

MINUTES

Zoning Board of Appeals Meeting – October 19, 2021
115 Pleasant Street,
Gardner, MA 01440

Sitting in on Hearing:

Raymond LaFond	Melory Cornett
Randall Heglin	Roland Jean
Michael Gerry	GETV

In Attendance:

Peter CampoBasso	Ronald Koivie	Gerald Piorier
Rachel Taylor	Jake Modestow	Robert Chicoine
Steve Rockwood	Trevor Beauregard	Lisa Chicoine
Irene Chicoine	Andy Serrato	Cassandra Conrad
Jesse Chaison	Kelly Chaison	Lee Bradley
Thomas Pultorak	Paul LeBlanc	Judy Tysmyer
Douglas Pochini	Robert LeBlanc	Debra Pochini
Thomas Melanson	Ericka Pultorak	Angela Luhtjarv
Robin Leger	Alan Aube	Mikko Harjumaki
Scott Cordeiro	Neil Erickson	James Burns
Dawn Burns	David Page	Alan Rousseau
Daniel Rheauvie	Ryan Cormier	Aleksander Dernalowicz
Meghan Greigtardiff	Trevor Beauregard	Kevin Dakis
Dana Heath	Eric Hulette	Laural Adams
Christine Tree.	Daniel Ross	

Meeting Called to Order by Chairman Raymond LaFond at **6:08 PM** in the City Hall Perry Auditorium, 95 Pleasant St, Gardner, MA. Mr. LaFond then went over the ground rules and the requirements that must be addressed for a Variance or Special Permit. He then noted that the meeting was being video, and audio taped and requested if anyone objected. There were no objections.

Mr. LaFond reviewed the agenda for this meeting.

<u>Case #</u>	<u>Type</u>	<u>Address / Request</u>
Case #2021-08-01: <u>V</u>	Joanne Tavano	0 W Broadway. Open Space Development. PID#H17-7-1
Case #2021-08-02: <u>V</u>	Jesse Chaison	262 Elm St. Access Driveway.
Case #2021-08-03: <u>V</u>	Harbor Classic Homes.	0 Clark St. Open Space Dev. PID#M32-6-10.
Case #2021-08-04: <u>V</u>	Harbor Classic Homes.	0 Century Way. Open Space Dev. PID#37-21-42.
Case #2021-10-01: <u>V</u>	Alan Aube	34 Euclid St. Construct Deck, Violates Rear Setback.
Case #2021-08-08: <u>V</u>	Frank Cafali (CBRE)	492 Main St. Bank of America ATM Signage.
Case #2021-09-01: <u>V</u>	Andy Serrato	308 W Broadway. Starbucks Signage.

Mr. LaFond stated that this evening's agenda would be heard out of order that it was published to move the meeting faster.

Case# 2021-08-01: Variance for Private Oversight LLC, 0 W Broadway. Open Space Dev.

Application to construct 32 Multi-Family Units at 0 West Broadway, Gardner, MA Parcel ID # H17-7-1, located in the Commercial 2 zoning district (C2) is denied as it does not comply with Chapter 675, Article 1:1, #5 - Multifamily Dwelling of City Code of Gardner. The zoning code states that your use requested is a "not permitted" use in the "C2" zoning district.

Mr. LaFond explained that an email had been received from the applicant's legal representative requesting an extension on this hearing to the November meeting.

Letter attached to minutes ([Attachment 1](#))

Motion to accept extension.

Unanimous vote to continue to November 16.

Mr. Heglin requested that the timeline be reviewed as an extension may be needed, to make a decision on this case.

Rachel Taylor, Zoning Admin, will review and inform.

Case #2021-08-02. Jesse Chaison 242 Elm St - Second Driveway.

Application to construct a second driveway at 262 Elm St, Gardner, MA Parcel ID #R22-13-43, located in the Single Family Residential 1 zoning district (SFR1) is denied as it does not comply with Chapter 675-720 C. 2 – Each parking area may have one additional access driveway for each 200 feet of frontage, provided that all such access driveways shall be at least 200 feet apart on the parking area measured from the center line of each access driveway, of City Code of Gardner. Your Plans show less than 200 feet from the current driveway.

Case was heard on August 17th and continued till October meeting. A site visit was conducted on August 21 and September 4th.

Mr. LaFond informed all present that a letter had been received from a Mr. Stan Hartshorn against this appeal. Letter was read and is supplied in these minutes ([Attachment 2](#)).

Mr. LaFond opened the floor to Mr. Chaison for any further information.

Mr. Chaison stated he was caught off guard by the letter read out and informed the Board that he was appealing the driveway to do everything right. The driveway was already in place when he bought the house and once, he realized it was not allowed in that zone he came before the board to correct it. Removing the driveway would be a problem as there would be damage done to the trees on the property and Mrs. Chaison is planning on planting the area to make it look pretty for the neighbors.

Mr. LaFond asked if there had been any conversations with the neighbors of the shared driveway about granting access from that side. What would happen if the neighbors sold, and new people were not happy to share the access?

Mr. Chaison stated that the shared driveway grants him access to the garage at the rear of his property but only that one space. Neighbors have 4 vehicles which takes up most of the space so the new driveway on the front is more practical and important for his growing family.

Mr. Roland Jean – Building Commissioner for City of Gardner.

Mr. Jean stated that the shared driveway is register on the deed of both properties so no dispute on the shared part. Mr. Jean supports the use of the extra driveway.

Member Heglin noted that the deed provided does not explicitly mention the shared driveway.

Mr. LaFond clarified that at the site visit he noted that the driveway caused no issue to traffic and there was adequate space and visibility for access on and off the property.

Motion to grant Variance for second driveway.

Unanimous vote to grant Variance.

Variance granted to Mr. Jesse Chaison 242 Elm St, Second driveway.

Chairman LaFond turned the Chair over to Member Heglin, With the third member being Mr. Mel Cornett.

Case # 2021-08-08. Bank Of America ATM. 492 Main St. Signage.

Application to construct a sign at 492 Main St., Gardner, MA Parcel ID #R22-22-40, located in the Industrial 1 zone (I1) is denied as it does not comply with the approved site plan for this property. Also, a variance for signage was granted for this property Aug. 23, 2012.

Case was continued from September meeting with the plans being amended to remove the standing sign.

Mr. Heglin confirmed that the Board had received the new plans without the proposed free-standing sign. The ATM is away from the road and no danger or hazard will be impacted from the build.

The Applicant withdrew the free-standing sign from the application. The signs under consideration are those located in the ATM kiosk.

No further questions or concerns.

Motion to Approve variance for ATM signage, Gerry, Seconded Cornett.

Unanimous vote to Approve.

Variance approved to Frank Cafali (CBRE) Bank of America ATM. 492 Main St.

Chair turned back to Chairman LaFond. Members hearing the next case : LaFond, Gerry and Heglin.

Case # 2021-09-01. Andy Serrato. 308 W Broadway. Starbucks Signage.

Application to construct Two Directional Signs at 308 West Broadway, Gardner, MA Parcel ID # R17-16-14A, located in the Commercial 2 zoning district (C2) is denied as it does not comply with Chapter 675-970 Letter D, "Directional signs. Directional signs may be erected near a street, driveway, or parking area if necessary for the safety and direction of vehicular or pedestrian traffic. The display area of each directional sign shall not exceed two square feet, and no directional sign shall be located more than six feet above the ground level if mounted on a wall of a building or more than 3 1/2 feet above the ground if freestanding. Directional signs shall not advertise, identify, or promote any product, person, premises, or activity but may identify the street name/number and provide directions", of City Code of Gardner. The zoning code states that your use requested is a "not permitted" use in the "C2" zoning district.

Application to construct a Five-Foot-Tall Sign at 308 West Broadway, Gardner, MA Parcel ID # R17-16-14A, located in the Commercial 2 zoning district (C2) is denied as it does not comply with Chapter 675-970 Letter A, "Wall sign or individual letter sign. A wall sign or individual letter sign shall not exceed four feet in height. A wall sign or individual letter sign on the exterior wall of the first floor of a building shall not exceed in area two square feet for each linear foot of the wall or 80 square feet, whichever is less. The length of signs of establishments occupying other than the first floor of a building shall not exceed six feet. No portion of a wall sign or individual letter sign shall project more than one foot from the face of the wall or above the wall of any building. In no case shall a sign project above a parapet wall. An establishment may divide the entire display area permitted herein into separate wall signs or individual letter signs, provided that the maximum height of each separate sign does not exceed the maximum height permitted herein and the sum of the aggregate width and area of each separate sign does not exceed the maximum permitted herein",

of City Code of Gardner. The zoning code states that your use requested is a "not permitted" use in the "C2" zoning district.

Case was Amended from a Special Permit to a Variance.

Mr. LaFond opened the floor to Mr. Serrato.

Mr. Serrato informed the Board that the application has been amended to a Variance and that the applicant has now removed the directional signs as they will be using the smaller sized signs that are allowed. Building permits will be pulled in the next few days to move forward with the those.

Currently the building has a 4-foot round sign of the Starbuck's Logo on the front of the building so that the store can open as planned. The company feels that a larger round logo will be better for the area so it can be clearly seen from the traffic lights and passing street traffic. Mr. Serrato showed the Board a large-scale image of half the logo to indicate the size needed.

Mr. Heglin requested the date of the grand opening as the Gardner news had the project on the front page stating the grand opening on November 4th. Image was shared from paper ([Attachment 3](#)). Showing the circular signage under consideration. The signs installed temporarily meet the 4-foot height requirements of the code. Applicant seeks 5foot high circular signage.

Mr. Serrato confirmed that the date for opening is set for Nov 4th.

Mr. LaFond asked if there were other size signs available as companies as large as Starbucks often have many options for signs in order to use in various buildings.

Mr. Serrato explained that other options are available depending on the building size, but this project has ample room for the larger sign and feel that this proposed size will be better for safety and be visually balanced for the space on the wall.

Mr. LaFond asked the applicant to address the 3 requirements for a Variance.

- 1) Sign will already be present the request is for a larger size to better suit the building.
- 2) The larger sign will be easier to see from passing, further away thus removing any safety hazard.
- 3) There is no change or derogating aspect to the city code from this project.

Mr. Heglin asked if the sign were illuminated and what hours of illumination would there be.

Mr. Serrato stated that the Starbucks logo sign and menu board were illuminated during store open hours but would turn off at close.

Mr. Heglin showed an image from the Gardner Newspaper asking if this was the current sign and if the proposed sign being 5ft rather than the current 4ft would double the size of the sign.

Mr. Serrato reiterated that the larger size is important for safety of passing traffic. Seeing the sign from further away will allow patrons to see where the store is and make traffic signals and lane changes, accordingly.

Mr. LaFond read a letter submitted from Joe Nolasco, project manager for Starbucks. ([Attachment 4](#))

Mr. LaFond requested a site visit and schedule to be made by Rachel.

Mr. Serrato requested an evening visit in order to view the sign illuminated.

Site visit to be held after 6:30pm and date yet to be scheduled.

Motion to continue hearing to November 16th.

Unanimous vote to continue.

Case #2021-10-01. Alan Aube, 34 Euclid St – Variance, Rear Deck with Lack of Setback.

Application to build a Deck at 34 Euclid St, Gardner, MA Parcel ID # M27-17-62, located in the Single-Family Residential One zoning district (SFR1), is denied as it does not comply with Chapter 675, Article 2 Table of lot area, frontage, yard & height requirement of City Code of Gardner.

1. *The table requires a 20 feet rear setback, and your drawing shows only 9 feet of setback.*

Mr. LaFond opened the floor to Mr. Aube and his representation.

Mr. Aube and his Contractor approached the Board with plans for the project.

(Attachment 5)

Mr. Aube has very little land at the side of the property, and this is the only area the deck can be placed so the stairs can fit. The lot has an angled side by the deck with only 9.3ft of available space. The stairs will be placed along the side of the house to the rear.

Mr. LaFond asked if the deck was already built or was the construction planned for this year before the bad weather. He would like a site visit, to see how close it is to the property line and asked if the property line can be clearly marked.

Mr. Heglin enquired if the stairs will lead out to the driveway and how far away the neighbor's property line was.

Mr. Aube stated that the abutting property was approx. 20-30 Feet.

Mr. LaFond asked if the deck would be enclosed.

Mr. Aube replied that the deck would have rails but not be fully enclosed, the deck is also 8ft above the ground.

Mr. LaFond asked the applicant to address the 3 requirement questions of the variance.

- 1) There is no other area to build the deck, having the deck on the side of house would cause egress through the main bedroom.
- 2) There is no detriment to public good as the deck is on private property.
- 3) This does not derogate from the city code.

Mr. LaFond requested a site visit and to continue to the November meeting.

Site Visit Scheduled for Saturday October 30th, at 9AM.

Motion to continue to November.

Unanimous vote to Continue.

Case # 2021-08-03 & 2021-08-04. Variance. Harbor Classic Homes, Century Way & Clark St, Open Space Development.

Application to construct an access for the proposed Open Space Residential Development (PID M32-6-10 – Clark St. Entrance), located in the General Residential 3 zoning district (GR3) and Single Family 1 Residential zoning district (SFR1) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #10 – Open Space Residential Development of City Code of Gardner. The zoning code states that your use requested is a “not permitted” use in the “GR3” and “SFR1” zoning districts.

Application to construct an access for the proposed Open Space Residential Development (PID M37-21-42 Century Way Entrance), located in the General Residential 3 zoning district (GR3) is denied as it does not comply with Chapter 675 Attachment 1:1 Table of Use #10 Open Space Residential Development of City Code of Gardner. The zoning code states that your use requested is a “not permitted” use in the “GR3” zoning district.

Mr. LaFond requested that all people present for this case be patient and respectful, the Board is aware that this is a highly emotional project for the abutters. He clarified that this hearing was NOT for the housing development itself but for the access driveways to the land where the development will take place. Any questions or concerns for the housing site will need to go to the planning board. Any comments regarding the building of houses will not be discussed at the hearing. The floor was opened to Applicant or legal rep.

Attorney Peter CampoBasso Legal Representation for Harbor Classic Homes.

Atty CampoBasso addressed the Board and all present stating that he had addressed the 3 requirements of a variance in a statement sent to the Board but believes that they do not actually need the variance as he explained in the written statement. ([Attachment 6](#)).

Any response from the reps of the city.

Mr. Roland Jean – City of Gardner Building Commissioner.

Mr. Jean stated that he was in favor of this project and having briefly read the statement Atty CampoBasso had supplied he would like more time to review the document more thoroughly.

Attorney CampoBasso stated that he is aware that this project needs to go through the Planning Board and should the ZBA deny this application the Planning Board could still approve and override their decision.

Mr. Gerry asked if the applicant was ready to go before the Planning Board?

Attorney CampoBasso said that they would be ready for planning in the next couple of months.

Any Abutters in favor this application.

No abutter present were in favor of this application.

Any Abutters against this application.

Mr. LaFond informed that a letter had been received in the office from Mr. Nate Galeota -182 Fernwood Dr. This letter can be supplied to any person with interest by contacting the Zoning office. It will also be attached the minutes. ([Attachment 7](#))

Mr. Gerald Poirier – 323 Clark St.

Mr. Poirier abuts the proposed driveway access from Clark St. There will be less then 200ft between his home and the property line and is dead set against this project. Traffic is already a problem in the area and the increase of new homes will just add to the problem.

Mr. Lee Bradley – 105 Brookside Dr.

Mr. Bradley abuts the Century Way entrance, He has concerns not only with the traffic increase to the area but also the problem of drainage. In wintertime and after heavy rain falls the drains can overflow in the area. The roads may be overcome with the increase of traffic volume as well as the increase to the city emergency vehicles etc... The area already has a problem with speeding on Clark St.

Mr. LaFond stated that any speed and traffic aspects would be discussed through the planning process and a traffic study would need to be conducted for the Planning Board to approve. The Board understands that the traffic is a factor for the current hearing but only the area where the proposed driveway entrance will be. The increase of traffic from the new home are not a factor in this case.

Mr. Melanson 158 Clark St.

Mr. Melanson stated that this application was disgusting and should be allowed in any form. The traffic is horrible and the amount of wildlife that will be destroyed and damage to the water supply will be astronomical. The ZBA should not even consider this request. Mr. Melanson left the building.

Mr. Eric Hulette – 119 Brookside Drive.

Mr. Hulette has lived in his home for over 23 years and can verify that traffic has increased greatly over the past few years. The roads in the area often experience flooding and surface water problems and the increase of homes in this area will only make things worse. He was aware that a traffic study was conducted about 15years ago but is unaware of what the outcome was from it. The DPW should be part of the studies moving forward as he is sure they will be against it because of the increased workload it will cause the city.

Robin Leger – 69 Clark St.

Mrs. Leger voiced her concern for the wildlife in the area asking if this project really was the best use of the proposed land? Many people use the area to walk and enjoy nature as well as the location being close to Pearly Brook reservoir, the City's current water source. This land should

be protected from such projects. The increase in traffic from the new homes will become a safety hazard for all and she cannot support this project at all.

Mr. Heglin stated that for the record the increase in traffic problems is still a speculation as no traffic study has been conducted yet and the planning board would have to take all of this into account when they make their decision on the project.

Mr. LaFond asked Attorney CampoBasso if there were plans to get a traffic study, including a police report for traffic and speeding incidents. Attorney CampoBasso confirmed that once the project got to planning then all studies and reports would be filed and conducted as needed.

Mr. LaFond noted that maps had been handed out to abutters from the applicant to show the exact place that driveways are being proposed. ([Attachment 8](#))

Mr. Jeffrey Landry – 35 Clark St.

Mr. Landry confirmed that traffic would definitely be a problem and he has had a bad accident right outside his home. He also wanted to inform the Board that there are currently a nesting pair of bald eagles in the area, which he believes would be protected. The water supply is often affected with an algae bloom at certain times of year which is a direct reaction to the number of homes so close the water source. There is also a problem with litter and discarded needles in the area.

Mr. LaFond reiterated that these would all be issues for the Planning Board and not under the consideration of the ZBA.

Mr. Dan Ross – 477 Clark St

Mr. Ross stated that in the years that they added just 20 houses on Leo drive the trash and traffic has increased significantly. This project should not go any further as the city really doesn't need it.

Mr. Scott Cordeiro – 380 Clark St.

Mr. Cordeiro asked if the proposed site for the driveways were the only option for access to the intended development area? He would like to see a more thorough study into the planning process as maybe there was another site for access, he is concerned that the development will become a cut through and will encourage speeding and traffic issues.

Mr. LaFond requested a site visit for the Board to better judge the proposed driveway placement. Abutters may attend the site visit, but it is at the discretion of the applicant to allow them on property.

Mr. Robert Chicoine – 300 Clark St. also speaking for his mother Irene Chicoine 291 Clark St.

Mr. Chicoine asked if he could approach the Board as he had made some notes on his copy of the map. He informed the Board that all past comments are valid points for stopping this project. Traffic, trash, and drainage are current problems so the new development will only add more issues. He asked what the 50ft offset at the bottom of the plan meant. Does this mean they can take 50ft of land from his mother's house? How close to the to the property line will the driveway be. Mr. Chicoine also asked how much logging and clearing would be done and how close the site would go to Pearly Brook. How close will the first house be regarding the driveway entrance and Clark St.

Mr. Chicoine's Plan is attached to minutes ([Attachment 9](#)).

Mr. LaFond clarified that 50ft buffer stated on the plan is an offset buffer for the G3 zone and is not an intent to take land.

Mr. Heglin stated once again that all these issues would be taken into consideration at site plan review, but all comments are valid.

Mr. Dana Heath -167 Acadia Rd, running for City Council Ward 2

Mr. Heath explained that though he was not an abutter he is currently running for City Council seat to cover Ward 2 which is where the development site is located. At this time, he is neither for or against this project and will be watching closely the outcome. He would like to note a request that should the project move forward that sidewalk be a consideration of the plan for the safety of children and foot traffic in the area.

Mr. LaFond thanked Mr. Heath for his interest in the project and the well-being of his constituents. His comments will be addressed at the planning board review.

Mr. LaFond asked to address the Century Way access point and any information solely for this area.

Mr. CampoBasso stated that just like the other egress site the plot would grant access to the land at the rear where they plan to build. The planned site will be between the 105 Brookside Dr and the corner of 225 Century Way. There is ample space to allow a roadway, and this would grant 2 means of egress for the development. As stated previously Open Space development is allowed in this area it's just the driveway access that is needed to move forward to the Site Plan review of the Planning Board.

Mr. LaFond noted that all comment in this meeting regarding these driveways count towards both cases.

Mr. Heglin asked if this land had a purchase and sale agreement if the applicant had already purchased the land for this project.

Mr. CampoBasso stated a purchase and sales was in place and the case before us was for driveways access across zoning line. The development is in RR2 where open space development

is allowed. The entry ways are in G3 and SFR1 which need to be granted a variance to allow the access driveways to be constructed.

Mr. LaFond requested a site visit for both driveway sites.

Site Visit planned for October 30, 2021. at 10AM.

Also requested the site visit for 0 W Broadway to be scheduled for same day, if possible. Admin will arrange the schedule.

Motion to continue this case to November 16, 2021.

Unanimous vote to continue.

Mr. Chicoine asked if a decision would be made at the site visit or the meeting in November.

Mr. LaFond stated that November would be the earliest chance to make a decision, but it is most likely that a separate decision meeting will be held at a later date. All site visits and meetings will be posted on the city website and the news line at city hall. No further notices will be mailed out to abutters but continued cases will be advertised in the Gardner Newspaper.

Any New Business.

Motion to accept the minutes from September 21st meeting.

Unanimous vote to accept minutes.

Motion to adjourn meeting

Unanimous vote to adjourn

Meeting Adjourned at 8.27PM.



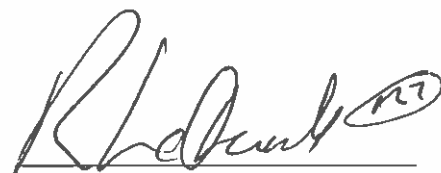
Randall Heglin, Acting Chair



Michael Gerry, Clerk



Mel Cornett, Member



Raymond LaFond, Chairman

FITCH I



Christine Tree Legal

Christine M. Tree
ctree@christinetreelegal.com
Anthony Zarrella, Of Counsel
azarrella@christinetreelegal.com

October 14, 2021

City of Gardner
Zoning Board of Appeals
City Hall Annex, Room 101
115 Pleasant Street
Gardner, MA 01440



Re: Case #2021-08 01, PrivateOversight, LLC, 0 West Broadway Open Space Development

Dear Sir or Madam:

As you may remember, I represent PrivateOversight, LLC who owns 0 West Broadway, and are seeking a Use Variance for development of residential units at said location, case number 2021-08-01. We are scheduled for the October 19, 2021 ZBA meeting scheduled to start at 6:00 pm.

We would like to request a continuance for this matter, so that the Board may have time to conduct its site visit. Please find enclosed with this letter a check in the amount of \$150.00 for the continuance and grant a continuance to the next scheduled ZBA meeting. The site has been marked as requested by the Board, so I would also respectfully request that the site visit be scheduled.

Please note that the principal place of business for the applicant, PrivateOversight, LLC, is 21B West Hill Drive, Westminster, MA 01473.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Christine M. Tree, Esq.

CMT/WMT
Enclosures

HITCH 2

Zoning Board, Gardner Ma
Mr. Ray LaFond, Chairman

August 18, 2021



I am writing to express an opinion that came before the Board on Wednesday Night August 17th.

The issue is the driveway, parking area and curb Cut at 262 Elm Street. (Applicant Chaisson)

I am the original party that notified the City Engineer when this was being done by the house Flipper many months ago. The City placed an asphalt curb only at the entrance which has since crumbled but did nothing to restore the City owned setback to the property line. That was shameful.

The new owner (the applicant) now wishes to restore the curb cut.

For the original house Flipper I feel this is a clear case of it is easier to ask forgiveness than to ask permission. If he had asked permission from the City Engineer we would not be in the situation we are in now and more than likely not be brought before the board.

As for the current owners , they did not do their due diligence in purchasing the property from a house flipper who has no ties to the community and got his money and vanished.

As for the merits of the case:

My opinion is he has devalued the section of Elm street known for nice clean single family homes with well kept front lawns and shrubbery. If you let this stand you will encourage other owners to pave their front lawns and store campers, boats, and seldom used vehicles on their front lawns. Even if you deny such storage who is going to enforce it? We do not enforce many of the statutes we have on the books now.

I understand this is a shared driveway situation but the driveway could have been expanded in the north direction with shrubbery separating the two driveways if that was the owners intent.

Another alternative would have been angle parking on the side of the house utilizing the single existing curb cut. The are other houses on the street with side of the house angle parking.

The proposed entrance is between two large trees which the City owns and hopefully will not take down. This drive way and curb cut will eventually kill those city owned trees.

That is a clear safety hazard as they back out onto busy Elm Street.

If you allow this permit you are sending a message to the entire neighborhood that it is OK to pave and curb cut along the entire stretch of Elm Street. How could you possibly deny the next applicant after allowing this one? You are setting a dangerous precedent possibly throughout the city.

This is a single family home with more than likely two vehicles. I cannot believe that there are not other alternatives for parking than on the front lawn of a nice neighborhood.

This is why we have zoning – to preserve neighborhoods and maintain property values. Would you grant such a petition on Lawrence street, Parker Hill, Comee, Edgell, Cherry? There are alternatives.

Respectfully, Stanford Hartshorn

Stan Hartshorn
109 cherry St
Gardner.



RE: Starbucks
308 W. Broadway
Gardner, MA 01440

To whom it may concern;

Starbucks is requesting a sign variance at the location referenced above.

Wall signs are allowed up to 48" in height and Starbucks is proposing (2) 60" logo disc signs. The sign above the drive thru window is the only sign on that elevation. The length of the wall is 76' 1". Aesthetically a disc smaller than 60" would appear incorrect on this wall. The sign on the rear of the building is meant to be seen by motorists travelling west on W. Broadway. Since this is a multi-tenant building and Starbucks is at the end, the 60" is large enough to be seen in time to decide to make the left hand turn across traffic. A 48" disc would be more difficult to pick up while driving.

Directional signs may not exceed 2 sq. ft. Starbucks directionals are 3.23 sq. ft. and include their logo, the copy "Drive Thru", and an arrow pointing in the correct direction. The signs could be made smaller by removing the logo, but since this is a multitenant shopping center the logo is necessary to inform which business the drive thru is for.

A literal enforcement of the code would involve substantial hardship to Starbucks as the store would be less visible to motorists (current and/or potential customers) and navigating the drive thru more difficult since Starbucks is the end unit of a multi-tenant building facing furthest away from the intersection.

Desirable relief would not cause detriment to the public good and would improve traffic safety both on the adjacent road and in the parking lot.

Desirable relief would not derogate from the intent of the sign code.

Thus Starbucks is requesting a variance so that the sign package may be approved as currently proposed.

Thank you for your consideration and acceptance of this application.

Sincerely,
Joe Nolasco
Project Manager
Hilton Displays
125 Hillside Dr.
Greenville, SC 29607
864-230-7841 cell

RECEIVED

2021 SEP -9 PM 2:58

CITY OF BOSTON OFFICE
CITY CLERK
CITY CLERK



34 EUCLID STREET
ALAN AUBE

**DETERMINATION THAT REQUESTED USE IS NOT PERMITTED IS NOT
CONSISTENT WITH THE BYLAW**

The Building Commissioner determined that the requested use is not a permitted use in either SFR1 or RR3 and denied the intended Open Space Residential Development since it was not a permitted use. The proposed use of the land and lots to be created, however, is single family residential use which is an allowed use in both the SFR1 and RR3 districts.

The Zoning Bylaw defines a use as follows: "Use - The purpose for which a building or land is designed, arranged, or intended or for which a building or a tract of land is or may be occupied or maintained." The Applicant's intended use is in fact for single family residential homes, which is an allowed use in the SFR1, RR2 and RR3 zoning districts. Therefore, the intended use is permitted.

According to the Zoning Bylaw, an Open Space Residential Development is defined as: "A residential development in which the building and accessory uses are clustered together, with reduced lot sizes, into one or more groups in order to preserve open space and common open space and protect natural resources. The land not included in the building lots and streets shall be permanently preserved as common open space." By definition, the intended use of an Open Space Residential Development is residential and the intended single family residential use is permitted in the SFR1, RR2 and RR3 districts.

The Table of Uses referred to in the Building Commissioner's letter of June 16, 2021 makes reference to Chapter 675, Table of Uses. The section lists a number of residential uses that are either permitted by right, permitted by special permit or not permitted. However, the Table of Uses does classify Open Space Residential Development as a residential use in contrast to the other uses identified in the table of uses such as institutional, business, commercial or industrial. Therefore, the intended residential use is a permitted Residential Use under the Table of Uses.

A Special Permit is not a "Use" as it is a process which regulates a permitted use. Pursuant to the Bylaw, Special Permit is defined as: "1) The permit process administered by the special permit granting authority as authorized by MGL c. 40A, § 9; and 2) An authorization given by the special permit granting authority to use property in accordance with the regulations of this chapter." The Open Space Residential Development is simply the process the applicant must follow in order to develop the land as an Open Space Residential Development for the residential use. The purpose of an open space residential development by definition is intended to: 1 Encourage the preservation of common land for conservation, agriculture, common open space and recreational use; 2 Preserve historical or archaeological resources; 3 Protect existing or potential municipal water supplies; 4 Protect the value of real property by promoting more sensitive siting of buildings and better overall site planning; 5 Promote creative design and better utilization of land in harmony with its natural features and with the greater intent of this chapter through a greater flexibility in design; and 6 Allow more efficient provision of municipal services. An Open Space Residential Development use only falls under Residential Uses and not under any other defined uses such as institutional, business, commercial or industrial. The applicant's intended single family use, therefore, is in fact a permitted use and the determination should not be upheld.

OUTLINE OF VARIANCE REQUEST

In the event the determination is upheld, the Applicant contends that the criteria for Variance can be established. Both Applications for Variance are based upon denial letters dated June 16, 2021. The proposed use is residential access roadways over portions of the lot located off Clark Street, which is in the SFR1 Zone, and located off Century Way, which is in the RR3 Zone, into the remaining land located in the RR2 Zone for a proposed Open Space Residential Development (OSRD). According to the table of uses, an OSRD use is not permitted by special permit in either a SFR1 and GR3 and the Building Commissioner determined that a Variance is needed. Pursuant to Section 675-1150 (B) (2) of the Zoning Bylaw, the Board may hear and decide petitions for a Use Variance.

REQUIREMENTS TO GRANT A VARIANCE CAN BE ESTABLISHED

- 1) **A literal enforcement of the provisions of the Bylaw would involve substantial hardship owing to circumstances relating to the soil conditions, shape, or topography of such land, and especially affecting such land but not affecting generally the zoning district in which it is located.** Because of the shape of this lot, the Building Commissioner's determination creates a substantial hardship. The lot shape is unique in that the majority of the land lies behind developed residential homes and only has small frontage strips off Clark Street and Century Way. The Zoning line runs through the property along the undeveloped and developed land of the subject parcel and the existing residential homes but does not extend to Clark Street or Century Way. This is unique to the Applicant's lot of land and especially affects this lot but does not affect the zoning district in which it is located. The zoning line is drawn in such a fashion that the remaining land of the lot cannot be utilized pursuant to an allowed residential use in the RR2 District. A literal enforcement will cause a substantial hardship as it will prevent the applicant the opportunity to propose an OSRD to develop the land. Because of the shape, topography and configuration of the lot, the only access is over the portions of the SFR1 district or the GR3 district.

- 2) **Desirable relief may be granted without substantial detriment to the public good or creating or aggravating a safety hazard.** The proposed development is single family residential pursuant to an OSRD Special Permit. Single family homes are consistent with the neighborhood and would not constitute a substantial detriment. The proposed development is an Open Space Residential Development for single family homes, which is only permitted by a Special Permit from the Planning Board and is a permitted use in the RR2 Zone by Special Permit Approval from the Planning Board. A grant of the Variance is not an approval of the proposed development. The proposed OSRD will only be allowed after public hearing and the issuance of a Special Permit and Definitive Subdivision both issued by the Planning Board. A technical review has already been conducted by the Planning Board and the proposed development is ready to move to the preliminary subdivision and special permit stage. A preliminary subdivision with public hearing as well as definitive subdivision with public hearing

and special permit with public hearing will be required for the project to be built. Any safety hazard and public safety issues will have ample opportunity to be aired and addressed by the planning board. The requested relief can be granted without substantial detriment to the public or creating a safety hazard.

3) **Relief can be granted without nullifying or substantially derogating from the intent or purpose of the Gardner Code and Bylaw.** The proposed development is an OSRD Special Permit for single family residential homes. OSRD is a use allowed in the RR2 Zone by Special Permit Approval from the Planning Board. It does not derogate from the intent or purpose of the Code or Bylaw. Single family residential homes are allowed by right in the SFR1 district, the GR2 district and the GR3 district. An OSRD is allowed by Special Permit in the GR2 district. Therefore, a Grant of the Variance would not derogate or have a negative impact on the neighborhood or Zoning District affected. The proposed Special Permit use is permitted by Special Permit in the GR2 district, and the proposal is for single family residential use which is consistent with the use by the neighborhood and adjacent districts. The purpose of the Code and Bylaw will not be nullified, nor will the variance derogate from the intent of the Code and Bylaw.

HITCH 1



Dear Gardner Civil Service Members,

I would like to first take a moment to introduce myself to those to whom I have yet to meet. My name is Nate Galeota and I am a happy father of a 1st grade boy who attends Holy Family. My wife and I moved here 8 years ago for teaching jobs in the Ashburnham/Westminster school district. I am a Special Education Teacher and my wife teaches Kindergarten. We live on Fernwood Drive and love the neighborhood and have grown to love the city of Gardner. The following comes from a place of life experience, a sense of stewardship and fiscal awareness as a tax payer.

My family and I have had the pleasure of taking advantage of the wooded trails that head into Winchendon and to the Pearly Brook Reservoir. With the past two years being what they were, I feel it goes without saying that the mental struggles of navigating a pandemic are best remedied by exercise in nature. We have come to learn that off of Clark Street there will be a nearly 100 home development that is working its way through the zoning process. While I feel that the mental, physical and overall city wide benefits of wooded areas such as that on Clark are beneficial to everybody. I understand opposing the development for the previously mentioned reasons is not going to change the trajectory of anything as it is private property. Below, please find tangible, financial and quantifiable reasons why building nearly 100 single family homes is not in the best interest of the city both now and in the near future.

First I would like to draw your attention to an increased traffic load traveling up and down Clark Street. With nearly 100 homes being considered and the average single family home having 2 cars, that is at minimum an increase of 200 cars utilizing Clark/Eaton Street. As there are approximately 300 homes that currently utilize that street, increasing the number of cars by 33% would unquestionably accelerate the decline of the road. There is no sidewalk prior to the reservoir and the increased traffic would endanger the foot and cycle pedestrians who use the shoulder for exercise and as a mode of transportation. As the homes will most likely range from \$300k to \$500k, those who will be able to afford those homes will most likely be employed outside of our city limits. As such when they get to the end of Clark, they will turn left onto Eaton Street. While yes, that is a nice drive along the golf course, the road is difficult to maintain and always has significant structural challenges due to the wooded nature of the area. Never mind the significant impact that heavy construction vehicles will have on the roads over the many years this project would take to complete. That is not at all the fault of the city, rather just a part of elevation changes, water runoff and temperature fluctuations that are part of New England roads. Increasing traffic on both Clark and Eaton will come at a significant cost Burdon to the city. Credit should be given to the DPW for maintaining

the roads as they do with a limited budget. I would like to see a traffic study as well as a projected cost increase for the additional financial liability that the city will have to accept for increased road/infrastructure maintenance as a result of the construction of the development and the development itself.

The second reason that I oppose the construction of 100 homes off of Clark is also financial in nature. According to the proposed FYE 2022 budget, 47.5% of the overall town budget will go towards education. As I mentioned above, my wife and I are educators. We both believe strongly in investing in the education of future generations. However, in the district that we teach in, property taxes are among the highest in the state. This is due to a lack of industry which would generate significant tax revenue to fund education. In Gardner it would seem that we have a small and medium business culture that struggles to expand and stay viable long term. As such, additional costs of education are put on the shoulders of property tax payers. According to the most recent numbers from the Department of Education, the average cost to educate a student in Gardner is approximately \$13k. If 100 homes have an average of 2 children, that will be an additional 200 students entering into the school system. At \$13k per student, the math is quite simple to determine the total cost. $200 \text{ additional student} \times \$13\text{k} = \$2,600,000$. Sure, those 100 homes will pay on average \$5k per year in property taxes. However, 47% of the city budget is allocated to schools, so let's assume that percentage remains consistent with property taxes. With 47% of \$5k being \$2,300, we can take the total tax contribution from the 100 new homes and put it towards the \$2,600,000 price tag to educate the children. $\$2,300 \text{ in property taxes per house going towards education} \times 100 \text{ homes} = \$230,000$. Subtract the \$230,000 property tax contribution from the overall \$2,600,000 price tag to educate the new 200 children in the development and you have an annual deficit of \$2,370,000 to figure out each year. Sure, state and federal dollars are available and do subsidies some of that. However, those contributions fluctuate yearly while the population remains the same and the cost to educate always goes up. Yes, 100 new homes may stimulate the Gardner economy a little bit, but there are only so many tax dollars that can be had from what is left of downtown.

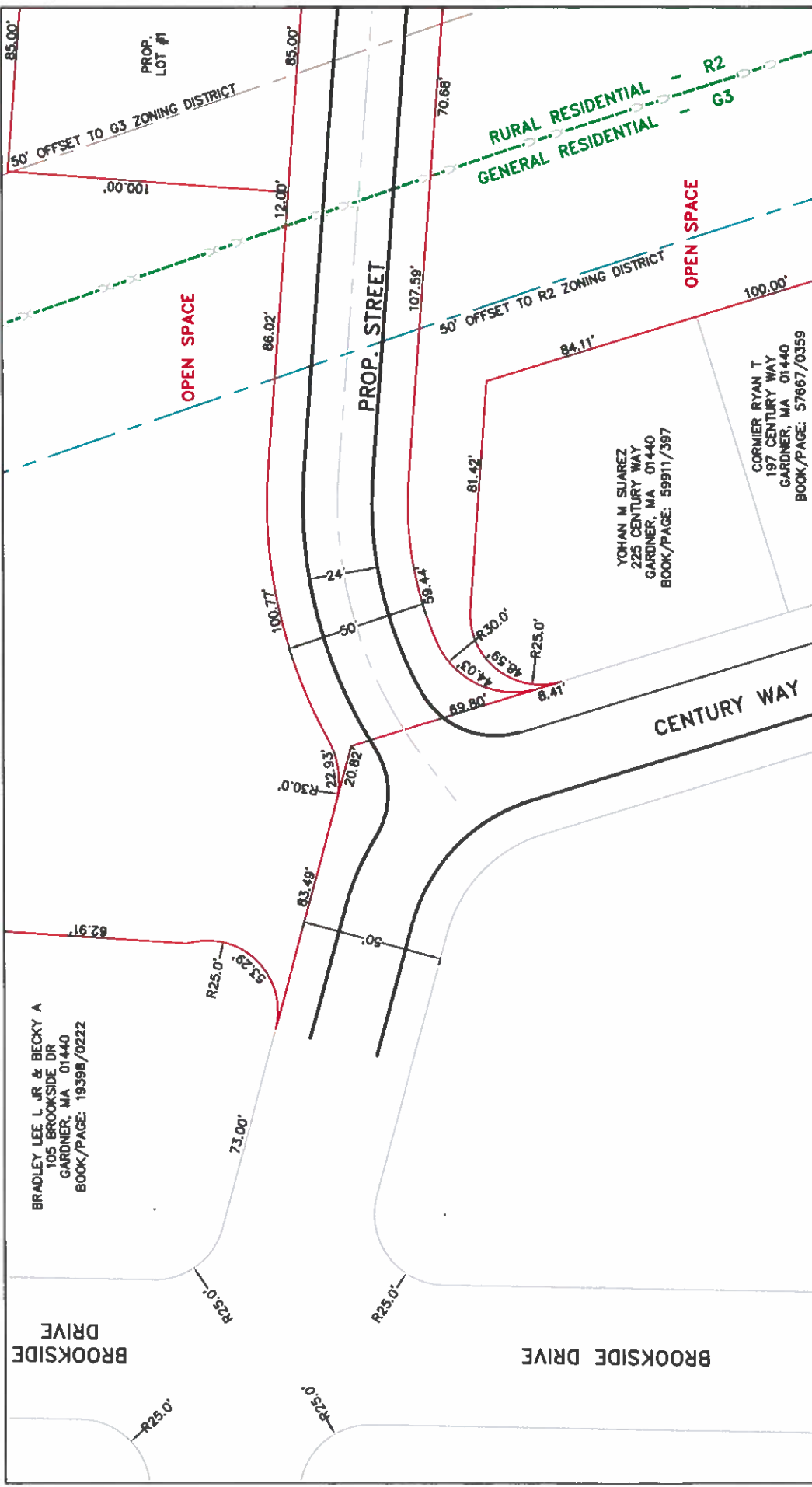
The final reason that I oppose the development is perhaps the most serious of all. Roads can be fixed, taxes can be raised, but our drinking water should remain as pure as possible. I don't even feel as though I need to bring up the current Gardner water issue that seems to plague many folks in the city. These homes will literally be steps away from the very water that we cook with, drink, bathe our children in and otherwise require for daily functions of life. I, like many folks use various products on my lawn. Insect killer multiple times per year, artificial fertilizers in the fall, spring and summer just to name a few. All of those products have bold warnings on them

not to inject, wear protective glasses, gloves and to call poison control if swallowed. Through the many years of construction that it will take to build the development along with the desire for the greenest lawn possible, the likelihood of the reservoir being contaminated is simply too high. This is not a "save the trees" argument. It is preserving the health and safety of the humans that depend on the water for survival. I support the rebranding and future development of the city and look to be a part of it. However, watching this development being built would be like watching the current water debacle all over again in slow motion. With one key difference, coils would not be rotting, the citizens would literally be poisoned. As a person who is quite familiar with water chemistry, that is not hyperbole.

In closing I just want to say that I fully recognize that my home is made of wood. The land that it sits on was once forested and has since been developed. I fully support education and strongly believe in the investment of our youth. I also understand the economics of maintaining infrastructure and the financial costs to a community such as ours. If you in good conscience feel that the citizens of Gardner are willing to shoulder the inevitable property tax hike to maintain the roads and educate the numerous children that will grow up in the development, then please share how you came to this conclusion. I really mean that sincerely. Finally, if not moving forward with the project is the only way to 100%, with absolute certainty ensure that our most prized resource, our drinking water remains as good as it is, then I passionately and humbly request the zoning variances be denied. We can plant more trees when they are cut, but we can't replace the very thing that makes up 60% of all of us, our water.

Respectfully,

Nate Galeota



WHITMAN & BINGHAM
ASSOCIATES

A DIVISION OF HALEY WARD, INC.
REGISTERED ENGINEERS & LAND SURVEYORS
510 MECHANIC STREET
LEOMINSTER, MA 01453
978-537-5296

**"CONCORD CROSSING"
CENTURY WAY ENTRANCE
VARIANCE SKETCH PLAN**

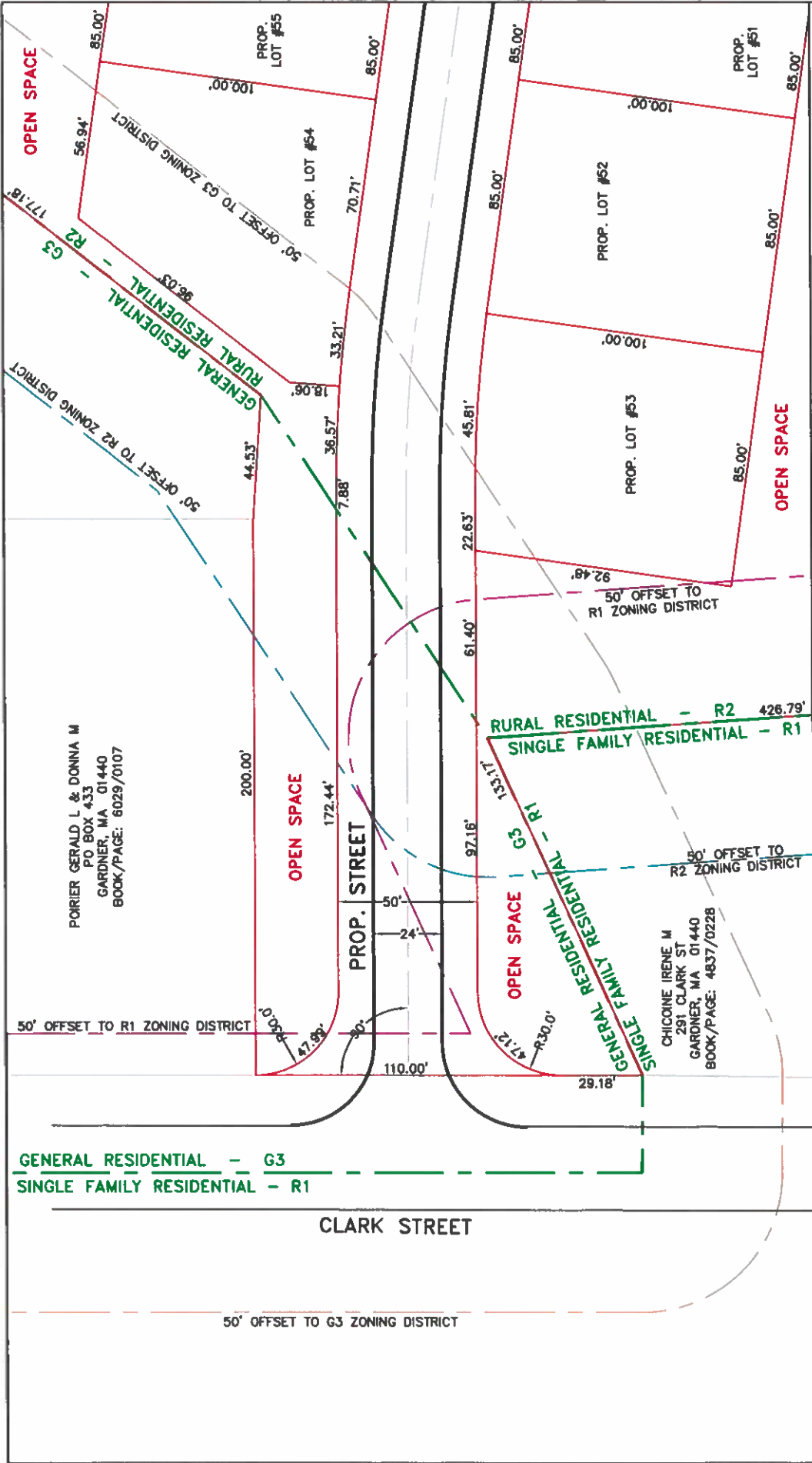
PREPARED FOR:
HARBOR CLASSIC HOMES
493 LANCASTER STREET - SUITE 1
LANCASTER, MASSACHUSETTS 01453

DATED:
OCTOBER 18, 2021

REFERENCE:
PLAN NO# G-2020-102 BY NEW
ENGLAND ENGINEERING, LLC



SCALE: 1"=50'



POIRIER GERALD L. & DONNA M
 P.O. BOX 433
 GARDNER, MA 01440
 BOOK/PAGE: 6029/0107

CHICONE IRENE M
 281 CLARK ST
 GARDNER, MA 01440
 BOOK/PAGE: 4837/0228



WHITMAN & BINGHAM
 ASSOCIATES
 A DIVISION OF HALEY WARD, INC.
 REGISTERED ENGINEERS & LAND SURVEYORS
 510 MECHANIC STREET
 LEOMINSTER, MA 01453
 978-537-5296

**"CONCORD CROSSING"
 CLARK STREET ENTRANCE
 VARIANCE SKETCH PLAN**

PREPARED FOR:
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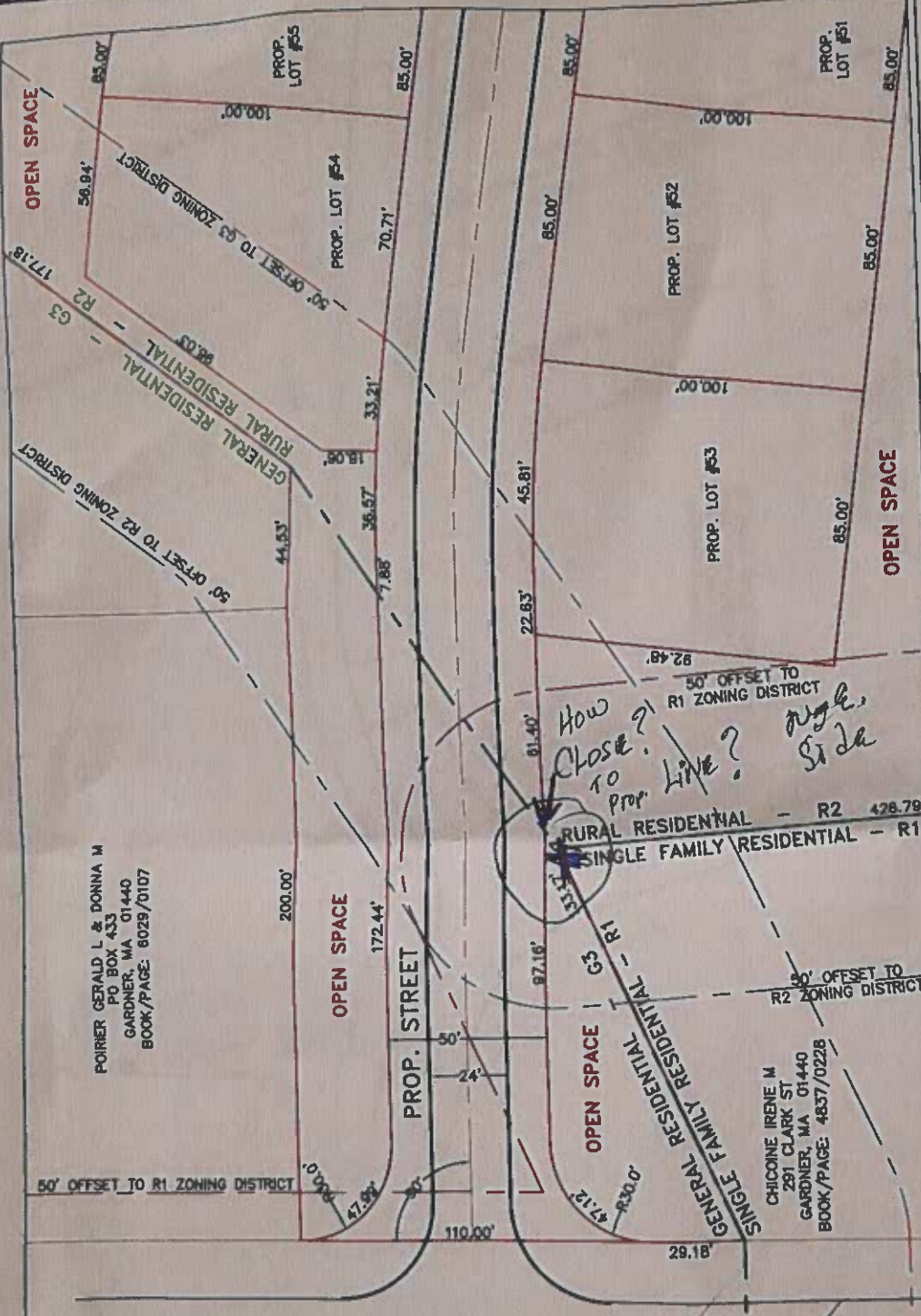
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"CONCORD CROSSING"
CLARK STREET ENTRANCE
VARIANCE SKETCH PLAN

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PO BOX 433
GARDNER, MA 01440
BOOK/PAGE: 8029/0107

CHICONE IRENE M
281 CLARK ST
GARDNER, MA 01440
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SCALE: 1"=50'

WHAT DOES THIS MEAN?
CLARK STREET

Hydro PLANE
TRAFFIC? SPEEDING
CRIME? Robs
Pedestrian unsafe
No. DRAINAGE?
Topography Study?
Reservoir