put on the truck. Not used in the oil business.
3. Old Steel construction beams have been placed along the property line. These serve no purpose for the oiltime business; Again, not used for oiltime business.
4. We still do not have a response regarding the detention area and swale and if they are functioning properly. See OHI letter sent to you previously #4. Copy is attached. Bay Colony's June 15th letter doesn't even describe correctly what should be there. It should be a detention area and swale along the back. He describes a storm water basin. This should have been inspected by the town months ago. We have received no response to the OHI document.
5. We have had no response about the outstanding order of conditions. Months have passed and we are not aware of any attempt to obtain a certificate of compliance. You told me yesterday that because performance guarantee was released it is the attorney's position that the Order of Cond. has been satisfied. That is an incorrect and baseless position. The only way to satisfy an order of conditions is to obtain a certificate of compliance. When is the town going to insist on that? The SP states clearly that release of the performance guarantee "may not occur until the applicant obtains a Certificate of Compliance from the Conservation Commission."
6. Storage Containers (not shown on the plan when the Special Permit was requested/issued in 2005), are on the property. Please send me the plans you referred to that show storage containers in 2005. Also, there are 2 orange containers that were placed at the site in the last few years.
7. See OHI Engineering letter sent to you previously. See #2 Grades on the 217 Cocasset property appear to be 2-4' higher than shown on the 2005 plans submitted to the Planning Board. The grades need to be restored to what is shown on the 2005. This appears to be causing water run-off onto my clients' property (this and the complete failure of the property owner to maintain the swale and detention area as required by the SP and Operation and Maint. Plan)
8. We cannot tell if the buffer area has been loamed/seeded or otherwise created. As stated above, the loam that was spread and grass seed do not act as a buffer. There are already tire tracks on the new loam. The 2005 Plan shows the buffer and trees (the trees would prevent vehicles from driving closer to the residential property.) Although the fence was allowed instead of the trees, the buffer must still be maintained by something that will keep vehicles and other equipment out of it and away from the residential property.
- 9.
10. As stated in my June 10, 2021 email, this request for zoning enforcement action is being sent to you without constituting a waiver of any of my clients' rights, or other violations at 227 Cocasset Street, as set forth first in my December 9, 2020 correspondence, and subsequently by email and communications with your office. It is my clients' position that these violations and the Siteworks Specialists business (not allowed in the zone) operated by the property owner, when only the oiltime business was allowed by Special Permit, resulted in the abandonment of the permitted non-conforming use allowed by the Planning Board via the May 19, 2005 Special Permit.

I look forward to your immediate response and action. My clients reserve all rights and remedies, including but not limited to appealing this matter to the ZBA, and if necessary, the Superior court in Norfolk County or the Land Court. Please provide me with a copy of you enforcement action documents.

thank you, ed

Edward W. Valanzola, Esq.
 Mansfield, MA
 15 West Street, Mansfield, MA 02048
 Direct: 774-719-0275
 P: 508-339-0781
 F: 508-339-0500
 E: ed@vlawgrp.com
valanzolalawgroup.com

Boston, MA:
 One Lincoln Street, 24th Floor
 Boston, MA 02111

#1 Attorney - Readers Choice Awards - 2016 & 2018 Wicked Local,
 Mansfield News & 2016 Regional South Readers Gold

PRIVILEGED AND CONFIDENTIAL: The information contained in this electronic message and any attachments are confidential property and intended only for the use of the addressee. Any interception, copying, accessing, or disclosure or distribution of this message is prohibited, and sender takes no responsibility for any unauthorized reliance on this message. If you have received this message in error, please notify the sender immediately and purge the message you received.

DISCLAIMER REGARDING ELECTRONIC TRANSACTIONS: If this communication relates to the negotiation of a contract or agreement, any so-called electronic transaction or electronic signature statutes shall not be deemed to apply to this communication; contract formation in this matter shall occur only upon the mutual delivery or exchange of manually-affixed original signatures on original documents.



Bay Colony Group, Inc.

Professional Civil Engineers & Land Surveyors

Four School Street
P.O. Box 9136
Foxborough, MA 02035
(508)543-3939
(508)543-8866 fax

E-Mail: mailbox@baycolonygroup.com *** <http://www.baycolonygroup.com>

June 15, 2021

To: Ron Bresse, Planning Board Vice-Chairman
CC: Barry Ringler, Building Commissioner
Frank Spillane, Esq.
From: Bill Buckley *WB*

RE: 227 Cocasset Street Foxborough

We have surveyed and I have inspected the storm water basin located on the property. It has been cleaned and cleared of brush and every time that I have inspected the facility it has been operating properly. Therefore, it is my professional opinion that it is in substantial compliance with the 2005 site plan approved by the Foxborough Planning Board.

Please let me know if you have any questions or comments.

910379-Correspondence

EXHIBIT "G"

RECEIVED
MEMORANDUM

2021 JUL 29 P 2:59
FOXBOROUGH, MA 02035

Bay Colony Group, Inc.

Professional Civil Engineers & Land Surveyors

4 School Street, PO Box 9136
Foxborough, Massachusetts 02035
Telephone (508) 543-3939 • Fax (508) 543-8866
E-mail: mailbox@baycolonygroup.com

July 14, 2021

Mr. Barry T. Ringler, Building Commissioner
Town of Foxborough
40 South Street
Foxborough, MA 02035

RE: 227 Cocasset Street Foxborough

Dear Mr. Ringler:

I am representing Mr. Anthony Lepardo, the owner of the land at 227 Cocasset Street. I am also the engineer who prepared the site plans for work done on the property in 1991 and 2005. The 1991 work involved a filing with the Conservation Commission to replace and expand an existing culvert under the driveway. The work also included the construction of a concrete pad for a water dispensing system and a gravel parking area. None of the proposed work involved a building permit or Planning Board approval. The work has been completed for some time except for the construction of the slab for the water dispensing system, but we expect that to be completed in the next week or so, weather permitting. Once it is complete, we will file for a Certificate of Compliance with the Conservation Commission.

The 2005 work involved the demolition of the existing buildings on the site and their replacement with a single building containing an office and garage. That work involved permits from the Conservation Commission and Planning Board. That project has also been completed. I have inspected the site and conducted a limited topographic survey to confirm that the storm water basin was constructed as designed. The storm water system was constructed substantially in accordance with the approved design.

A comment was made that the grades are 2-4' higher than designed. The building finished floor was designed at el. 204.0' and was constructed at el. 205.0' or about 1' higher than designed. The finished grades west of the building are 1-2' higher than designed. Though this differs slightly from the plan it does not adversely impact the design. This portion of the site slopes to the west/southwest, which was the existing condition in 1991, was the proposed design shown on the 2005 site plan, and which is the condition today – the water still flows to the west as it always has. Therefore, it is my professional opinion that the construction is substantially in conformance with the site plan.

A comment was advanced regarding the outstanding Orders of Condition. I have been in contact with Ms. Pierce regarding the work and have informed her that once the aforementioned

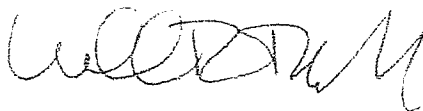
concrete pad has been completed, we will file for a Certificate of Compliance for the 2005 project at the same time we file for the Certificate of Compliance for the culvert project.

A fence has been installed along the west property line and I have spoken with Mr. Casbarra, who was the Building Commissioner at the time the fence was installed. It is his recollection that the neighbors and Mr. Lepardo agreed to install the fence instead of a landscape buffer strip. He stated that he will be sending you and the Planning Board an email to that effect.

I believe that addresses the questions and comments that you, Mr. Bressé, and Mr. Spillane have asked me to address. Please contact me with any other questions or comments.

Very truly yours,

BAY COLONY GROUP, INC.



William R. Buckley, Jr., P.E.
Project Manager

Encl.

CC: Mr. Ronald Bressé
Attorney Francis Spillane



RECEIVED
TOWN CLERK

2021 JUL 29 P 2:59

FOXBOROUGH, MA 02035

44 Wood Avenue
Mansfield, MA 02048
Tel (508) 339-3929
Fax (508) 339-3140
www.ohiengineering.com

April 16, 2021

Maurice Brodeur
217 Cocasset St.
Foxboro, MA 02035

c/o Edward Valanzola, Esq.
Valanzola Law Group
15 West Street
Mansfield, MA 02048

**RE: Review Letter
217 Cocasset Street
Foxboro, MA**

Dear Attorney Valanzola:

OHI Engineering, Inc. (OHI) has prepared this letter regarding property owned by Maurice Brodeur at 217 Cocasset Street in Foxboro (the "Brodeur Property"), MA on April 8, 2021. The property is located adjacent to the Oil Time, Inc. property located at 227 Cocasset Street (the "Overtime Property") and owned by Anthony Lepardo. The purpose of the Site visit was to evaluate conditions on both properties relative to the 2005 Special Permit issued by the Foxboro Planning Board, and Order of Conditions issued by the Foxboro Conservation Commission on July 25, 2005 for the Overtime Property.

OHI has conducted a Site visit to observe current conditions and has reviewed plans entitled Site Plan of the Re-Construction of Oil Time, Inc. prepared by Bay Colony Group, Inc. with latest revision dated August 4, 2005 (BCG Plans). The following issues were identified that differed from the BCG Plans:

- 1) An excavated area was found to be located on the Brodeur Property with a 4-inch diameter PVC pipe discharging into it from the Overtime Property. Based on prior survey markers, it is my opinion that the excavated area is entirely located on the Brodeur Property. The excavated area was constructed after 2005, as the low area was not shown the BCG Plans. As noted above, the excavated area receives flow from Overtime Property in contravention to the BCG plans and, when coupled with the filling noted in Item #2, below, significantly alters stormwater conditions on the Brodeur Property. It is our understanding that the 4-inch PVC was removed from the Brodeur Property by the owner of the Overtime Property shortly after our Site visit. (See Photo #1 and #2).

The excavated area on the Brodeur Property should be restored to pre-2005 grades by the Overtime Property owner, and the excess fill material placed on the Overtime Property should also be removed to grades shown on the BCG Plans.

should also be removed to grades shown on the BCG Plans.

- 2) Proposed grades at the Oiltime Property in the southwesterly portion of that property were shown on the BCG Plans to be roughly similar to pre-existing grades. Based on OHI's Site visit, grades in that portion of the Oiltime Property appear to be approximately two to four feet higher than shown on the BCG plans. The fill appears as an embankment and blocks the typical flow of stormwater on the Brodeur Property. (See Photo #3).

The grades in that portion of the Oiltime Property should be restored to the grades shown on the BCG Plans.

- 3) A loamed and seeded vegetated buffer consisting of 39 Black Pines was shown on the BCG Plans along the common property line between the two properties. The vegetated buffer has not been constructed. The area appears to consist of stockpiled material, and gravel. Stormwater runoff from the area as constructed without the buffer, is significantly higher than runoff from the Oiltime Property if the landscaped buffer is constructed, as required by the BCG Plans. (See Photo #4 and #5).

The material stockpiles should be removed and the landscaped buffer should be installed as shown on the BCG Plans.

- 4) A proposed swale and infiltration area are shown on the BCG Plans to be installed along the southerly and easterly portions of the Oiltime Property. No evidence of the swale or infiltration area were noted during our Site visit.

The swale and infiltration area should be constructed and maintained, subject to comment #5, below.

- 5) An Order of Conditions was issued by the Foxboro Conservation Commission dated July 25, 2005 (2005 Order). Based on the BCG Plans, the large majority of the work shown on the BCG Plans is located within wetland resource areas and/or associated buffer zone. The 2005 Order references the BCG Plans dated March 13, 2005. It is not known if subsequent revisions of the BCG Plans on May 4, 2005, July 11, 2005 and August 4, 2005 were provided to, reviewed by, or approved by the Foxboro Conservation Commission. Condition #4 of the 2005 Order indicates the work authorized under the 2005 Order was to be completed within one (1) year of the date of the order. As noted above, the vegetated buffer, swale and infiltration basin were not completed. Further, significant additional fill was apparently brought onto the Oiltime Property, and an area was illegally excavated on the Brodeur Property, that receives flow from the Oiltime Property, neither of which were shown on the BCG Plans referenced in the 2005 Order. It is our understanding that a Request for Extension or Certificate of Compliance was not submitted to the Foxboro Conservation Commission. Therefore, the 2005 Order would have terminated on July 25, 2006. Work on the Oiltime Property currently occurring within resource areas under the jurisdiction of the Wetlands Protection Act is being conducted without a valid Order of Conditions and in violation of the Wetlands

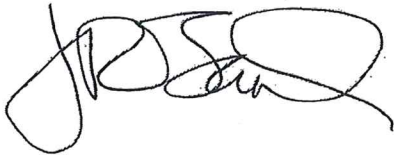
Protection Act.

The work on the Oiltime Property occurring within resource areas should be reviewed and approved by the Foxboro Conservation Commission and a new Order of Conditions should be issued prior to that work taking place.

We appreciate the opportunity to work with you on this project. Please do not hesitate to contact me should you have questions or comments regarding this matter.

Very truly yours,

OHI ENGINEERING, INC.



James R. Borrebach, P.E., L.S.P.
Principal

Attachment: Site Photos 4-8-2021

217 Cocasset Street
Site Photos
April 8, 2021

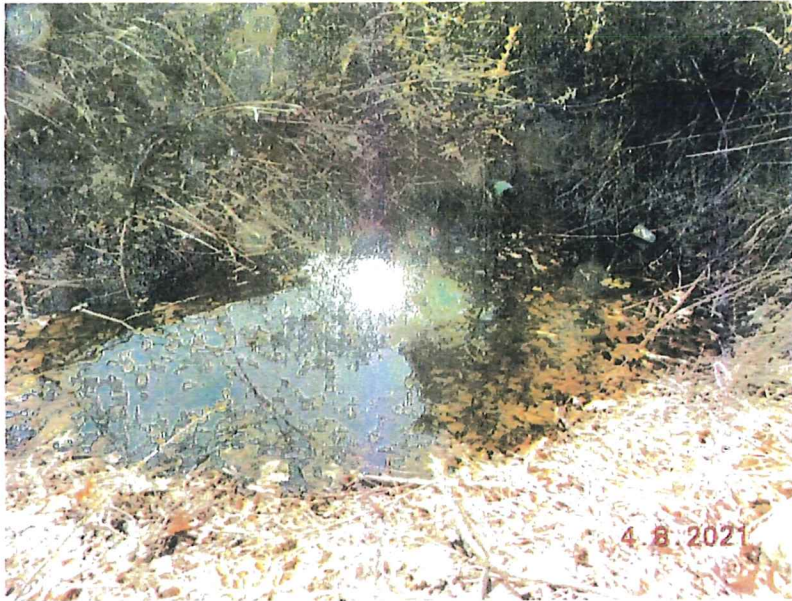


Photo 1 – Excavated Area on 217 Cocasset St. showing PVC pipe emanating from 227 Cocasset Street. Looking southeast from 217 Cocasset Street.



Photo 2 – Excavated Area on 217 Cocasset St. showing PVC pipe emanating from 227 Cocasset Street. Looking northwest from 217 Cocasset Street.



Photo 3 – View from 217 Cocasset of excavated area looking towards 227 Cocasset. Note height of fill placed on 227 Cocasset.



Photo 4 – Looking north from 217 Cocasset towards 227 Cocasset. Note vinyl fence not included in BCG Plans and lack of vegetated/landscaped buffer.

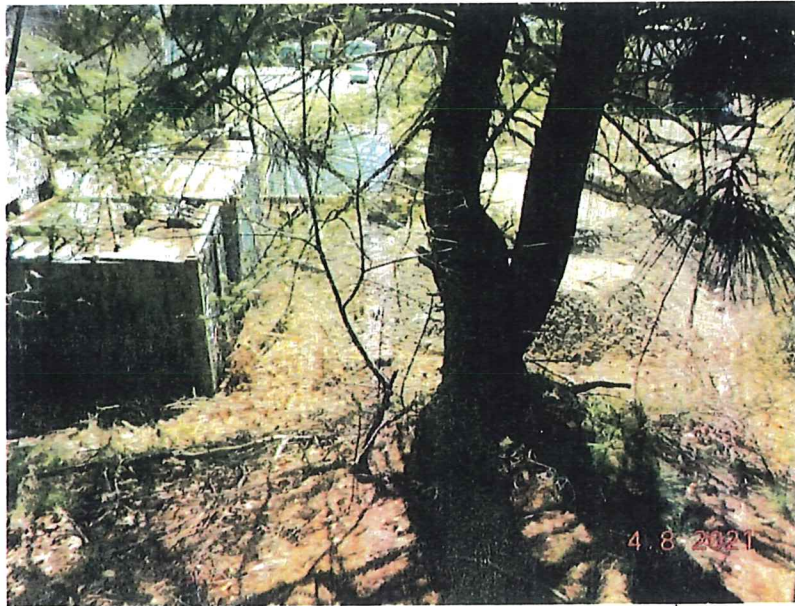


Photo 5 – Photo from Northeast Corner of 217 Cocasset looking east towards 227 Cocasset. Common property line is off the right side of the photo. Note stockpiles, concrete block containment walls, gravel/disturbed surface, and lack of vegetated/landscaped buffer.

Photographs by M. Brodeur
217 Cocasset Street Foxboro, MA
April 8, 2021

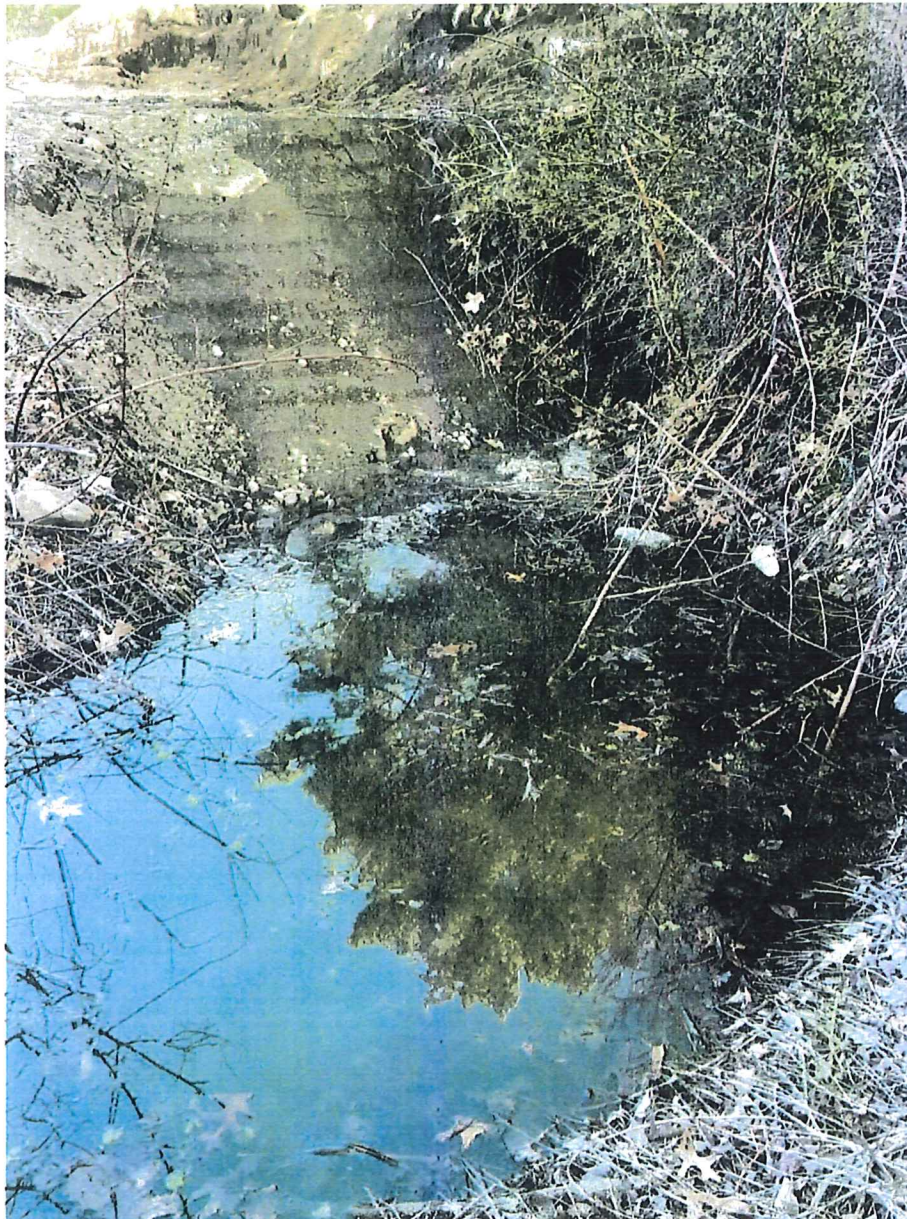


Photo 1 – View of Excavated area on 217 Cocasset taken 4-8-2021 showing removal of 4-inch PVC pipe by owner of 227 Cocasset Street.

Photographs by M. Brodeur
217 Cocasset Street Foxboro, MA
April 8, 2021



Photo 2 – View of Excavated area on 217 Cocasset taken 4-8-2021 showing removal of 4-inch PVC pipe by owner of 227 Cocasset Street.

Photographs by M. Brodeur
217 Cocasset Street Foxboro, MA
April 8, 2021

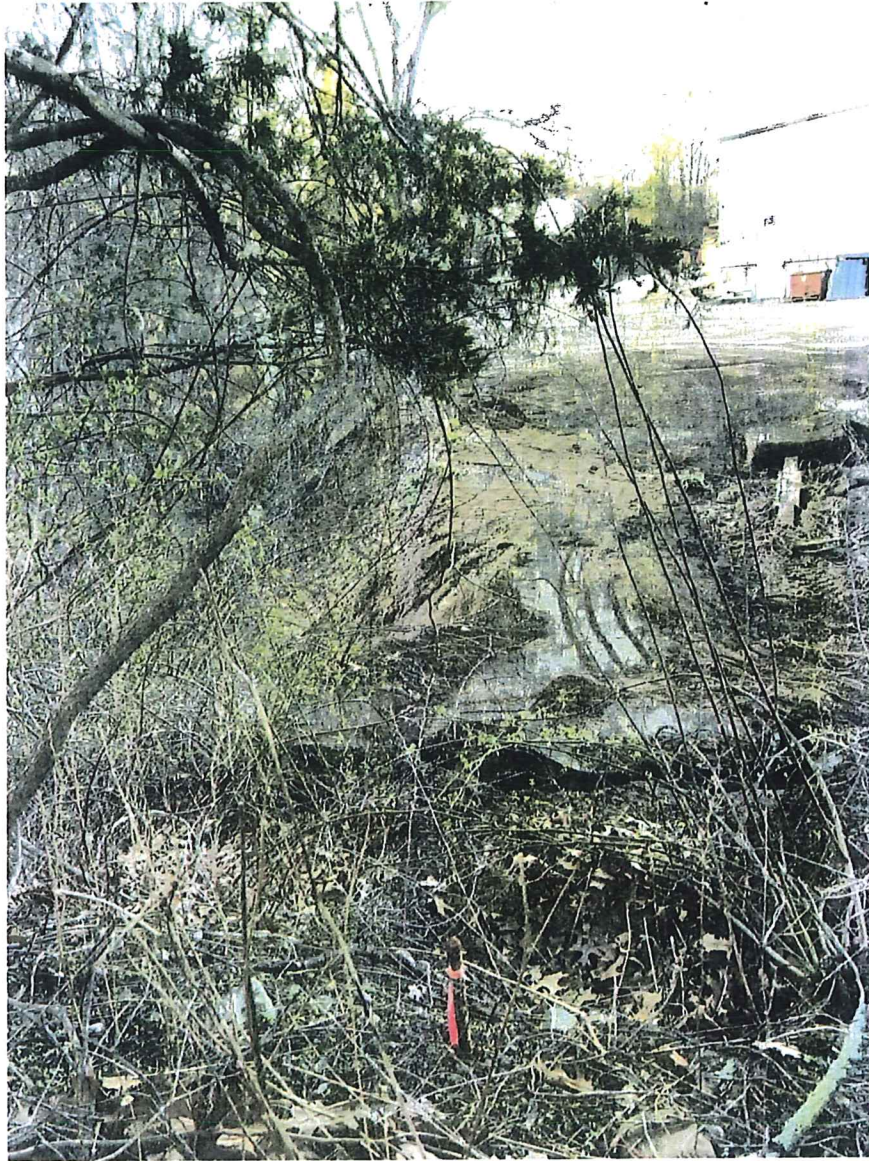


Photo 3 – View of looking north along common property line between 217 (left side of photo) and 227 Cocasset Street (right side of photo) after removal of 4-inch pipe shown in Photos #1 and #2. Note property corner stake in bottom center, and disturbed slope on 217 Cocasset.

Photographs by M. Brodeur
217 Cocasset Street Foxboro, MA
April 8, 2021



Photo 4 – View looking northeast from 217 (left side of photo) towards 227 Cocasset Street. Note 4-inch PVC pipe at middle center along with soil and boulders that had been removed from 217 Cocasset Street.



The Commonwealth of Massachusetts
Town of Mansfield



FP-007C
(Rev. 1.1.2015)

**CERTIFICATE OF COMPLIANCE M.G.L. CHAPTER 148,
SECTIONS 26F, 26F-1/2**

City or Town: MANSFIELD

Date: 4/16/2021

This certifies that the property located at 438 SCHOOL STREET

has been equipped with approved smoke detectors, and carbon monoxide alarms* and was found to be in compliance with Massachusetts General Law, Chapter 148 Sections 26F, 26F-1/2 and 527 CMR 1.00 Section 13.7.

Inspection/Testing completed on: 4/16/21

By: [Signature]

Inspector

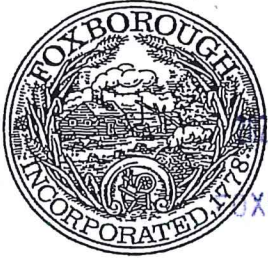
Fee Paid: \$50.00

Head of Fire Department: [Signature]

Justin Donovan

Note: This certificate expires sixty (60) days after date of issue.

SELLER'S COPY



RECEIVED
TOWN CLERK

JUL 29 11 28 AM '21
FOXBOROUGH, MA 02035

RECEIVED
BOARD OF ASSESSORS
JUL 23 2021
TOWN OF FOXBOROUGH

BOARD OF ASSESSORS
TOWN OF FOXBOROUGH
40 SOUTH STREET
FOXBOROUGH MASSACHUSETTS 02035

(508) 543-1215

Fax: (508) 543-6278

CERTIFICATION OF ABUTTERS

PROPERTY OWNER: Lepardo Antonetta ATR
MAILING ADDRESS: PO Box 345 Foxboro, MA 02035
PROPERTY LOCATION: 227 Cocasset St. Foxboro, MA
ASSESSORS MAP/PARCEL: map 095 Parcel 008
APPLICANT: Edward PHONE: 774-719-0275
AUTHORITY REQUESTING LIST: _____
DATE SUBMITTED: 7/27/21

LIST REQUESTED: 500 FT DIRECT ABUTTER
 300 FT ABUTTER TO ABUTTER
 100 FT

I, Kevin R..., acting as a custodian of assessment records, do hereby certify that the attached documents contain true and complete information from the most recent tax list of the Town of Foxborough, Massachusetts.

I further state that these documents include the names and addresses of

map 095 Parcel 008

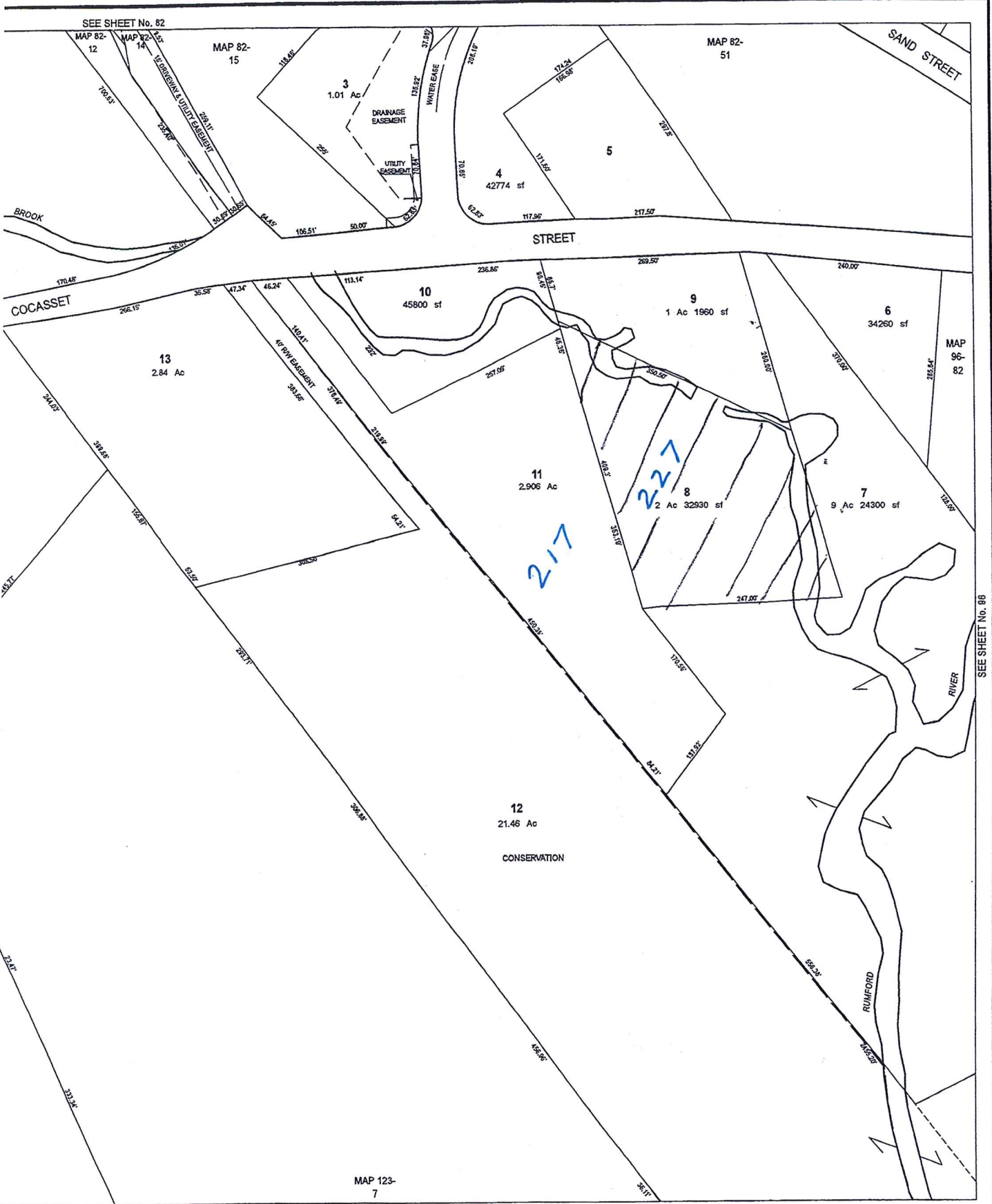
Date: 7/27/21

BOARD OF ASSESSORS
FOXBOROUGH MASSACHUSETTS

Massachusetts General Law c. 40A, s.11, "The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes."

The Assessors Office will complete the abutters list within 7-10 business days. There is a \$25.00 fee for an abutters list.

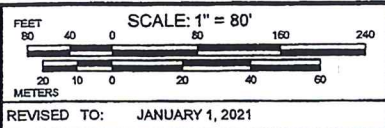
"The applicant is solely responsible for requesting the appropriate abutters list required by the applicable Mass General Law."



MAP 123-7

SEE SHEET No. 109

- PARCEL NUMBER 5
- RIGHT OF WAY/ACCESS [Symbol]
- COMMON OWNERSHIP [Symbol] OR [Symbol]
- WETLANDS [Symbol]



PROPERTY MAPS
FOXBOROUGH
 MASSACHUSETTS

INDEX DIAGRAM

81	82	83
84	85	86
108	109	110

MAP NO.
95

SEE SHEET No. 86



RECEIVED
BOARD OF ASSESSORS
JUL 28 2021
TOWN OF FOXBOROUGH

BOARD OF ASSESSORS
TOWN OF FOXBOROUGH
40 SOUTH STREET
FOXBOROUGH MASSACHUSETTS 02035

(508) 543-1215

Fax: (508) 543-6278

CERTIFICATION OF ABUTTERS

PROPERTY OWNER: Lepardo Antonetta ATR
MAILING ADDRESS: PO Box 345 Foxboro, MA 02035
PROPERTY LOCATION: 227 Cocasset St. Foxboro, MA
ASSESSORS MAP/PARCEL: map 095 Parcel 008
APPLICANT: Edward PHONE: 774-719-0275
AUTHORITY REQUESTING LIST: _____
DATE SUBMITTED: 7/27/21
LIST REQUESTED: 500 FT DIRECT ABUTTER
 300 FT ABUTTER TO ABUTTER
 100 FT

I, Kevin R..., acting as a custodian of assessment records, do hereby certify that the attached documents contain true and complete information from the most recent tax list of the Town of Foxborough, Massachusetts.

I further state that these documents include the names and addresses of
map 095 Parcel 008

Date: 7/27/21

BOARD OF ASSESSORS
FOXBOROUGH MASSACHUSETTS

Massachusetts General Law c. 40A, s.11, "The assessors maintaining any applicable tax list shall certify to the permit granting authority or special permit granting authority the names and addresses of parties in interest and such certification shall be conclusive for all purposes."

The Assessors Office will complete the abutters list within 7-10 business days. There is a \$25.00 fee for an abutters list.

"The applicant is solely responsible for requesting the appropriate abutters list required by the applicable Mass General Law."

Abutting Properties for
227 COCASSET STREET
FOXBOROUGH, MA
095-008
(300 Feet)
7/28/2021

Location:
095-013
207 COCASSET STREET
Owner: KUN-KURT GUNHILD
K C/O DR GUNHILD KURT IM
FRANKFURTER GRUND 12
OFFENBACH GERMANY,
00 63073

Location:
095-009
225 COCASSET STREET
Owner: LEPARDO
ANTONETTA A TR
P O BOX 345
FOXBOROUGH, MA 02035

Location:
096-082
237 COCASSET STREET
Owner: CHRISTOPHERSON
JAMES J
237 COCASSET STREET
FOXBOROUGH, MA 02035

Location:
095-010
221 COCASSET STREET
Owner: MCKEOWN CURTIS
WILLIAM & SHANA
SUNSHINE
221 COCASSET ST
FOXBORO, MA 02035

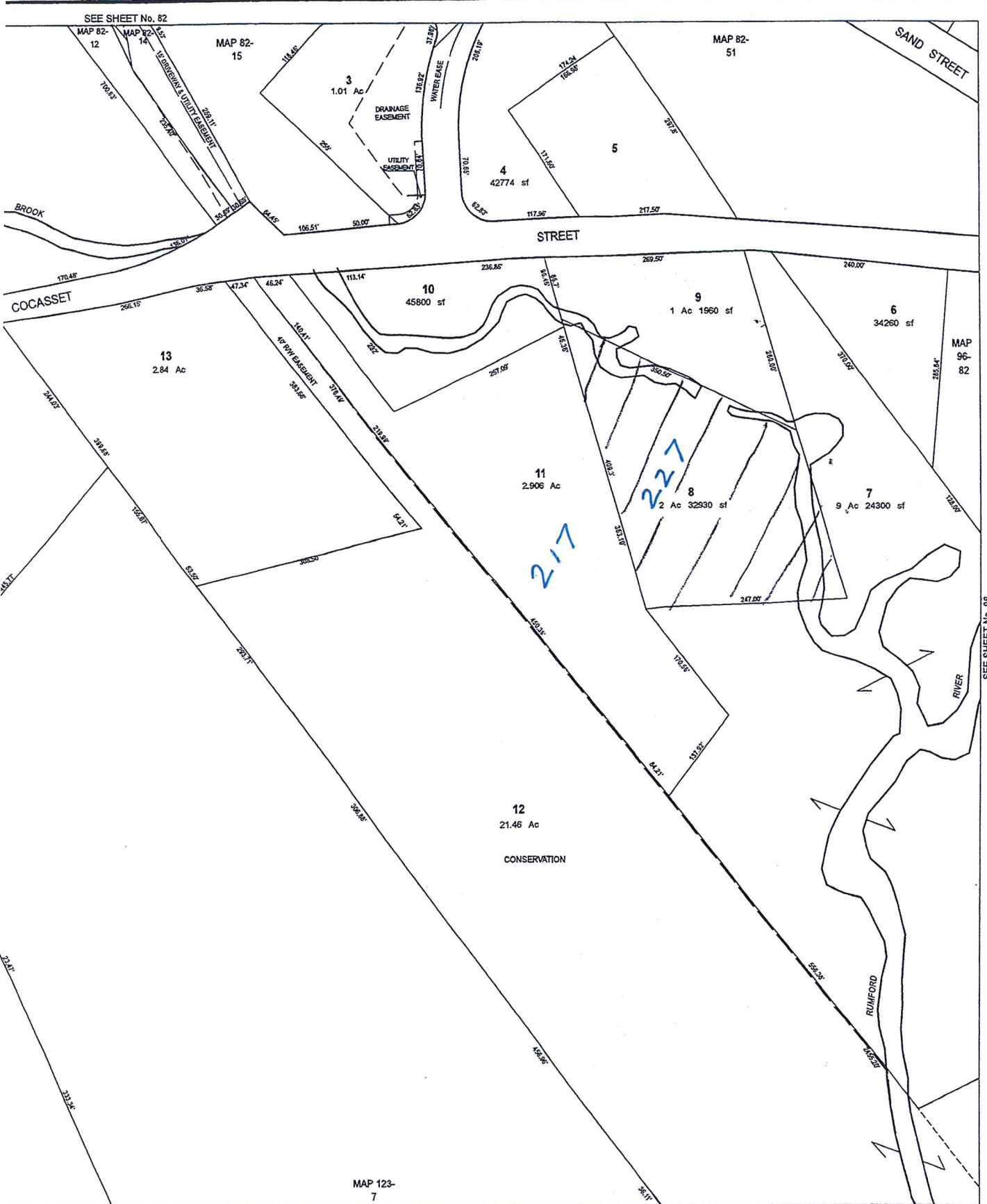
Location:
095-007
COCASSET STREET
Owner: TOUZOS KAREN J
241 COCASSET STREET
FOXBOROUGH, MA 02035

Location:
095-011
217 COCASSET STREET
Owner: BRODEUR MAURICE
R & SHARON L TE
217 COCASSET STREET
FOXBOROUGH, MA 02035

Location:
095-012
COCASSET STREET
Owner: TOWN OF
FOXBOROUGH
CONSERVATION
40 SOUTH STREET
FOXBOROUGH, MA 02035

Location:
095-006
233 COCASSET STREET
Owner: OULTON ANDREW J
& ANN S TRUSTEES C/O
MICHAEL OULTON
11 STRAWBERRY LANE
ATTLEBORO, MA 02703

Location:
096-081
241 COCASSET STREET
Owner: TOUZOS KAREN J &
RICHARD TE
241 COCASSET STREET
FOXBOROUGH, MA 02035



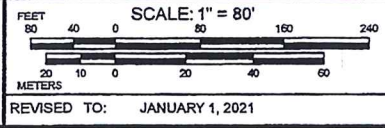
SEE SHEET No. 109

PARCEL NUMBER 5

RIGHT OF WAY/ACCESS 60'

COMMON OWNERSHIP CR

WETLANDS



PROPERTY MAPS

FOXBOROUGH

MASSACHUSETTS

INDEX DIAGRAM

81	82	83
94	95	96
108	109	110

MAP NO.

95

SEE SHEET No. 88