



ZONING BOARD OF APPEALS
WHATLEY, MASSACHUSETTS

Updated 05-2023

APPLICATION FOR VARIANCE, SPECIAL PERMIT, OR APPEAL

To: Town Clerk
Whately, Massachusetts

Application fees: * Residential/Agricultural Use: \$175
(check one) Commercial/Industrial Use: \$225

Pursuant to the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts and the Zoning By-Laws of the Town of Whately, application is hereby made to the Zoning Board of Appeals for:

(check one) Variance Special Permit Appeal

to do the following: New construction of A 2 family Dwelling

on premises located at in front of 7 River RD
(street address)
B1
Zone (Map and Parcel No.)

Owned by Chris Green of 25 River RD Whately
(name of owner) (address of owner)

Name of applicant: Chris Green Signature of applicant: X [Signature]
(print or type)

Mailing address of applicant: 25 River RD Whately

Phone No. of applicant: 413 475 0652 Email of applicant: ChrisAGreen1983@gmail

Relationship to owner: _____

*The full cost of advertising all legal notices required to hold a public hearing by the Zoning Board of Appeals shall be the responsibility of the applicant. The applicant shall make full payment of the advertisement costs prior to the opening of the public hearing. If the applicant does not make full payment of the advertising costs prior to the opening of the public hearing then the Zoning Board of Appeals shall open the public hearing and immediately continue the public hearing to a date, time and place certain. The payment of all advertising costs shall be in addition to any other fees charged by the Zoning Board of Appeals. The advertising costs will vary by application and will be provided to the applicant once the legal ad is submitted to the newspaper and the newspaper provides the quote. The applicant will be informed of that cost and the payment can be made payable to the Town of Whately.

INSTRUCTIONS FOR PETITIONERS

FILING TO APPEAR BEFORE THE ZONING BOARD OF APPEALS

1. Familiarize yourself with sections of the Zoning By-Law pertinent to your petition. You may represent yourself or have someone represent you.
2. One copy of the application with the correct fee: \$175 for Residential/Agricultural Use; \$225 for Commercial/Industrial Use is to be given to the Town Clerk. Each petitioner is urged to discuss the application with the Building Commissioner first. At that time the Building Commissioner may inform the petitioner of the requirement that all plans must have the stamp of the registered engineer or surveyor (this may be waived).
3. Be informed that review fees and/or legal fees can and will be assessed for the Zoning Board of Appeals to evaluate the project, at the sole and absolute discretion of the Zoning Board of Appeals.
4. The Petitioner must list all owners' names and current addresses of property abutting the premises, and the owners' names and current addresses of land immediately adjoining the land of the Abutters (within 300 feet). Also, the names and current addresses of the owners of land across all highways. Petitioners will need to provide a list of all abutters within 300 feet of the proposed project that is certified by the town assessors.
5. If the petition is an appeal from a decision of the Building Commissioner, the Board of Selectmen or any other permit granting authority, such appeal to the Zoning Board of Appeals shall be taken within 30 days from the date of the order or decision that is being appealed.
6. To be granted a variance, a Petitioner must establish that special conditions exist affecting the parcel of land or building, that literal enforcement of the Zoning By-Law would involve substantial hardship, financial or otherwise, and that the variance may be granted without detriment to the public good and without nullifying or substantially derogating from the intent of the By-Law. Be prepared to present this data at the public hearing. It is strongly suggested that this data be prepared in writing and submitted to the Board at the hearing. It is emphasized that all of the foregoing requirements must be satisfied before the Board of Appeals is authorized under the laws of the Commonwealth to grant a variance.

In order to expedite consideration of your petition, include all factors that may be relevant to the question of hardship, financial or otherwise, including, but not limited to, purchase price, when purchased, mortgage indebtedness, expenses of maintenance and upkeep, income, taxes, etc. The Petitioner should present all facts indicating why a hardship exists and how it may be overcome by the granting of the variance.

7. If your petition before the Zoning Board of Appeals requests a Special Permit rather than a Variance, be prepared to present data that tends to indicate that the public convenience and welfare will be substantially served by granting the petition requested; that the petition requested will not tend to impair the status of the neighborhood; that the permission requested will be in harmony with the general purposes and intent of the regulations in the Zoning By-Laws. You should also include in your application any copies of existing Special Permits for the parcel of which you have knowledge.

ZONING BOARD OF APPEALS
TOWN OF WHATELY

Copies of the Zoning By-Laws are available at the Town Clerk's office for a small fee.

The petition must be filed with the Town Clerk together with the filing fee.

(PLEASE USE A SEPARATE PIECE OF PAPER FOR ADDITIONAL ROOM)

ABUTTERS

TIM SMITH 13 RIVER RD

TIM NURSE 29 RIVER RD

BEN RAWLS/JARED GILANSBURG 7 RIVER RD

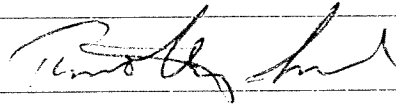
AI AND CAROL ANNIS 3/5 RIVER RD

SCOTT MATUSIEWICZ 15 RIVER RD

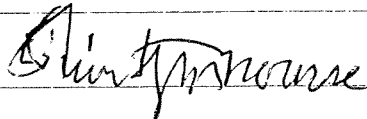
ETHAN HASLETT 21 RIVER RD

ABUTTERS APPOINTMENT

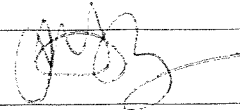
TIM SMITH



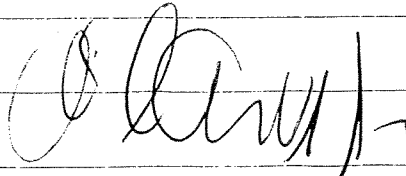
TIM NURSE



BEN RAWLS/JARED GILANSBURG B.R.



AI AND CAROL ANNIS



SCOTT MATUSIEWICZ

Scott Matczak 1/6/24

ETHAN HASLETT

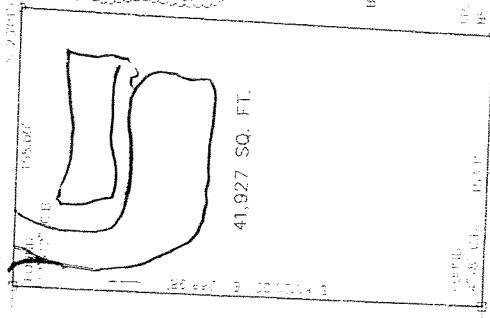
Ethan Haslett 1/10/24

I REPORT THAT THE PROPERTY LINES SHOWN
HEREON ARE THE LIMITS DIVIDING EXISTING
OWNERSHIPS, AND THE LINES OF STREETS AND
WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE
STREETS, OR WAYS ALREADY ESTABLISHED, AND
THAT NO NEW LINES FOR DIVISION OF EXISTING
OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

SURVEYOR: *Robert F. Tice*

RIVER ROAD

A 1201 FRANKLIN COUNTY HIGHWAY 50 WIDE SET COMMISSIONER'S BOOK OF PLANS 4, PAGE 2



HATFIELD
WHATELY
APPROXIMATE TOWN LINE

GEORGE A. ENGLEHARDT & ANNA M. ENGLEHARDT
BOOK 513 PAGE 126 TRACT 1
TO 1942, JOINTLY AND TO THE SURVIVOR
91,365 SQ. FT.
(INCLUDING 13,170 SQ. FT. IN HATFIELD)

LERoy OVERSTREET & GLADYS E. OVERSTREET
BOOK 1167 PAGE 328
TRACT #1

LERoy OVERSTREET &
GLADYS E. OVERSTREET

LEGEND

- FOUND IRON PILE
- FOUND BOUND



I REPORT THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE
WITH THE 1876 RULES AND REGULATIONS OF THE REGISTRAR
OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

Robert F. Tice
REGISTERED SURVEYOR #35057



Robert F. Tice

NOTE

THE PURPOSE OF THIS PLAN IS TO
RECORD THE DEEDS HEREBY
PREPARED BY GEORGE A. ENGLEHARDT
& ANNA M. ENGLEHARDT, DATED FEB. 17, 1975

SCALE:



Plan Of land in
Whately and Hatfield, Mass.
Surveyed For
M.R. SKIBISKI REALTY, INC.

SCALE: 1"=50'
Aug. 12, 2005

AINS WORTH ASSOCIATES

Land Surveying in Whately, Massachusetts
P.O. Box 1388 Whately, MA 01087 (413) 239-6348

¹The Table of Use Regulations shall be as follows: [Amended ATM 4-27-2010, Art 11][Amended 10-27-2011] [Amended ATM 4-29-14][Amended STM 12-11-2017, Art 9][Amended ATM 4-24-2018, Art. 42 and 44, Amended ATM 6-23-2020]

<u>Principal Use</u>	<u>Agriculture/ Residential 1</u>	<u>Agriculture/ Residential 2</u>	<u>Commercial</u>	<u>Commercial - Industrial</u>	<u>Industrial</u>
Residential Use					
Single-family detached dwellings	Y	Y	Y	N	N
2-Family detached dwellings (see~171-20)	SP	SP	SP	N	N
Multifamily dwelling units (apartments, townhouses and condominiums, if in compliance with ~171-20)	SP	SP	SP	N	N
Converted single-family dwellings (see ~171-21)	SP	SP	SP	N	N
Congregate Elderly Housing Facilities (see ~171-23)	SP	SP	SP	N	N
Open Space/Cluster Residential Subdivision Developments (see ~171- 25)[amended ATM 4-27-10]	Y*	Y*	Y*	N	N
Flexible Residential Development (see ~171-24.2) [added ATM 4-27-10]	Y*	Y*	Y*	N	N
Accessory Apartment (see definitions) [added ATM 4-27-10]	SP	SP	SP	N	N
Agricultural Uses					
Consistent with the provisions of G.L. c.40A §3 farm, orchard, nursery, market garden, forestry, sugarhouse, greenhouse or other use of land for agricultural, horticultural, floricultural, aquacultural, silvicultural, or viticulatural production. The use may include retail sale of agricultural products, consistent with the provisions of G.L. c.40A, §3, and the retail space is less than 300 square feet. [Amended ATM 4-29-2014, Art. 29A][Amended STM 12-11-2017, Art.9]	Y	Y	Y	Y	Y
Farm stand A with at least 300 square feet of retail space (see definition)[Added ATM 4-29-2014, Art. 29A]	Y*	Y*	Y*	Y*	Y*
Farm stand B (see definition) [Added ATM 4-29-2014, Art. 29A]	SP*	SP*	Y*	Y*	Y*

¹ Editor's Note: Former Subsection B, dealing with uses not listed, was repealed by 2-5-1991 STM, Art. 2. Said Article also redesignated former Subsection D as this Subsection B.

with the special permit application certification from the Planning Board that the plans so comply.

(4) Parking areas shall not be located within a required front, rear or side yard and shall be screened from public ways and adjacent or abutting properties by building location, fencing or planting. No parking area shall contain more than 10 spaces.

(5) No building shall be floodlit. Drives and parking areas shall be illuminated only by shielded lights not higher than 15 feet.

(6) The applicant shall submit a septic system design approved by the Board of Health with the special permit application. No septic system serving the project shall exceed 1,500 gallons per day sewage flow (as determined under Title 5, Section 15-02, of the State Environmental Code). More than one septic system may serve the site in order to meet this requirement.

~ 171-21.1 Converted dwellings.

In order to conserve the existing character of the town and previous resource investment, a dwelling structure in existence for at least 10 years at the date of application may be granted a special permit from the Board of Appeals for conversion to multifamily use, provided that the following conditions are complied with:

- A. No more than three dwelling units will be allowed within a structure.
- B. No more than three dwelling units will be allowed on a lot.
- C. One of the dwelling units must be owner-occupied.
- D. No external additions to the existing structure to accommodate dwelling units will be allowed, except to the extent that such improvements are directly related to required ingress and egress.
- E. The water supply for the dwelling units must be of sufficient quantity and quality to meet current state and local standards. It is required that any person attempting to obtain or who has obtained the above special permit will have the water supply for the dwelling units tested at the expense of the owner in the manner and method required by the Board of Health. In addition to the cost of testing, the owner will be required to pay a filing fee of \$15 each year to the Board of Health for the review of such tests.
- F. The added dwelling units must be served by an on-site disposal system meeting the requirements of the State Environmental Code, including enlarging or replacing existing septic tanks and/or leach fields to accommodate the additional effluent

generated when the total number of bedrooms is increased as a result of the building alteration.

G. A minimum of two parking spaces per dwelling unit will be required. The parking spaces shall not be nearer than 10 feet to the street line or nearer than 20 feet to the nearest abutter and shall be screened from the street by vegetation not less than 3 feet in height at the time of planting.

H. Every owner will be required to have the property inspected by the Board of Health and the Building Inspector prior to the granting of a permit, with fees to be set by the Board of Health and the Building Inspector, and all fees will be paid by the owner. This inspection will include but will not be limited to the sewage disposal system, the water supply to the dwelling units and the building itself.

I. To be eligible for conversion, the structure and the lot must be in compliance with all dimensional regulations in ~ 171-9.

~ 171-21.2. Converted historic municipal, religious and commercial buildings (added ATM 4-30-2019 Art. 33)

The purpose of this section is to facilitate the preservation of historically important municipal, religious, and commercial buildings and to allow for their adaptive reuse. All of the following conditions apply:

- A. Buildings may be publicly or privately owned;
- B. Buildings shall have served the general public and been in existence for at least 50 years, and shall be deemed historically significant by the Whately Historical Commission;
- C. Potential Uses are listed in ~171-8. Table of Use Regulations;
- D. Site Plan Review is required;
- E. The dimensional requirements of §171-9.C., ~171.10, ~171-20 and ~171-28.4F may be waived if there is no feasible alternative, although increases in lot density ratio in Aquifer Overlay Districts are discouraged;
- F. Parking and loading shall meet the requirements of §171-13 to the extent feasible;
- G. Septic systems must be adequate for the proposed use;
- H. More than 3 dwelling units may be allowed in a converted historic building if there is sufficient off-street parking and adequate water supply and wastewater treatment;

- I. No additions to the existing structure shall be allowed except for required egress and access; and
- J. Uses must have all the necessary state and local licenses and approvals for the use.

~171-22. Short-term rentals in Accessory Apartments, and Single-family, Two-family & Multifamily dwellings [Amended ATM 4-30-2019 Art. 35]

The purpose of this section is to allow for short-term rentals while ensuring public safety, preventing possible nuisances for abutters, and preserving the rural character of the town. Rentals for a period of less than 30 days may be allowed in residential units under a Special Permit from the Zoning Board of Appeals subject to the conditions outlined below. All such rentals must comply with all applicable Board of Health regulations. This section does not apply to property that is rented out through monthly tenancies at will or leases or to time share agreements.

A. Short-term rentals in Dwellings that are owner-occupied.

- (1) No more than three bedrooms may be rented for transient occupancy.
- (2) Rooms rented for transient occupancy shall not have independent kitchen facilities and may have either private or shared bathroom facilities.
- (3) All bedrooms within the dwelling itself shall share a common entrance.
- (4) The portion of the dwelling devoted to transient occupancy shall be secondary to the use of the dwelling as a Single-family dwelling and shall not change the external character of the building.
- (5) The Special Permit shall establish a limit on the number of occupants permitted under the rental agreement and establish the number of required parking spaces.
- (6) One off-street parking space shall be provided for each room to be rented.
- (7) No loud noise or music, excessive traffic or other disturbances shall be allowed.
- (8) The rental may, or may not, include breakfast. No meals other than breakfast may be served, and breakfast may be served only to overnight guests. The owner or leaseholder must obtain all State and local permits and licenses required to provide food services if breakfast is served on the premises.
- (9) The owner must have all the necessary state and local licenses and approvals for the short term rental.

B. Short-term rentals in Dwellings that are not owner-occupied.

- (1) The rental may be for a dwelling unit that is an Accessory Apartment or Single-family home or for one or more dwelling units within a Two-family or Multi-family dwelling.

B. Commercial establishments which require the use of unregistered vehicles as a normal business practice and which are permitted by special permit are exempt from obtaining a special permit under this section.

C. A special permit to store more than one unregistered vehicle on any premises may be granted by the Board of Selectmen after a public hearing only if such storage of vehicles is consistent with the Special Permit Regulations of ~ 171-31 of this chapter, will not adversely affect the neighborhood, and will not be a nuisance or pose a hazard to public health or safety. The Board of Selectmen may place conditions on the permit in accordance with the Special Permit section of this chapter.

~ 171-20. Two-family and multifamily dwelling units.

Two-family and multifamily dwelling units shall be permitted in all districts only upon issuance of a special permit from the Zoning Board of Appeals and shall be subject to the special permit requirements of ~ 171-31 of this chapter.

A. The following conditions shall also be met before a special permit for multifamily dwelling units will be granted:

(1) Two-family and multifamily structures shall be governed by the minimum lot size and frontage requirements in the district. However, an additional 20,000 square feet of lot area and 75 feet of frontage shall be required for each unit in excess of one.

(2) Two-family and multifamily structures shall comply with the requirements set forth in the site plan review section and environmental performance standards section of this chapter.

B. In addition, multifamily structures shall also comply with the following requirements:

(1) Each multifamily structure shall contain no more than four dwelling units.

(2) Multifamily structures shall be located on roads having sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic generated by the site.

(3) Only one two-family or multifamily structure is allowed per lot, and must be provided with access, drainage and utilities functionally equivalent to that provided under the Planning Board's Subdivision Rules and Regulations. The applicant shall submit