

Town of Avon

60 West Main Street Avon, Connecticut 06001-3719 (860) 409-4300 • www.avonct.gov

LEGAL NOTICE TOWN OF AVON

The Zoning Board of Appeals of the Town of Avon will hold a virtual Public Hearing on Thursday, March 18, 2021 7:00 PM - 9:00 PM (EST), via GoToMeeting: Join by web, https://global.gotomeeting.com/join/699775389; or dial by phone, United States: +1 (872) 240-3412, Access Code: 699-775-389#; on the following:

Application of Timothy Martin, owner/applicant; requesting from the Avon Zoning Regulations, Section X. C. 1., an appeal from the decision of the Building Inspector/Town Planner for the denying of my permit by deeming the property a non-buildable lot (permit denial dated 1/12/2021 & 1/11/2021), located at 14 Westridge Drive in an R-40 zone.

Application of Cynthia McGuire-Dunn and Taylor Hogan, owners/applicants; requesting from the Avon Zoning Regulations, Section IV. A. 6., an 8-foot variance to the 25-foot side yard setback for a proposed covered porch and a 6-foot variance to the 25-foot side yard setback for a proposed enclosed sitting area with pergola; located at 88 Bayberry Hill Road in an RU-2A zone.

All interested persons may join and be heard and written communications will be received. Copy of this notice is on file in the Office of the Town Clerk, Town Hall. Dated at Avon this 4th day of March, 2021.

ZONING BOARD OF APPEALS

Eileen Carroll, Chair Christy Yaros, Vice-chair

RECEIVED

2021 MAR -4 AM 9: 38

ANNL DEARSTYNE

TOWN OF AVON ZONING BOARD OF APPEALS THURSDAY, MARCH 18, 2021, 7:00 P.M.

Virtual Public Hearing VIA GOTOMEETING

Join by web, https://global.gotomeeting.com/join/699775389; or dial by phone

United States: +1 (872) 240-3412, Access Code: 699-775-389#

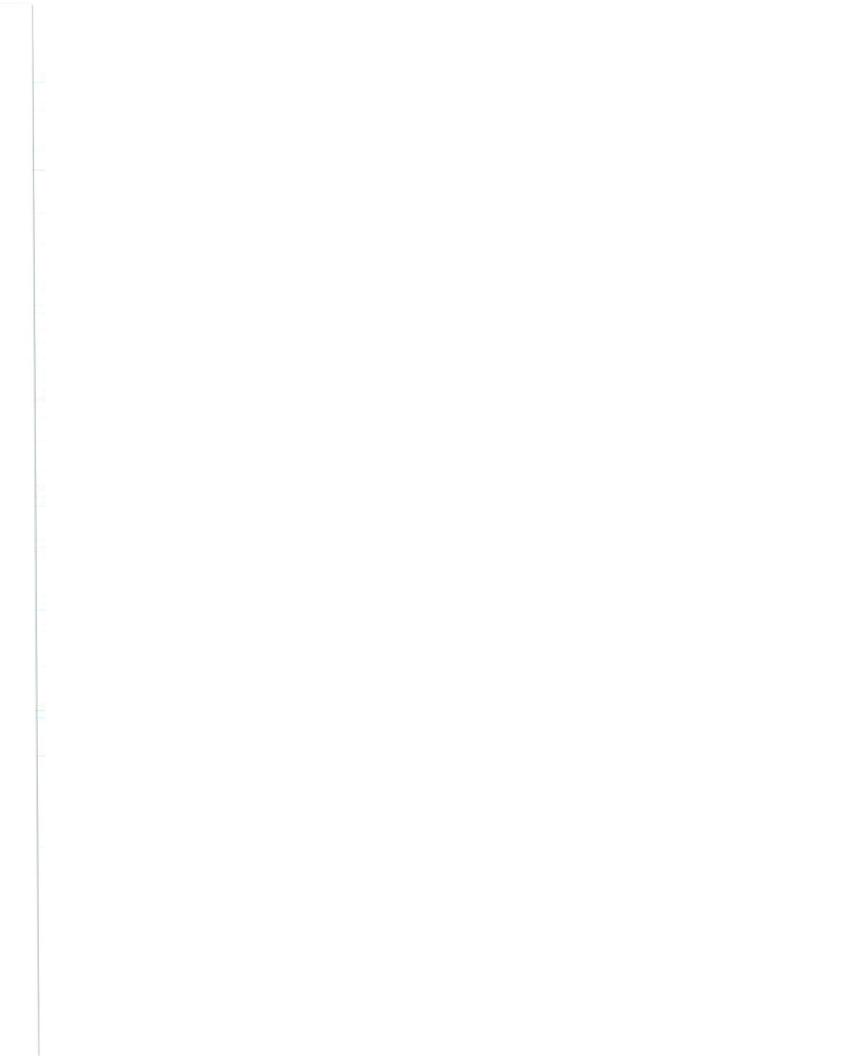
AGENDA (scroll downward to see application materials)

I. PUBLIC HEARING:

Application of Timothy Martin, owner/applicant; requesting from the Avon Zoning Regulations, Section X. C. 1., an appeal from the decision of the Building Inspector/Town Planner for the denying of my permit by deeming the property a non-buildable lot (permit denial dated 1/12/2021 & 1/11/2021), located at 14 Westridge Drive in an R-40 zone.

Application of Cynthia McGuire-Dunn and Taylor Hogan, owners/applicants; requesting from the Avon Zoning Regulations, Section IV. A. 6., an 8-foot variance to the 25-foot side yard setback for a proposed covered porch and a 6-foot variance to the 25-foot side yard setback for a proposed enclosed sitting area with pergola; located at 88 Bayberry Hill Road in an RU-2A zone.

- II. OTHER BUSINESS:
- III. NEXT REGULARLY SCHEDULED MEETING: April 15, 2021



ZBA Virtual Public Hearing Process Via GoToMeeting

Chair calls the public hearing to order.

Town Staff to conduct:

- I. Attendance of ZBA members: regular members; alternates, appoint as needed.
 - Caller identification of application representatives.
 - Caller identification of any interested public.
- II. Notice was provided in accordance with Town regulations, State Statutes, and recent COVID-19 related Executive Orders; and the Town has notified the abutters to the subject properties as required.
- III. The Avon Zoning Board of Appeals was created as required by Section 8-6 of the Connecticut General Statutes, and functions in accordance with the powers and duties of Section X Administration and Enforcement, C., of the Town of Avon Zoning Regulations.

(If only four members of the board are present at a public hearing, and in the absence of the fifth member, a vote in favor of an application would require a unanimous approval. If the application were not approved by a unanimous vote, the application could be refiled to be heard at a future meeting, after a period of six months. Does/do the applicant(s) agree(s) to proceed with the public hearing? Applicant responds.)

- IV. Summary of agenda. All applications will be heard in the order shown on the agenda and the public hearing will be held on each application. The public hearing will be closed after each application review is complete. Voting will follow after the close of the public hearing for each application on the agenda.
- V. Summary of the application and the accompanying materials, and ask the applicant for any additional input.

 *Please self-identify for the record before any commentary.
 - Input from owner(s)/applicant(s).
 - Board member comments/questions.
 - Public comments/questions.
 - Any objections to the variance request from abutters, neighbors, or the general public.
 - Any support of the variance request from abutters, neighbors, or the general public.
- VI. Close the public hearing and motion to vote. Member identification tally taken. *Any member who votes against a variance request must state their reason(s) for denial. These statements of denial are required for the record.

<u>Town Staff states</u>: That the granting of the variance will be in harmony with the purposes and intent of these regulations; will accomplish substantial justice; and will not be injurious to the neighborhood or otherwise detrimental to the public health, safety, and welfare.

THE PUBLIC HEARING PROCESS ABOVE WILL REPEAT FOR EACH ADDITIONAL APPLICATION.

Other Business:

Town staff will present and address any other business.

The next regularly scheduled meeting is April 15, 2021.

Motion to adjourn the meeting. Second the motion.

Chair states the meeting is adjourned.

N:\Planning\ZBA\PublicHearingProcess\ZBAPublicHearingProcessViaGoToMeeting

TOWN OF AVON ZONING BOARD OF APPEALS THURSDAY, MARCH 18, 2021, 7:00 P.M.

Virtual Public Hearing VIA GOTOMEETING

Join by web, https://global.gotomeeting.com/join/699775389; or Dial by phone, United States: +1 (872) 240-3412, Access Code: 699-775-389#

(scroll downward to see application materials)

Items contained in the agenda packets sent to the Board via electronic submission, and posted on the Town's website <u>avonct.gov</u>, Boards & Committees, Zoning Board of Appeals:

Application of Timothy Martin, owner/applicant; requesting from the Avon Zoning Regulations, Section X. C. 1., an appeal from the decision of the Building Inspector/Town Planner for the denying of my permit by deeming the property a non-buildable lot (permit denial dated 1/12/2021 & 1/11/2021), located at 14 Westridge Drive in an R-40 zone.

- Town of Avon ZBA application (one page) and applicant/owner application narrative.
- Town of Avon Application for Building Permit- notated as "Not an approved lot," dated 1/11/2021 and 1/12/2021; Town of Avon emails sent to Timothy Martin from Town Building Official and Town Director of Planning and Community Development, both dated 1/12/2021.
- Town of Avon Assessor property card.
- GIS map of abutting properties, and list of abutting properties which received ZBA public hearing notification via postal mail.
- Town of Avon GIS aerial views of subject property.
- Multiple views of subject property; photographs taken by Town staff.
- Foundation Plan submitted by applicant/owner.
- Northeast Consulting, LLC, Septic System Plan submitted by applicant/owner.
- Memorandum from Hiram Peck, AICP, CFM, Director of Planning and Community Development and Zoning Enforcement Officer, dated 3/12/2021.
- Neighborhood communications, if received by Town of Avon.

A full hardcopy set of the application, with supplemental administrative information, is on file and will be retained in the Department of Planning and Community Development.

TO THE ZONING BOARD OF APPEALS

Avon, Connecticut

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APPLICATION FEE \$160 FEB 10 2021

Date 2/2/2021

OWNER Timothy Martin

Address 232 Avon Mt Raning Department Town of AVon

Avon, CT 06001

APPLICANT Same

Address Same

TELEPHONE NO 860-392-8565

Daytime Phone No Same

Email: CTSUITES@YAHOO>COM

LOCATION OF AFFECTED PREMISES

14 Westridge Dr

ON THE East SIDE OF STREET

IN AN R-40 ZONE

ASSESSORS MAP NO. 007 PARCEL ID. 4560014 VOLUME 706

Previous appeals have been made with respect to these premises as follows: Date: 2004?

April, 2006 JMC

This APPEAL (relates to:

)Yards

()Lot Width ()Signs Jan, 2007 DAME (x)Lot Area ()Building Lines

SPECIFIC DESCRIPTION OF VARIANCE REQUEST - (MUST BE SHOWN ON PLOT PLAN)

- VARIANCE of the following section(s) of the Zoning Regulations is/are requested)
 - Why will strict application of the regulations produce UNDUE HARDSHIP?

b) Why is this hardship UNIQUE to these premises and not shared by other premises in the neighborhood?

- c)This variance would not change the CHARACTER OF THE NEIGHBORHOOD because:
- 3. I HEREBY APPEAL from the decision of the Building Inspector/Town Planner for denying my permit by deeming the property a non-building lot. See attached narrative from Tim Martin (MAR 1, 2021)

The undersigned warrants the truth of all statements contained herein and in all supporting documents to the best of his knowledge and belief. Furthermore, the applicant agrees that submission of this application constitutes permission for and consent to Board and Town Staff inspections of the site of proposed activity.

N:\Planning\ZBA\ZBA Application Form_Rules\ZBAapplicationFORM_REVISED_JAN2016.doc

* April 27, 2006 - Untimely appeal not bread - June x Jun 1, 2007 - variance to IV. 4.6 denied -



ZBA Narrative in reference to the application of Timothy Martin for 14 Westridge Dr. Avon.

This will try to explain my reasons for challenging the opinion of the Town Planner as to the legality of this property as a building lot. Due to Covid I am unable to do a thorough search of the land records in support of this narrative but I will generalize and ask John McCahill to verify the facts.

This property was created as part of a subdivision more than 40 years ago. It is located in an R-40 zone but was never fully conforming as to area, never having 40,000 sqft. It was always taxed as a legal building lot. At some point the UDOLF corporation bought it to take a slither from it to add to its commercial property that a butts to the south to increase his parking.(The Carr Hardware building) Udolf took that portion of the lot with the approval of the P & Z commission. If Udolf had not intended to keep this as a building lot there would have been no need for him to ask the Comm. for its blessing? The Comm. put caveats in it's decision on Udolf as to the screening of this property from his commercial property which would only make sense if they were protecting the future owners of this property. After taking the slither of land from this lot Udolf sold the property conveying a warranted deed to the new owners who in turn sold the property via a warranted deed to the people who sold it to me. All during this time the property was taxed as a legal building lot. I was able to fit a modest home on the property with septic and well and applied for a building permit but zoning at the time (aprox 2004) denied my application for a building permit stating this was not a legal building lot but RESIDUAL LAND I did not have the resources to fully fight that decision in court. Things have changed and I am ready to get justice for my self and this property. It makes no sense to condemn this property and cause a huge legal battle over a small house being built on it that meets all of the setbacks for the zone. Town of Avon Zoning regulations state their purpose as follows: Purposes.

These regulations are adopted for the purposes of:

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TOWN OF AVON NLAND WETLANDS

Promoting public health, safety, and general welfare;

Providing adequate light, air, and privacy;

Preventing overcrowding of the land and avoiding undue concentration of population;

Lessening congestion in the streets;

Facilitating adequate transportation, sewage, schools, parks, and other public requirements;

Securing safety from fire, panic, flood, and other dangers;

Conserving the value of buildings and property;

Encouraging the most appropriate use of land throughout the Town of Avon with reasonable consideration for the existing or planned character of the area;

Protecting historic factors within the Town of Avon;

Protecting existing and potential public surface and ground drinking water supplies;

Controlling erosion caused by wind or water and providing for sedimentation control;

Encouraging energy conservation, the use of solar and other renewable forms of energy, and energy-efficient patterns of development; and

Guiding the growth of the Town of Avon in accordance with the Comprehensive Plan of Development.

Noting in that list would be accomplished by deeming this property a non building lot.

The Town zoning regulation have NO DEFINITION for residual land; but the regulations do state:

Pre-existing lots.

Where safe and adequate disposal of sewage and a safe water supply, as required by the Public Health Code, can be provided without endangering the health and safety of adjoining residents, nothing in these regulations shall prevent the construction of a permitted building or the establishment of a permitted use on a lot containing less than the prescribed area or width which at the time of adoption hereof or any pertinent amendment hereto was:

Owned separately from any adjoining lot and filed in the Office of the Town Clerk of the Town of Avon.

Shown on a plan of subdivision approved by the Town Planning and Zoning Commission and filed in b.the Office of the Town Clerk of the Town of Avon.

Which is exactly what this property is!!!

Thanks,

Timothy Martin

TOWN OF AVON

PERMIT NO. _

APPLICATION FOR BUILDING PERMIT ONE OR TWO FAMILY DWELLING

860.409.4316 (t) • 860.409.4321 (f) • 60 West Main Street • Avon, Connecticut 06001-3743 All work done under this permit must comply with the State of Connecticut Building Code. OCCUPANCY LOCATION OF JOB (NO. & STREET) Residential 14 Wes TRIdgE ADDRESS (No., Street, Town, State, Zip) CTSJITES & 232 AVON MT EV. 8-60 PROPERTY OWNER TIMOTHY MALTIN 392 YAhou. COM 8565 APPLICANT 5AMC REG. # BUILDER NIA ARCHITECT/HOME DESIGNER LICENSE # NIA CONTACT PERSON SAML PERMIT FEE CALCULATION Gross sq. ft. PROJECT TYPE STORY PERMIT New Construction 1500 Bsmt. **Foundation** Addition Residence Alteration Garage Repair/Replace Deck Total Change of Occupancy Pool Shed FIRE SPRINKLERS Other # Dwelling Units FOUNDATION OF WORK/ REMARKS: FOUNDATION ORNEY PERM IT FOR NEW Private Public Water hOUSE Sewerage Ø N Flood Zone All work covered by this application has been authorized by the owner of this property or an authorized agent and will be done in compliance with all local, state, and federal regulations. This permit shall become invalid if work does not committee within 180 days after issuance. Date Agent Signature Property Owner Signature APPROVAL CONSTITUTES ISSUANCE OF THIS ONE OR TWO FAMILY PRE-APPROVAL BY OTHER AGENCIES **DWELLING PERMIT** Date approved Plan Reviewed By Zoning Disapproved Approved as noted Approved Town.Eng. **Building Official**

Ray Steadward

To: Subject:

ctsuites@yahoo.com 14 Westridge Drive Avon

1/12/2021

Zoning has denied the lot as being legal, because of this we have no choice but to return the application in its entirety. Please find your original application, check and plans.

Thanks,

Ray

1



Ray Steadward

Hiram Peck From:

Sent:

To:

Tuesday, January 12, 2021 9:27 AM ctsuites@yahoo.com
Ray Steadward; Mary Shea; John McCahill
14 Westridge Drive Cc:

Subject:

Mr. Martin; Your application for a foundation on this property has been denied as the land is not an approved lot. The application and your check have been returned to the Building Department.

If you choose to appeal the denial you should apply to the ZBA.

Hiram Peck Avon Planning

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	Tow	of Avon Residential Property	/ Card	
coperty at 00014 WESTRIDGE DRIVE	3-1	Prop ID 4560014	Printed 15-Feb-2019 2:25 AM	Design and Layout (C) Right/Angle
Owner name: MARTIN TIMO Second name: Address: P O BOX 226 City/state: LAKEVILLE CT	Zip: 06039	0226		
Map: 007 Clerk map: Lot: 4560014 Neigh.:		ast sale		
Assmt category Qty Amount E Resident Excess .44 2,310	Sale pr Sale va	lid: Values ue :		
Summary Total assessments 2,310 V Fotal exemptions 5 Net assessment 2,310 V	Utilities Sa Water None Cost/sa Wewer None Mkt/sa	les ratios		
Land	Information			
Residual 19,166	Total land value 3,3	00 2,310		
.440 acres	Total land value 3,3	00 2,310		

Page 1 of 1

Property at 00014 WESTRIDGE DRIVE 3-1 Prop ID 4560014

10.0	Sales History				+
1	Owner	Vol	Page	Date	SalesPr Valid
i	MARTIN TIMOTHY	706	460	15-Jun-2005	1
i	INVESTMENT NOTE BUYERS LLC	522	975	15-Jun-2005	45,000
	NAZARCZUK TARAS AND	470	083	25-Oct-1996	1
i	NAZARCZUK TARAS	324	1068	25-Oct-1996	1
ì	FEDERAL DEPOSIT INS CORP	324	1066		1
i	UDOLF LEONARD & ROBERT TR	191	244	22-May-1987	1
ì	The state of the s				1
+					+

Card 01 General Home Page

2/24/2021

· Town of Avon notice of PH sent to abutting property owners via postal mail.

Copy ar aste the following string into an email to link to the current map view:

40m 200ff

Print Map

Size:	~
Scale: 1" =	ft. Title:

lat:41.8160, long:-72.8584

Tight & Bond

https://hosting.tighebond.com/AvonCT_public/index.html##info-address

1/1

TOWN OF AVON ZBA

Variance Requested:

Application of Timothy Martin, owner/applicant; requesting from the Avon Zoning Regulations, Section X. C. 1., an appeal from the decision of the Building Inspector/Town Planner for the denying of my permit by deeming the property a non-buildable lot (permit denial dated 1/12/2021 & 1/11/2021), located at 14 Westridge Drive in an R-40 zone.

NOTICE TO ABUTTING PROPERTY OWNERS, MAILED MARCH 8, 2021:

24 Westridge Drive

320 W. Main Street - mailed to: Lexham Avon LLC, Penthouse, 274 Riverside Avenue, Westport, CT 06880

15 Westridge Drive

17 Westridge Drive

https://hosting.tighebond.com/AvonCT_public/index.html##info-address

1/1



2340011 POXIBIDGE LAWE 2340004 WESTRIDGE DRIVE	
4560024	
45 60014	
4540320 4540302	
14 Westridge Drive 2/24/2021 9:36:32 AM Scale: 1"=60' Scale is approximate The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.	





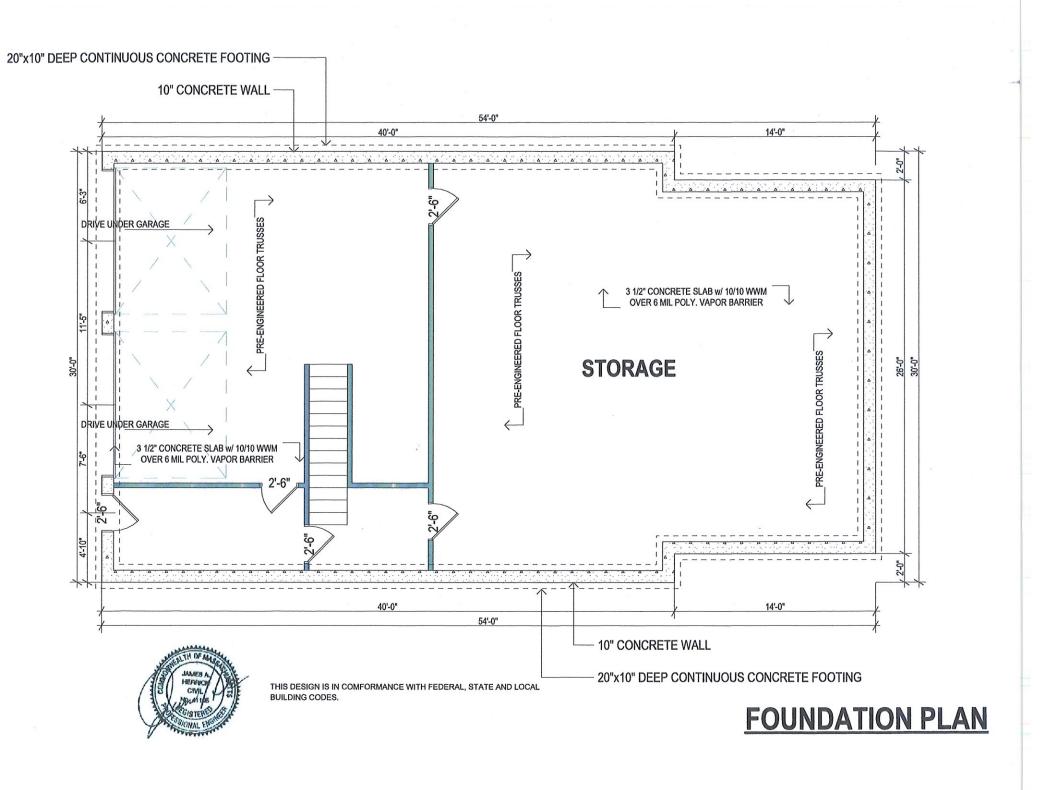




14 WESTRIDGE PRIVE



14 WESTRIDGE DRIVE (view along commercial clevelopment/south property line)



DETAIL

All information pertaining to existing conditions were taken from a map entitled:
"Zoning Location Survey, Prepared For Investment Note Buyers, LLC, 14 Westridge Drive, Avon, Connecticut, Scale: 1"=20", Date Aug. 2005.

If an unforeseen interference exists between an existing and proposed utility or structure, the contractor is to notify the design engineer so that

The contractor shall install all sediment control barriers as required prior to start of excavation, construction or demolition. All areas of disturbed eath shall be stabilized by seeding or mulching or by other approved means of stabilization. Seeding of proposed grassed areas shall be initiated as soon as practical, as an erosion and sedimentation control measure.

Any drainage structures, utilities, grassed areas, pavernent, concrete or curbs disturbed during construction shall be restored to original or better

The contractor is to use caution when working near or under overhead utilities. The contractor is to notify the utility companies of his intent prior

His the responsibility of the contractor to make certain that all work performed in the town right of way is performed in accordance with Yoyn of

it is the sole responsibility of the contractor for job site safely including, but not limited to, the Construction Safety Standards published in the

it is the contractor's responsibility to assure that all piping is properly bedded and stabilized in areas of high ground water and/or unstable soil

It is the contractor's responsibility to coordinate all utility connections / extensions with appropriate utility companies. Installation of all utilities

The contractor shall insure that all existing utilities, which are disconnected during construction, shall be properly reconnected, reinstalled or shandoned in accordance with the specification of the utility company.

It is the developer's responsibility to obtain all necessary pennits and/or easements from state and focal authorities and any construction rights and/or slope rights as may be required from adjoining property owners.

ration from available records, utility companies, and individuals as to the location of all subsurface structures

All sanilary and storm sewer piping are to be installed using invert elevations. Pipe slopes indicated are approximate and are for reference only. Installation is to start at the discharge end and commence toward the highest point.

All pavements, concrete sidewalks, curbing and existing physical features are to be inspected by the developer and contractor and replaced at

Contractor is responsible for verification of existing topography and utility invert elevations prior to commencement of any construction Contractor to ensure 0.75% min slope against all gutters to provent puddling. Any discrepancies shall immediately be provided in writing to the

Location of all existing and proposed services are approximate and must be confirmed independently with focal utility companies prior to commencement of any construction or excavation. All utility services connection points shall be confirmed independently by the contractor in the field prior to the commencement of construction. All discrepancies shall be reported immediately in writing to the engineer of record. Construction shall commence beginning at the lowest points. Crossings with existing underground installations shall be field verified by test pit

Subbase material, shall he free of organics and other unsuitably materials. Should subbase be decreed insuitable, subbase is to be removed and filled with approved fill material compacted to 95 % optimum density (as determined by modified Proctor Method).

Site Grading shall be performed in accordance with these plans and specifications and standards of the local authority. The contractor shall be responsible for removing and replacing all soft, yielding or unsuitable materials and replacing with suitable materials. All excavated or filled areas shall be compacted to 95% of Modified Proctor Density per A.S.T.M, test D-1557. Moisture Content at time of placement shall not exceed 2% above nor 3% below optimum. Contractor shall submit a compaction report prepared by a qualified, Licensed, Geotechnical Engineer, certifying that the subbase within the areas to be paved has been compacted in accordance with these plans and specifications.

All underground piping installations shall be subject to inspection by the Town of Avon or the utility company. The contractor shall be responsible for coordinating all inspections as required with the Town of Avon or the individual utility companie

MINIMUM LEACHING SYSTEM SPREAD

MLSS = (HF)(FF)(PF)

SLOPE = 3.0% DEPTH TO RESTRICTIVE LAYER = 60"+

3 BEDROOM HOUSE THEREFORE: FF=1.5

PERCOLATION RATE = 1" / 5.1 to 10.0 MIN. THEREFORE: PF=1.2

ML5S = (22)(1,5)(1,2) = 39,6'

IT IS UMDERSTOOD THAT "HORTHEAST CONSULTING, LLC" HAS NOT BEEN RETAINED FOR THE REVIEW OF THE IMPLIMENTATION OF THE DESIGN AND REVIEWS, AND OBSERVATION OF CONSTRUCTION. THE OWNER SHALL EMPLOY UNDER SEPERATE CONTRACT FOR SUCH SERVICE AS REQUIRED.

CONTRACTOR IS TO CALL "CALL BEFORE YOU DIG" (1-600-922-4155) TO HAVE ALL EXISTING LITH FIRS LOCATED WITH MARKED OUT PRIOR TO ANY DEMOLITION, CONSTRUCTION OR EXCAVATION OF THE BITE.

IT IS THE RESPONSIBILITY OF THE COMPACTOR TO REVIEW ALL OF THE DRAWINGS AND SPECIFICATIONS ASSOCIATED WITH THIS PROJECT WORKSCOPE PRIOR TO THE INITIATION OF CONSTRUCTION, SHOULD THE COMPACTOR REPORT OF THE SPECIFICATIONS OR APPLICAGE CODES, IT IS THE COMPACTOR BESPONSIBILITY TO HOTHEY THE PROJECT EMBENGER OF RECORD IN WAITHING PRIOR TO THE STATE OF CONSTRUCTION FAILURE OF THE CONTRACTOR TO SOTHEY THE PROJECT EMBENGER OF RECORD OF CONSTRUCTION FAILURE OF THE CONTRACTOR TO SOTHEY THE PROJECT EMBENGER OF RECORD OF CONSTRUCTION FAILURE OF THE CONTRACTOR TO SOTHEY THE COMPACTOR TO SOTHEY THE PROJECT EMBENGER SHOULD OF THE COMPACTOR TO SOME THE COMPACTOR TO COMPLETE THE SOOPE OF WORK AS DEFINED BY THE DIVARHINGS AND IN FULL COMPONENCE WHILLOCAL REGULATIONS AND CODES.

STANDARI) NOTES:

- 1. All piping for the septic system shall be as specified in the Health Code Technical Standards, State of Connecticut, latest revision. Plping from the building to the septic tank shall be 4" PVC, ASTM D1785 or other accepted pipe and shall have a rainimum slope of 1/4" per /foot. Outlet piping from the tank to the distribution box or pumping chamber (as required) and in between distribution boxes shall be 4" PVC, ASTM D3034 or other accepted pipe and shall have a minimum slope of 1/8"
- 2. The septic tank shall be a minimum 1000 gallons, the required size for a 3
- 3. Where select backfill material is required, the bankoff or berm shall consist of pervious loam, sand, or approved eq
- 4. This septic system has been designed in accordance with current State and Local health codes, regulations and design principles. However, it cannot be guaranteed ngainst faifure due to misuse, excessive water use, improper installation and/or grading or any indeterminable present or future site condition that may exist or may
- 5. Unless already specified, the engineer may require a curtain drain at the time the site is prepared or during system installation if site conditions warrant it.
- 6. The contractor is to field verify system layout and vertical data prior to installation. Subsurface disposal system components can be repositioned to best suit conditions with prior notification and approval from the engineer. Field stakes, prior to any site work, in order to clearly identify the leaching area and to protect it from all construction traffic and potential damage, shall locate the leaching area.
- 7. Property lines are to be staked prior to system installation, and if directed by the engineer aud/or Heaklt Department, a registered land surveyor shall stake the culire system. Surveyor to provide benchmark prior to construction.
- 8. Heating oil tank must be located in the dwelling.
- 9. Water lines shall be lucated no closer than 10 feet from the septic system.
- 10. Prior to any excuvation the contractor shall notify call before you dig to have all existing utilities located and marked (1-800-922-4455).
- 11. The contractor shall notify the Engineer of Record and the Department of Health at least 24 hours prior to the start of the scarification process for the leaching area or the installation will not be approved.
- 12. System installation shall be observed by a registered professional engineer to assure general conformants to the design plan.
- 13. An "as built plan", certified by a Land Surveyor shall be submitted to the Department of Health before a "Permit to Discherge" is issued.
- 14. Select backfill material required shall be placed, percolation tested (a Sieve analysis may be requested by the Dept, of Health) and approved by the design engineer. The leaching area is to be prepared by removing topsoil material and then scarifying. Fill material shall be placed on the perimeter of the leaching area then spread with a small crawler, tractor or other approved machinery. Grading permit or other permits may be required.
- 15. The responsibility for preparation of a leaching area utilizing "select backfill material" is that of the licensed installer. The installer shall take the necessary sten to protect the underlying naturally occurring soils from over compaction and siltation
- 16. A scarification inspection by the Health Department Santarian, Design Engineer and the Licensed Installer of Record shall be conducted prior to the placement of any select backfill material or fill in the primary leaching area. If there are my problems noted during inspection, further testing and/or permit revocation may take place in order to conform to the proposed design criteria a protection of the subsurface sewage disposal system.
- 17. Select backfill material placed within and adjacent to proposed leaching areas shall be comprised of clean sand and gravel. Free from organic matter and foreign substances. The fill material shall meet the following requirements unless other wise approved by the Design Engineer for use within the leaching area:
- 1. The fill shall put contain any material larger than three (3) inches. 2. Up to 45% of the dry weight of the representative sample may be retained on the #4 sieve (gravel portion)
- 3. The material that passes the #4 sieve is then reweighed and the sieve analysis
- 4. The remaining sample shall meet the following gradiation criteria: #4 sieve 100% passing, #10 sieve 70-100% passing, #40 sieve 10-50% passing (see nate below), #100 sieve 0-20% passing and #200 sieve 0-5%
 - Note: Percent passing the #40 sieve can be increased to greater than 75 % if the percent passing the #100 sieve does not exceed 10 % and #200 sieve does not exceed 5 %.
- 18. Final grade the subsurface disposal system area and the remainder of the site to divert surface runoff away from the system to prevent punding and saturation of soil.
- 19. For a percolation rate of less than?" in 10.0 min., the Health Code requires 150 gallons per day per bedroom. Thus, for a 3- bedroom house, 495 SF of effective lenching area is required.
- 20. Required minimum-leaching system spread is 39.6 lineal feet, proposed leaching system spread is 72 lineal feet.
- 21. Property boundary taken from map prepared by: Nascimbeni & Jahne Surveyors, P.C.
- 22. Topography taken from Nascimbeni & Jahne Surveyors, P.C. map.

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ONSULTING,

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NORTHEAST

It is the responsibility of each contractor to evaluate the plans to make examinations in the field by various methods and obtain necessary

To: Avon Zoning Board of Appeals

From: Hiram Peck, AICP, CFM, Director of Planning and Community Development and Zoning Enforcement Officer

Re: APPEAL of Zoning Enforcement Officer's determination of "not a legal building lot" for 14 Westridge Drive

General significant background information:

The applicant is appealing the ZEO's determination that the property is not a legal building lot. The applicant is not seeking a variance at this time.

Relevant history of this property:

- The subject property was part of Pinewood Acres subdivision which was comprised of land in Simsbury and Avon. The subdivision, including this property was approved on **3/26/57**. The lot created at this time was 37,200 square feet. (.85 acres)
- Subdivision regulations were adopted in Avon in October 1957. NOTE: The parcel at this time was a preexisting legal lot.
- The lot was always zoned R40 since the time zoning was adopted in Avon on **October 21, 1957**. Legal lot size was 40,000 square feet.
- The then owner of the property, who also owned the Commercial property fronting on Route 44 where the hardware store is presently located, asked to rezone (NOT divide) a portion of the property so as to accommodate the amount of parking needed for the commercial use of the hardware store. This rezoning took place on **Sept 13, 1988**.
- The Avon Assessor has confirmed that the property has always been taxed as EXCESS LAND, (value \$3,300) and not taxed as a legal building lot.
- The actual REDUCTION in lot size was done by a previous owner on **April 4**, **1995**. The parcel at that time was reduced to .44 (less than ½) of its legal size. (See Murtha letter on this point.)

- The land was then purchased by Investment Note Buyers on June 15, 2005.
- The land was subsequently and ultimately transferred to Martin via Quit Claim Deed.
- The current owner, Martin applied for a building permit on 1/30/06. That application was denied by the ZEO.

IMPORTANT/RELEVANT PAST ACTIONS OR DOCUMENTS ON THIS MATTER:

- 1. September 1, 2005. Town Attorney from Murtha Cullina submitted a legal opinion regarding the status of the property based on the history of the parcel. That letter is provided as part of the Board's information for this appeal.
- 2. This letter covers several aspects of this matter and was a significant part of the basis for the determination at that time that the parcel was not a legal building lot by ZEO on January 30, 2006.
- 3. The present owner, Martin, applied for a Variance from the Avon ZBA for this same parcel in 2007.
- 4. The Avon ZBA DENIED the application for a Variance on the same property on January 25, 2007.

ZEO Findings and recommendation:

- A. The parcel is not a legal building lot for all the reasons cited above. In addition, the owner either "knew or should have known" the lot was not a legal building lot at the time he purchased the property.
- B. The property has, at its current size, always been taxed as "excess land" and not as a building lot.
- C. Perhaps most importantly, the Avon ZBA has already heard and decided this matter on January 25, 2007. It was denied at that time. There are no changes of circumstances in this matter as of this date.

2 Page	

D. A decision to deny this appeal does not leave this land valueless. Thus the ZBA should follow the same findings and action as it did on January 25, 2007 and deny this appeal.

I look forward to addressing any questions the ZBA may have on this matter at the upcoming meeting.

MURTHA CULLINA LLP

TTORNEYS

CITYPLACE I
185 ASYLUM STREET
HARTFORD, CONNECTICUT 06103-3469

TELEPHONE (860) 240-6000 FACSIMILE (860) 240-6150 www.murthalaw.com

MICHAEL A. ZIZKA (860) 240-6144 MZIZKA@MURTHALAW.COM

September 1, 2005

Steven Kushner, Town Planner Avon Town Offices 60 West Main Street Avon, Connecticut 06001

Re:

Former Lot 1, West Ridge Drive

Dear Steve:

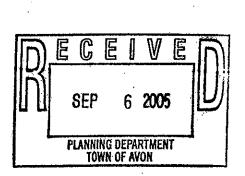
This will confirm the substance of our recent discussion.

I have reviewed a series of site plans showing the former Lot No. 1 (West Ridge Drive) on a map entitled "Pinewood Acres, Inc. Avon & Simsbury Conn., Scale 1" = 100' Revised Sept. 1957" by Frederick Newton Whittemore, Jr., Land Surveyor, as well as the zoning district boundary that was drawn through the lot as a result of a decision by the Planning & Zoning Commission to grant a zone change from R-40 to CR in 1990. I have also reviewed certain deeds by which the remnant residential portion of the lot was conveyed to others.

You have advised me that Avon's first official set of subdivision regulations, adopted pursuant to chapter 126 of the Connecticut General Statutes, became effective on October 14, 1957. I also understand that the Pinewood Acres subdivision plan was recorded before that date. Therefore, Lot No. 1 would have been a preexisting lot of record. State subdivision law allows such preexisting parcels to be divided into two parcels without subdivision approval (the "first cut"). Therefore, the division of Lot No. 1 by Mr. Udolf into residential and commercial components would not have been unlawful. Although the zoning regulations may state that parcels cannot be divided to form undersized lots, it is my opinion that zoning regulations cannot control the mere division of land; that is the proper function of the subdivision regulations, and subdivision law, as I said, allows one "free cut."

On the other hand, while the owner of a preexisting parcel may have the right to divide it into one or two lots or parcels without planning commission review, the owner of the resulting parcels will not necessarily be entitled to use them under zoning law. In other words, a person who makes a "first cut" without planning commission approval does so at his or her own risk. Ordinarily, a planning commission may not legally approve a subdivision plan in

BOSTON HARTFORD NEW HAVEN



RTHA CULLINA LLP

Steven Kushner, Town Planner September 1, 2005 Page 2

which the proposed lots would conflict with minimum zoning requirements. Therefore, planning commission approval generally signifies that the resulting lots are buildable under the zoning regulations. Lots created by a "first cut" have no such guarantee because the planning commission never "blessed" them. Therefore, if the owner has divided a parcel in such a commission never "blessed" them. Therefore, if the owner has divided a parcel in such a manner that the resulting lots do not satisfy the minimum requirements for zoning, the inability to use the lots under the zoning regulations is a self-created problem, and the Town is not obliged to let the owner use the lots for any particular purpose.

In a case entitled Abel v. Zoning Bd. of Appeals, 172 Conn. 286 (1977), the Connecticut Supreme Court held that the board could not lawfully grant a variance to allow the construction of a house on an undersized parcel of land that had been created as the result of a subdivision. The subdivision map, as approved by the local planning commission, contained the following statement with respect to that parcel: "This area is not to be constituted as a building lot but to be used as a park reserve for Sisters of Saint Thomas of Villanova (across building lot but to be used as a park reserve for Sisters of Saint Thomas of Villanova (across the street)." The Court found that the foregoing statement proved that the subdividing the landowner was aware of the zoning restriction in laying out the undersized parcel, and that the landowner was, therefore, self-created. In such circumstances, the fact that the property cannot be used to build a house is irrelevant, since the problem was not created by the regulations, but by the landowner's actions in spite of the regulations.

In addition, where hardship is self-created, subsequent purchasers of the relevant parcel do not gain any better right to claim a hardship. Under the "purchase-with-knowledge" rule, "if a purchaser acquires property with knowledge of the applicable zoning regulations and later attempts to use that property in a manner that is proscribed by the regulations, the purchaser is barred from obtaining a variance." Kalimian v. Zoning Bd. of Appeals, 65 Conn. App. 628, 631 (2001); citing Abel; see also Devaney v. Board of Zoning Appeals, 132 Conn. 537, 544 (1946). In Vichi v. Stonington Zoning Bd. of Appeals, the owners purchased an undersized lot and sought a variance to build a home and, therefore, as the court stated, they "voluntarily assumed any alleged hardship." 2004 Conn. Super. LEXIS 2420, at 24 (2004).

In short, based on the information I have reviewed to date, I do not believe that the Town is obliged to allow the construction of a new house on the residentially zoned portion of the former Lot 1. Please call me if you have any additional questions.

Michael A Zizka



TOWN OF

AVON

60 West Main St. Avon, CT 06001-3743

POLICE, FIRE & MEDICAL ENERGENCY - 911

TOWN MANAGER'S OFFICE Tcl. (860) 409-4300 Fax (860) 409-4368

ACCOUNTING Tel. (860) 409-4339 Fax (860) 409-4366

ASSESSOR'S OFFICE Tel. (860) 409-4335 Fax (860) 409-4366

BUILDING DEPARTMENT Tel. (860) 409-4316 Fax (860) 409-4321

COLLECTOR OF REVENUE Tel. (860) 409-4306 Fax (860) 677-8428

ENGINEERING DEPARTMENT Tcl. (860) 409-4322 Fax (860) 409-4364

FINANCE DEPARTMENT Tcl. (860) 409-4339 Fax (860) 409-4366

FIRE MARSHAL Tcl. (860) 409-4319 Fax (860) 409-4321

LANDFILL 281 Huckleberry Hill Rd. Tel. (860) 673-3677

PLANNING & ZONING Tcl. (860) 409-4328 Fax (860) 409-4364

POLICE DEPARTMENT Tel. (860) 409-4200 Fax (860) 409-4206

PROBATE Tcl. (860) 409-4348 Fax (860) 409-4368

PUBLIC LIBRARY
281 Country Club Road
Tel. (860) 673-9712
Fax (860) 675-6364

PUBLIC WORKS
11 Arch Road
Tel. (860) 673-6151
Fax (860) 673-0338

RECREATION AND PARKS Tel. (860) 409-4332 Fax (860) 409-4366 Cancellation (860) 409-4365

REGISTRAR OF VOTERS Tel. (860) 409-4350 Fax (860) 409-4368

SOCIAL SERVICES
Tel. (860) 409-4346
Fax (860) 409-4366

TOWN CLERK Tel. (860) 409-4310 Fax (860) 677-8428

TDD-HEARING IMPAIRED Tel. (860) 409-4361 February 1, 2006)
Investment Note Buyers, LLC

Attn: Mr. Tim Martin

P.O. Box 345

Goshen, CT 06756

RE: 14 Westridge Drive, Permit No. 06-8881

Dear Tim Martin:

This letter is to inform you that your Application for a Building Permit, for work to be done at 14 Westridge Drive is NOT APPROVED.

This decision is based on Connecticut State Statute Sec. 8-3(f). This statute states that no building permit shall be issued without certification in writing by the official charged with the enforcement of such zoning regulations. Since you have been denied zoning approval, I cannot issue you a building permit for a foundation.

An amount of \$208.00 for the permit fee paid will be refunded. This check will be mailed to your from our Accounting Department within the next few weeks.

Please contact me if you have any additional questions.

Sincerely,

John Willnauer
Building Official

Cc: Steve Kushner, Zoning

All work done under this permit must comply with the State of Connecticut Building Code effective May 1, 1999 AS AMENDED

APPLICATION FOR BUILDING PERMIT ONE OR TWO FAMILY DWELLING TOWN OF AVON Tel. (860) 409-4316 * Fax (860) 409-4321 60 West Main Street Avon, Connecticut 06001-3743

PERMIT NO. 06-8687

06 18H 20

Application and Fee

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TOWN OF AVON ZONING BOARD OF APPEALS THURSDAY, MARCH 18, 2021, 7:00 P.M.

Virtual Public Hearing VIA GOTOMEETING

Join by web, https://global.gotomeeting.com/join/699775389; or Dial by phone, United States: + 1 (872) 240-3412, Access Code: 699-775-389#

(scroll downward to see application materials)

Items contained in the agenda packets sent to the Board via electronic submission, and posted on the Town's website <u>avonct.gov</u>, Boards & Committees, Zoning Board of Appeals:

Application of Cynthia McGuire-Dunn and Taylor Hogan, owners/applicants; requesting from the Avon Zoning Regulations, Section IV. A. 6., an 8-foot variance to the 25-foot side yard setback for a proposed covered porch and a 6-foot variance to the 25-foot side yard setback for a proposed enclosed sitting area with pergola; located at 88 Bayberry Hill Road in an RU-2A zone.

- Town of Avon ZBA application (one page) and applicant/owner hardship description.
- Town of Avon Assessor property card.
- GIS map of abutting properties, and list of abutting properties which received ZBA public hearing notification via postal mail.
- Town of Avon GIS aerial views of subject property.
- Multiple views of subject property; photographs taken by Town staff.
- Hogan Dunn Residence Addition plans submitted by applicant/owner: Proposed Site Plan, Preliminary Partial First Floor Plan, Preliminary Exterior Elevations Plan, and Preliminary Partial Driveway Plan.
- Neighborhood communications, if received by Town of Avon.

A full hardcopy set of the application, with supplemental administrative information, is on file and will be retained in the Department of Planning and Community Development.

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TO THE ZONING BOARD OF APPEALS Avon, Connecticut

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	2 VARIANCE of the	porch, enclose the following section(s) of the	e Zoning Regulations is	s/are requested)	IV-A.6
	(a) Why wil	ne following section(s) of the	va c . gulations produce UND	UE HARDSHIP?	2mc
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	c) This ve	ariance would not change t	he CHARACTER OF T	HE NEIGHBORHO	OD because:
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	3. I HEREBY A	APPEAL from the decision	on of the Building Ins	pector for (denying	g/issuing) permit.
	4. The undersign	ned warrants the truth of the best of his knowledg	all statements contai	ned herein and in a	all supporting
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Hogan – Dunn ZBA Form - Hardship Description Information

Below are my responses to the various form items I thought I should provide for you. Feel free to amend with any thoughts you may have.

LOCATION OF AFFEDTED PREMISES

ON THE WEST SIDE OF THE STREET

IN AN RU - 2A ZONE

This APEAL Relates to: (check off the following boxes with an "X"): (X) Building Lines and (X) Yards

1. SPECIFIC DESCRIPTION OF THE VARIANCE REQUEST

Proposed new addition consisting of an open covered porch and an enclosed extension of the existing Sitting Area to the main entry (south) elevation of the original 1963 House. A stone terrace is proposed on the west end of the original house, replacing the existing wood deck structure, resulting in small portion of the northwest corners of both the covered porch and terrace to extend over the side yard setback line. An open pergola and attached trellis structure are also proposed to be added along the south elevation of the later garage addition (date unknown, but assuming within the last 20 years), which is intended as a garden feature to draw visitors to the main entry that is completely hidden by the garage.

2(a) Why will strict enforcement of the regulations produce UNDUE HARDSHIPS?

The residence is situated on a 4.77-acre parcel with a very steep gradient running in a north-south direction within a very limited buildable area that was artificially created when the original house structure was built back in 1963, and was further regraded with a later garage addition, leaving very little available space to increase the footprint Strict application of this regulation produces an undue hardship because the original house and later garage addition were constructed at an angle, such that their respective southwest corners are nearly tangent to the side yard setback line, thus making it difficult to construct any meaningful addition.

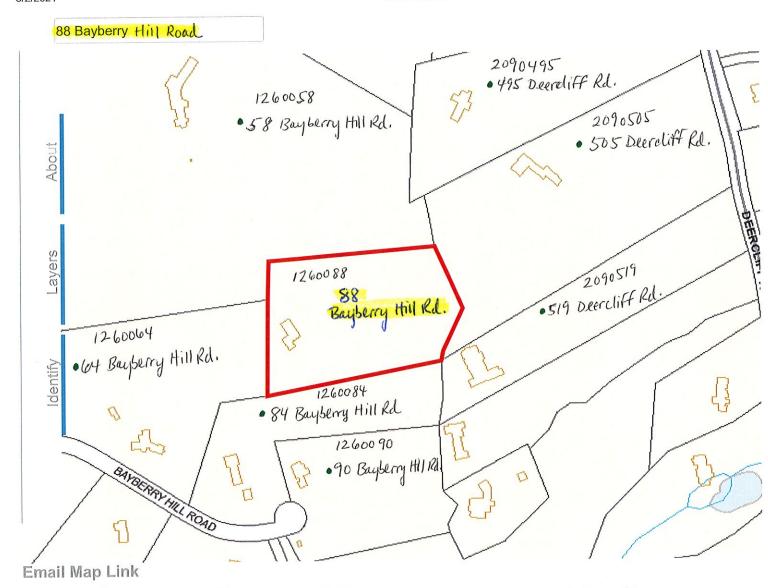
2(b) Why is the hardship UNIQUE to these premises and not shared by neighboring premises in the same neighborhood?

The very steep gradient of this property makes it unique to the neighboring properties because the gradient of the nearest affected properties is less severe.

2(c) The variance would not change the CHARACTER OF THE NEIGHBORHOOD because:

The subject property is an interior lot with a long driveway that is well beyond view of the nearest neighbors' properties With the foliage gone the only visible portion of the new work would be the proposed pergola and trellis structure.

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· Town of Avon notice of PH sent to abouting property owners via postal mail.

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100m 300ft Close

Print Map

Size:

Scale: 1" = ft. Title:

Close Print

lat:41.7652, long:-72.8086

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TOWN OF AVON ZBA

Variance Requested:

Application of Cynthia McGuire-Dunn and Taylor Hogan, owners/applicants; requesting from the Avon Zoning Regulations, Section IV. A. 6., an 8-foot variance to the 25-foot side yard setback for a proposed covered porch and a 6-foot variance to the 25-foot side yard setback for a proposed enclosed sitting area with pergola; located at 88 Bayberry Hill Road in an RU-2A zone.

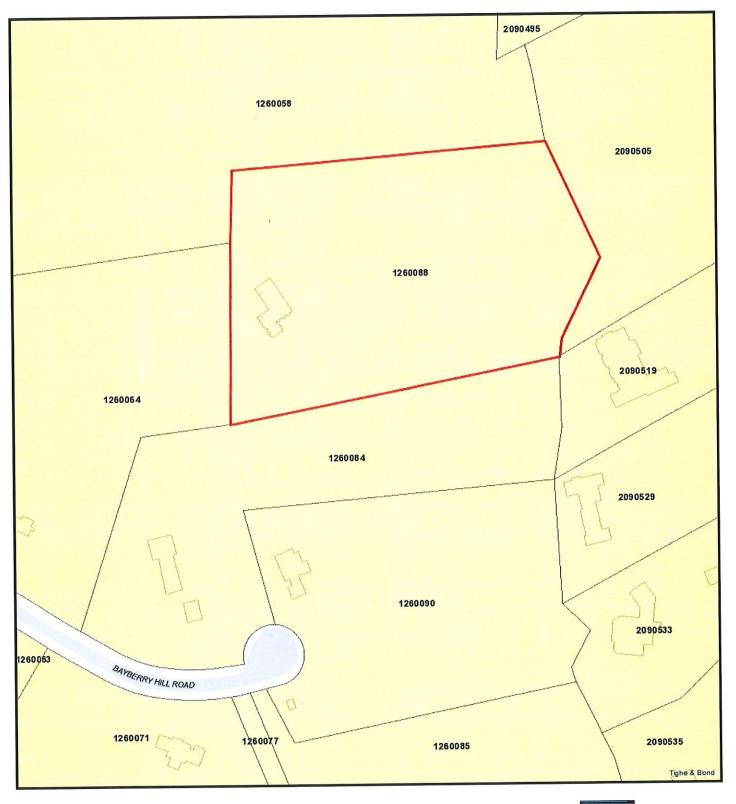
NOTICE TO ABUTTING PROPERTY OWNERS, MAILED MARCH 8, 2021:

- 58 Bayberry Hill Road
- 495 Deercliff Road
- 505 Deercliff Road
- 519 Deercliff Road
- 90 Bayberry Hill Road
- 84 Bayberry Hill Road
- 64 Bayberry Hill Road

Avon CT, Web GIS 3/2/2021 88 Bayberry Hill Email Map Link Copy ar aste the following string into an email to link to the current map view: 300ft Close Print Map

lat:41.7651, long:-72.8076

Telescore



88 Bayberry Hill

2/24/2021 9:40:03 AM

Scale: 1"=150'





Scale is approximate The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.









88 BAYBERRY HILL

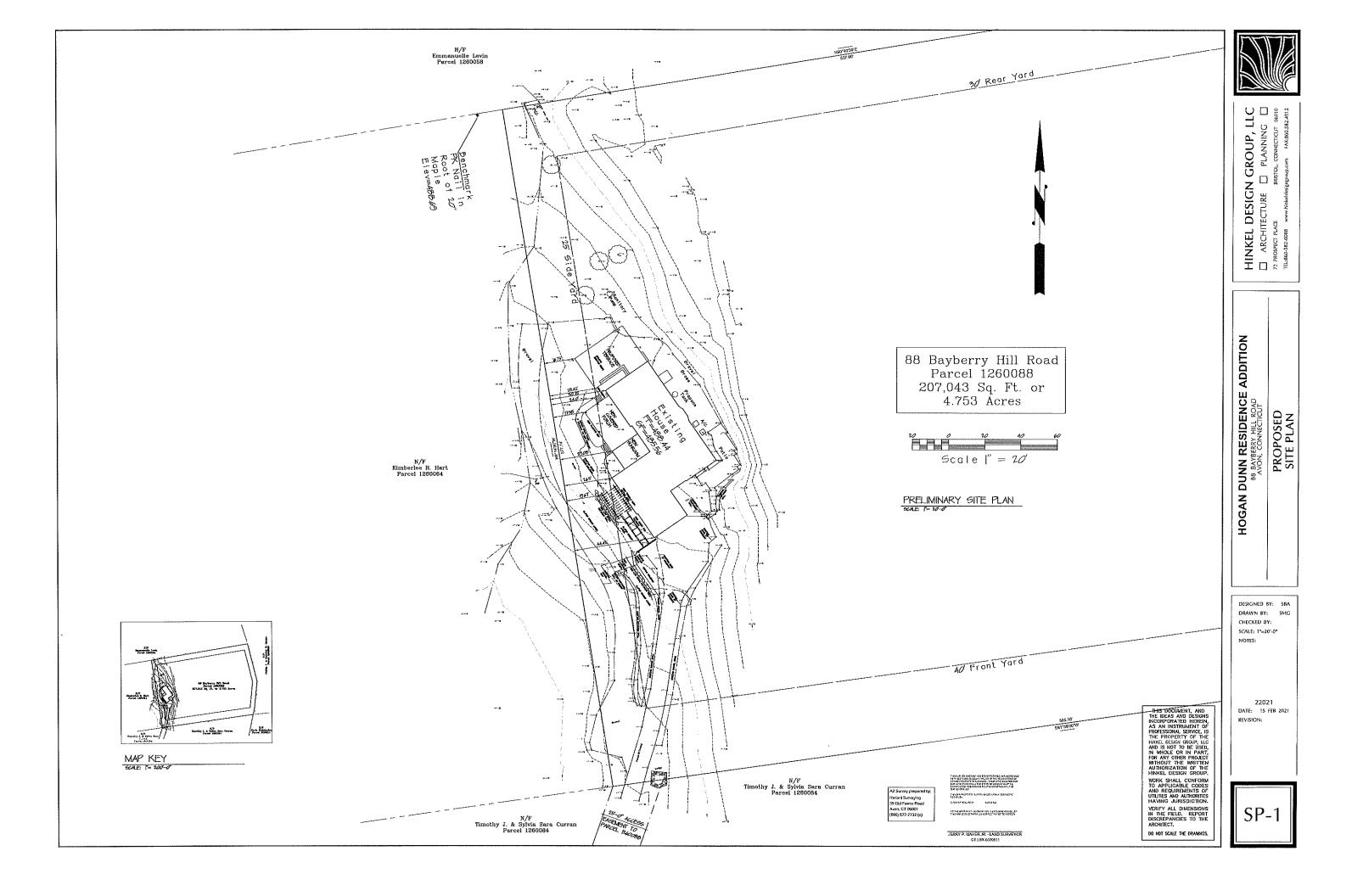


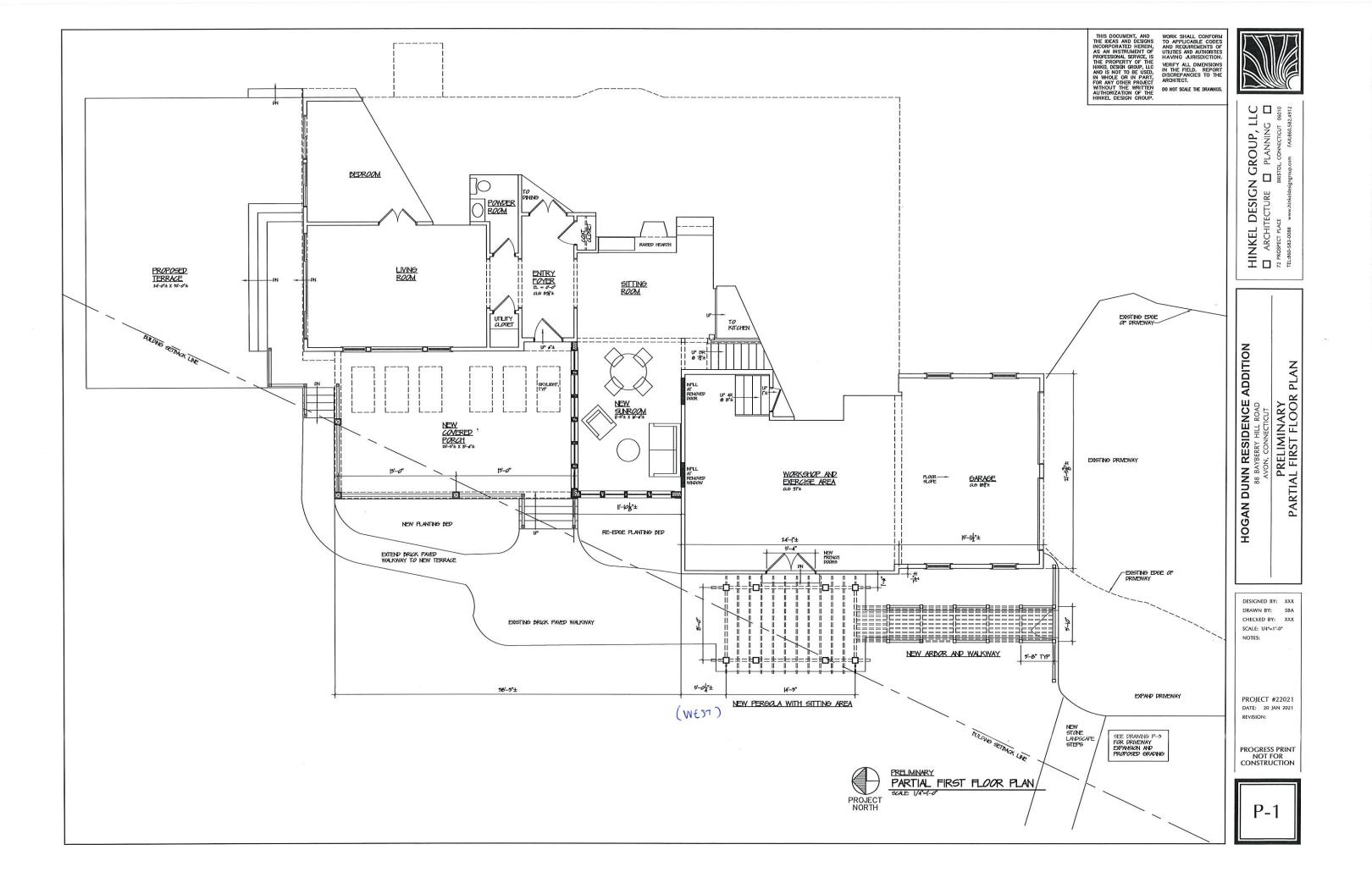


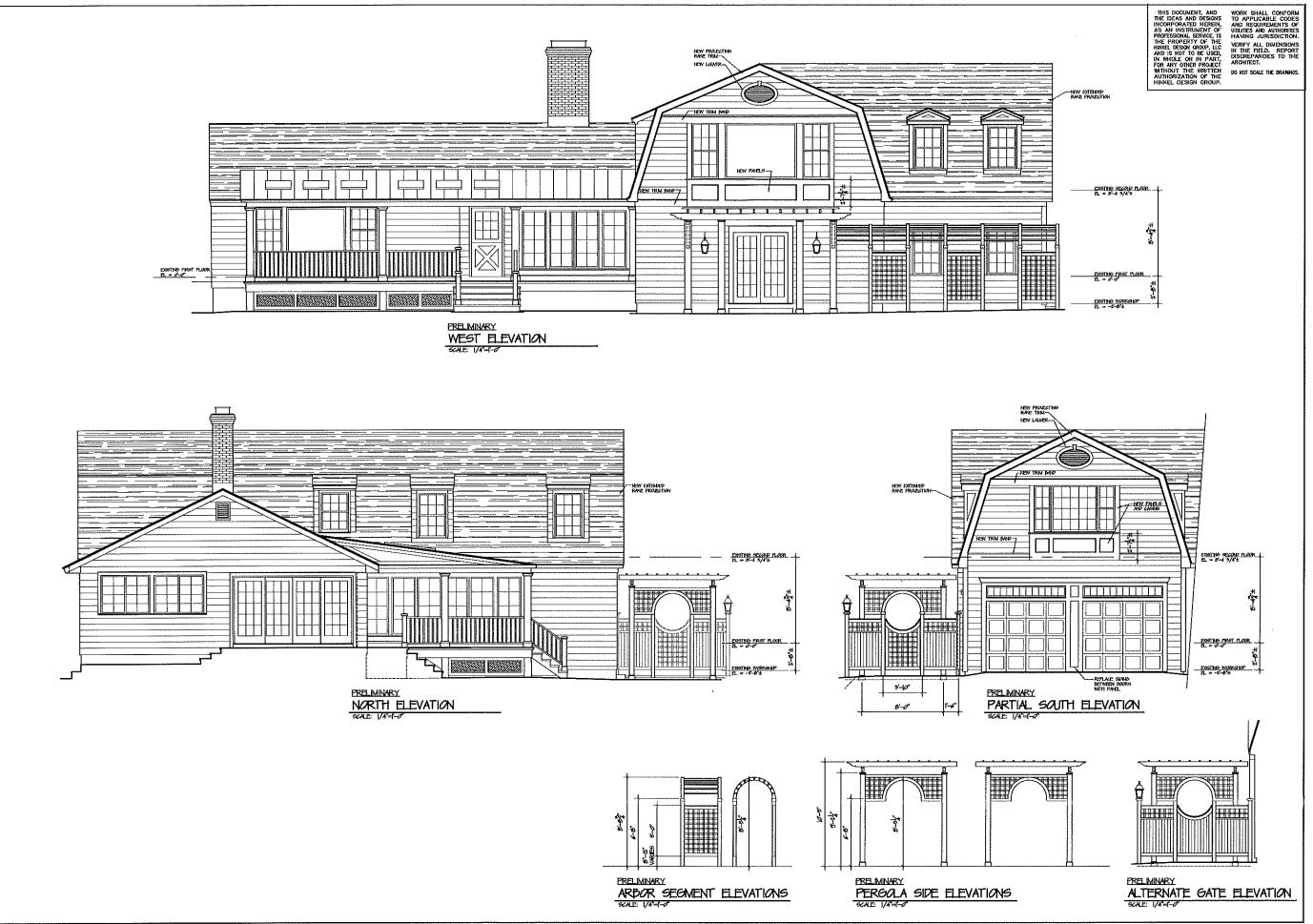




88 BAYBERRY HILL







HINKEL DESIGN GROUP, LLC

ARCHITECTURE D PLANNING D

22 PROSPECT PLACE

BRISTOL. CONNECTICUT 66010

TELS60-582-0088 www.hinkeldes/grap.up.com FAXS60.582-4912

HOGAN DUNN RESIDENCE ADDITION
88 BAYBERRY HILL ROAD

PRELIMINARY EXTERIOR ELEVATIONS

DESIGNED BY: XXX DRAWN BY: SBA CHECKED BY: XXX SCALE: 1/4"=1'-0"

NOTES:

PROJECT #22021 DATE: 20 JAN 2021 REVISION:

PROGRESS PRINT NOT FOR CONSTRUCTION

P-2

