



ZONING BOARD OF APPEALS TOWN OF WHATELY Updated 05-2021
 WHATELY, MASSACHUSETTS TOWN CLERK

APPLICATION FOR VARIANCE, SPECIAL PERMIT, OR APPEAL **2021 AUG 12 PM 2:37**

To: Town Clerk
 Whately, Massachusetts

Application fees: * Residential/Agricultural Use: \$175 X
 (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) X Variance Special Permit Appeal

to do the following: To issue a variance to relieve the obligation of the applicant to utilize buildings in existence on April 24, 2018 in order for the use of the property as an indoor marijuana cultivation establishment. Applicant has attached a "Memorandum to the Zoning Board of Appeals for Whately, MA" which it hereby incorporates by reference to this application.

on premises located at 23 LaSalle Drive, Whately, Massachusetts
 (street address)
AR 1 and AR 2 12-0-26
 Zone (Map and Parcel No.)

Owned by LaSalle Florists, Inc. of 23 LaSalle Drive, Whately, Massachusetts
 (name of owner) (address of owner)

Name of applicant: Whately RE Holdings, LLC Signature of applicant: _____
 (print or type)

Mailing address of applicant: PO Box 163
Hinsdale, MA 01235

Phone No. of applicant: 413-281-2568 Email of applicant: robocim3@msn.com

Relationship to owner: Buyer

*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.

*Please see the attached Exhibits A, B, C, D, E and F

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.
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.

Memorandum to the Zoning Board of Appeals for Whately, MA

The Applicant, Whately RE Holdings, LLC (“Applicant”) and the property owner, LaSalle Florists, Inc. (“Owner”) desire to consummate a purchase and sale of property located at 23 LaSalle Drive Whately, MA (“Property”). Applicant desires to use the Property in for an indoor marijuana cultivation establishment, including at least five (5) greenhouses and agricultural support buildings.

Half of the Property, including the area where five (5) greenhouses and ancillary buildings currently sit, is located in AR1 zone. Indoor marijuana cultivation establishments are limited in AR1 zones to Agricultural buildings and greenhouses in existence on April 24, 2018. On April 12, 2021, Applicant received a special permit for the development of three (3) greenhouses located on the Property that had been in existence on April 24, 2018.

After Applicant’s builder, Deerfield Greenhouse Builders and Repairs (“Builder”) inspected the greenhouses located at the Property it was revealed that due to the unique character of the Property, the condition and situation of the greenhouses, and the commercial realities of Applicant’s proposed use, that the greenhouses would have to be torn down and new greenhouses would have to be constructed.¹ Specifically, the Builder noted that “the greenhouses are old and need tremendous renovation” and that “time and weather use has caught up with the greenhouses” and that replacement was a “must” for cannabis growing.

The issues that Applicant seeks to address with a variance are Odor Control and the Safety and Security of the Property. Odor control is a critical feature of any cannabis cultivation facility. Applicant has consulted with Byers Scientific, an odor mitigation company to ensure the facility will use best in class odor abatement technology. A key piece of eliminating odor is having tightly sealed greenhouses or buildings, which can keep odor in and are constructed in a way that can handle modern odor mitigation technologies. Sealed greenhouses can circulate air inside, and use a variety of climate control methods to maintain an optimal indoor environment without ventilation. The current structures on the Property will not allow Applicant to utilize modern odor mitigation technologies.

Applicant, pursuant to the applicable laws and regulations, needs to have the ability to secure the buildings and greenhouses used in the cultivation of marijuana. The condition of the existing buildings and structures, built in the 1950s, are not capable of being sealed, do not have concrete flooring, and are very easy to access. Part of Applicant’s desire is to reduce the impact of its proposed use on abutting properties and the community. Applicant desires a safe and secure indoor cultivation establishment that is not currently possible with the existing structures on the Property.

As a result, Applicant and Owner are now seeking a variance in order to allow for the use of the Property as an Indoor Marijuana Cultivator with the construction of at least five (5) new greenhouses on the Property in a configuration that will allow Applicant to proceed with its proposed use of the Property. The variance that the Applicant is seeking would eliminate the

¹ Greenhouse Evaluation, dated 6/25/21, by David Laczynski of Deerfield Greenhouse Builders and Repairs, is attached hereto as Exhibit F.

requirement that the Indoor Cultivation of Marijuana only occur in structures in existence at the Property on April 24, 2018. Applicant will comply with all other zoning restrictions contained in Zoning By-Law 171-28.6 9 [Amended 4-24-2018 Article 41] other than the one restricting it from only utilizing buildings in existence on April 24, 2018.

Based upon the foregoing, the Applicant respectfully requests this Board make the following findings of fact:

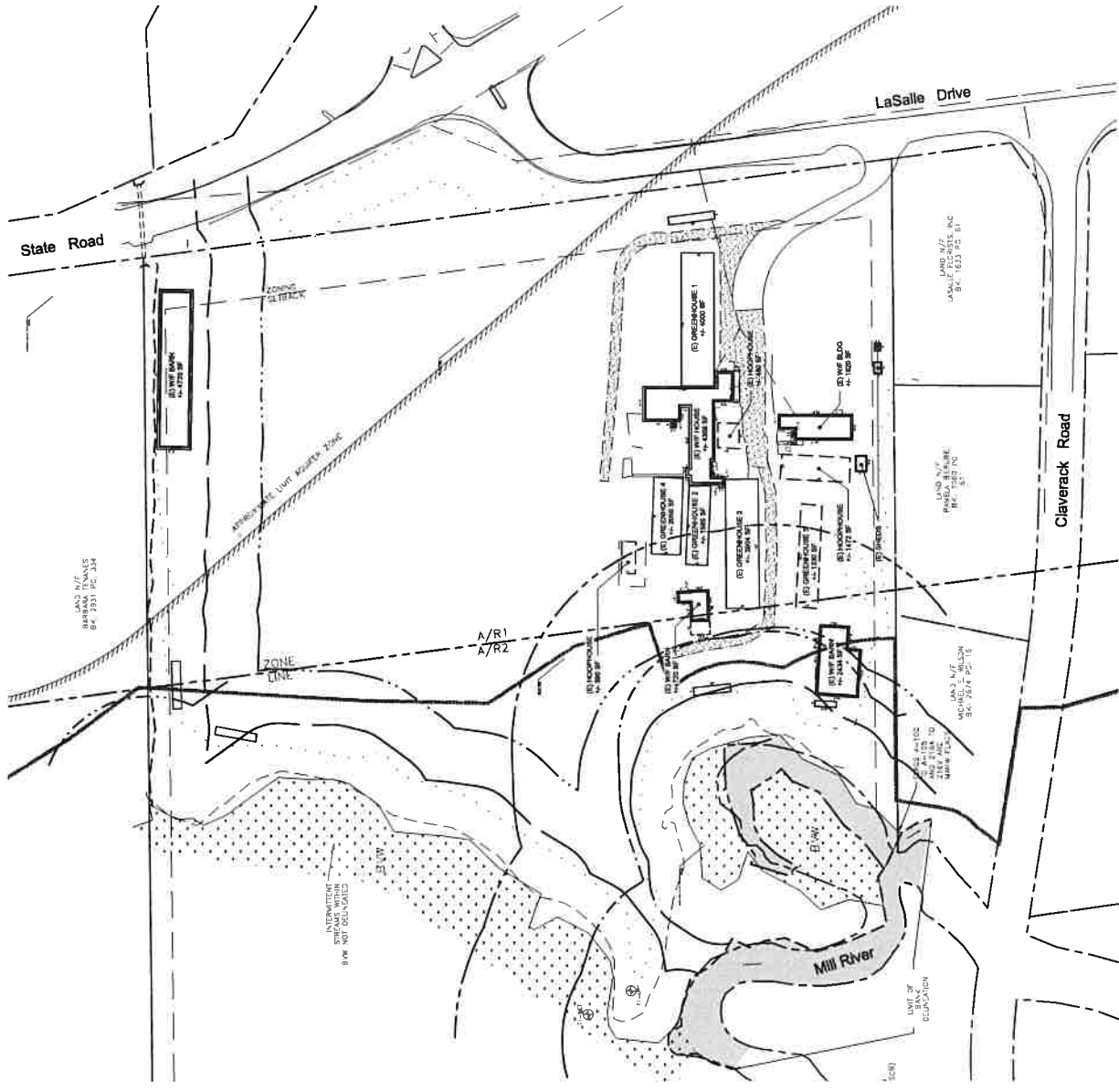
1. That the following circumstances relating to the soil conditions, shape or topography especially affecting the land and buildings in question, but do not affect generally the zoning district in which the land or structure(s) are located:
 - a) The greenhouses currently in existence on the Property would allow for indoor cultivation of marijuana on the Property under the zoning by-laws.
 - b) The greenhouses currently in existence are not well suited to the conforming use of indoor cultivation of marijuana on the Property.
 - c) The indoor cultivation of marijuana would be economically infeasible with the greenhouses and structures currently in existence on the Property.
 - d) The Property is subject to a Host Community Agreement with the Town of Whately (“HCA”) and has the benefit of a provisional license issued by the Cannabis Control Commission to cultivate marijuana on the Property (“Provisional License”), very unique conditions which do not affect generally the zoning district where the Property is located.
2. That a literal enforcement of the provisions of the Zoning By-law would involve substantial hardship, financial or otherwise, to the undersigned for the following reasons:
 - a) A literal enforcement of the Zoning By-law will deprive the Applicant of the ability to cultivate marijuana indoors, which would result in a substantial financial hardship to not, only the Applicant who has expended considerable time, resources and capital to procure both an HCA and a Provisional License, but also to the Owner who will realize a substantial reduction in the value of its Property and its business if it is not able to consummate the proposed transaction with the Applicant. Because of the current restrictions of the AR1 zoning bylaw, the Property is of little practical value to the Applicant but would only be economically beneficial to the Owner if it is able to convey it to the Applicant.
 - b) The Property has been listed for sale since 2016 and Owner has not received any economically viable offers to purchase the Property other than from the Applicant. Applicant is the only known party to have made an offer to purchase the Property due to its desire to utilize the unique features of the Property as an Indoor Marijuana Cultivation Establishment. The current business of the Owner is at stake as it is relying on this transaction to transition out of its business. The failure of this transaction will cause substantial hardship as it cannot plant flowers for the upcoming season.

3. That the desirable relief may be granted without substantial detriment to the public good for the following reasons:
 - a) Due to the fact that the indoor cultivation of marijuana is specifically already allowed on the Property, the proposed variance will have no impact on the public outside of the use already allowed.
 - b) If the variance is granted, not only will the Applicant be able to utilize the Property in a more secure and safe manner, the Applicant will be able to ensure that the noise and odor control systems that it will construct will be substantially better than ones that could possibly be constructed in the current greenhouses.
 - c) There will be no increased burden on public services except those already incurred by an indoor grow cultivation establishment at the Property.
4. That the variance desired may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning By-law for the following reasons:
 - a) The proposed use is already allowed at the Property by special permit, which the Applicant has already received.
 - b) The proposed use is consistent with the allowed use, only slightly expanded.
 - c) The grant of the variance will not derogate from the intent of the zoning by-law in that an indoor cultivation will still be allowed at the Property.

EXHIBIT A

DRAWING

NOT FOR CONSTRUCTION

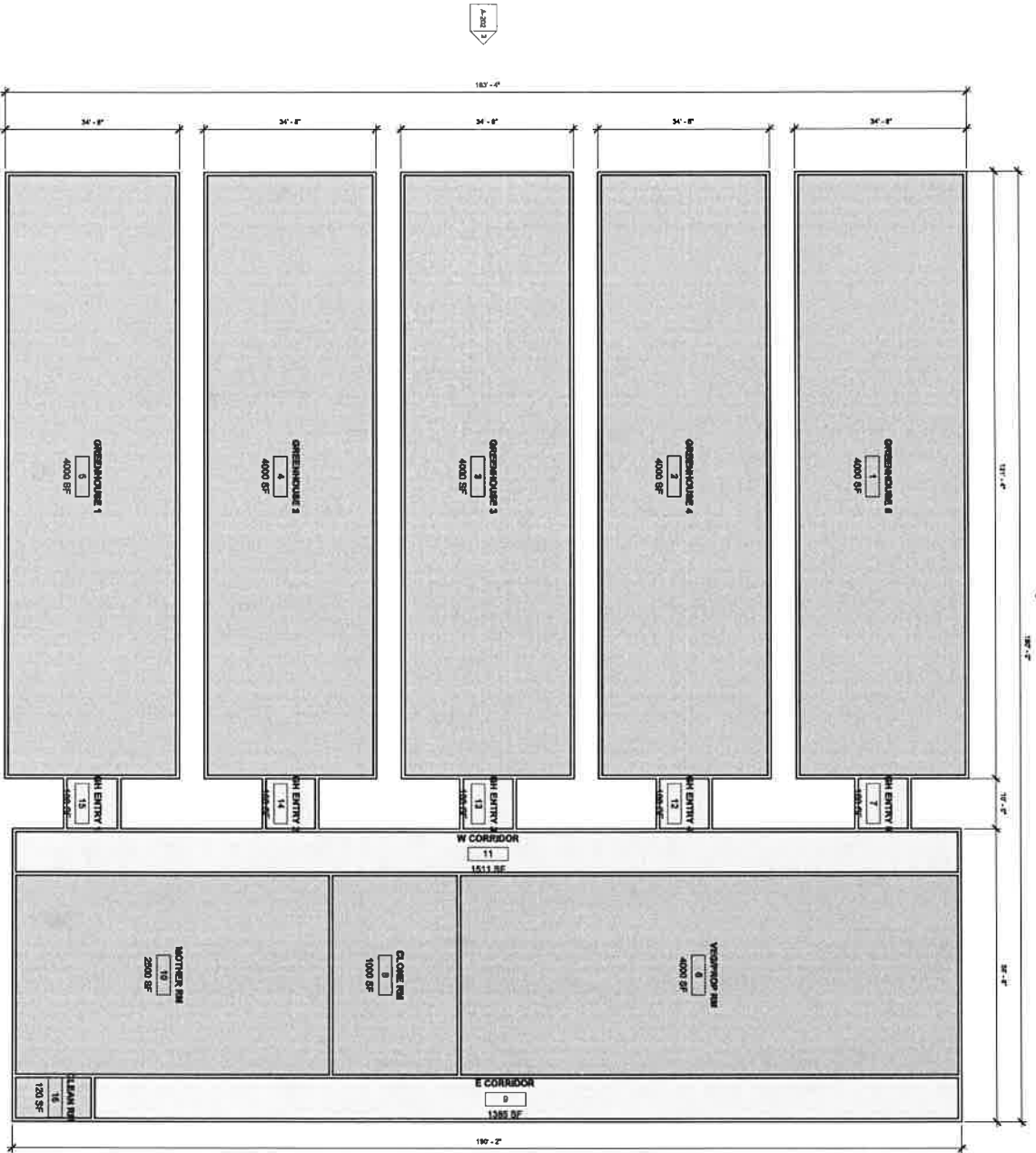


ARCHITECT: ALLEGRENE COMPANIES CIVIL ENGINEER: ALLEGRENE COMPANIES STRUCTURAL ENGINEER: ALLEGRENE COMPANIES MSP ENGINEER: ALLEGRENE COMPANIES	FILE PROTECTION: FOOD SERVICE	PROFESSIONAL SEAL: [Seal Area]	PROGRESS SET		DESIGNED FOR: [Client Name]	DATE: [Date]	PROJECT NO: [Project No]	EXISTING SITE
			DO SET	PERMIT SET				

ALLEGRENE COMPANIES
 1000 State Street, 10th Floor
 Lowell, Massachusetts 01850
 Tel: (978) 451-1111
 Fax: (978) 451-1112
 www.allegrenecompanies.com

EX-101

- ROOM LEGEND**
- CIRCULATION
 - GREENHOUSE
 - PRODUCTION
 - STORAGE & UTILITY



ALLEGRONE COMPANIES
 ARCHITECTS
 23 Lakeland Drive, Winbury, MA 01093
 Phone: 508-231-1111
 Fax: 508-231-1112
 www.allegro.com

ARCHITECT: ALLEGRONE COMPANIES
 CIVIL ENGINEER: [Redacted]
 STRUCTURAL ENGINEER: [Redacted]
 MECHANICAL ENGINEER: [Redacted]

PROFESSIONAL SEAL:

CANNA SELECT HOLDINGS - CANNABIS CULTIVATION

23 Lakeland Drive, Winbury, MA 01093

PROGRESS SET	
BID SET	
PERMIT SET	
CONSTRUCTION SET	

DESIGNED FOR:

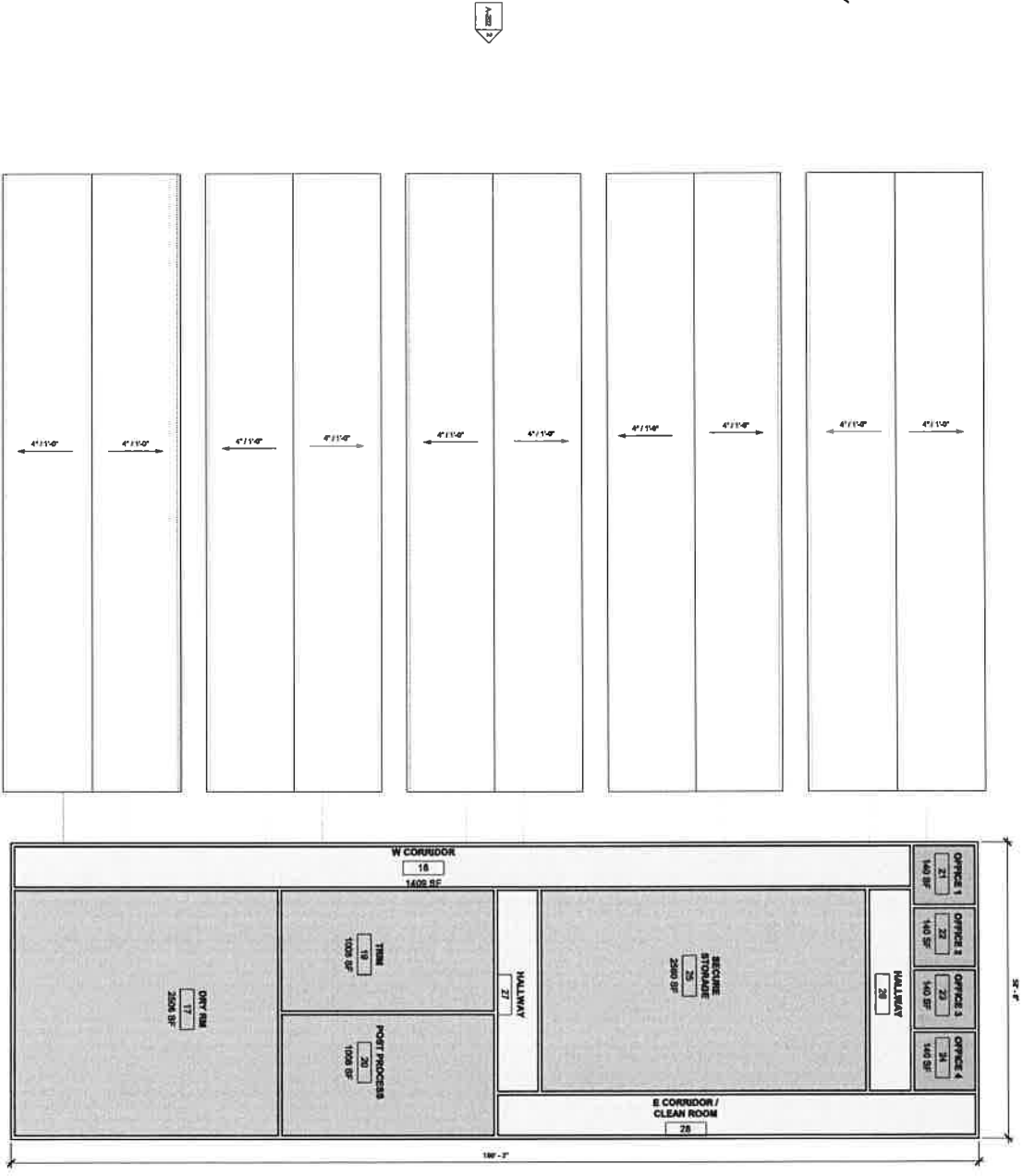
DATE	BY
DATE	BY
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FLOOR: 1 PLAN
A-101

- ROOM LEGEND**
- BUSINESS & ADMIN
 - CIRCULATION
 - PRODUCTION
 - STORAGE & UTILITY



ARCHITECT:
ALLEGRENE COMPANIES
CIVIL ENGINEER
MECHANICAL ENGINEER
ELECTRICAL ENGINEER

FIRE PROTECTION:
FOOD SERVICE

PROFESSIONAL SEAL:

**CANNA SELECT HOLDINGS -
CANNABIS CULTIVATION**
23 Ladsia Drive, Whately, MA 01093

PROGRESSIVE SET	DESIGN SET	PERMIT SET	CONSTRUCTION SET
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PROJECT CODE:

DATE:	SCALE:	PROJECT NO.:
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DRAWN BY:
CHECKED BY:
DATE:
SCALE:
PROJECT NO.:

FLOOR 2 & LOW ROOF
PLAN
A-102



PROJECT: ALLEGRONE COMPANIES CIVIL ENGINEER STRUCTURAL ENGINEER JOB NUMBER:	PROJECTION: FLOOR SERVICE JOB NUMBER:
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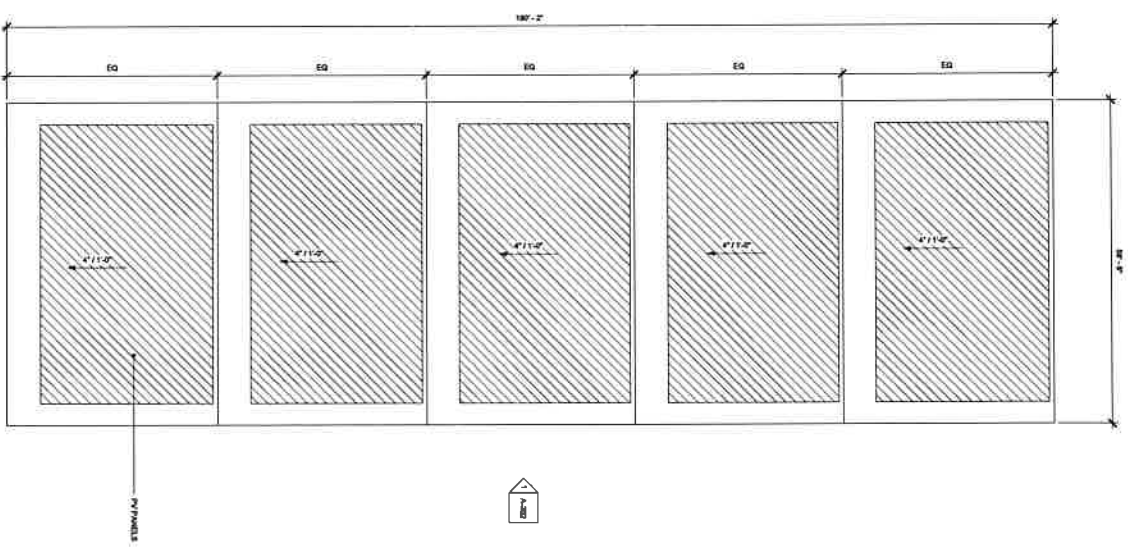
PROFESSIONAL SEAL

**CANNA SELECT HOLDINGS -
 CANNABIS CULTIVATION**
 22 LISBON DRIVE, WINDSOR, MA 01093

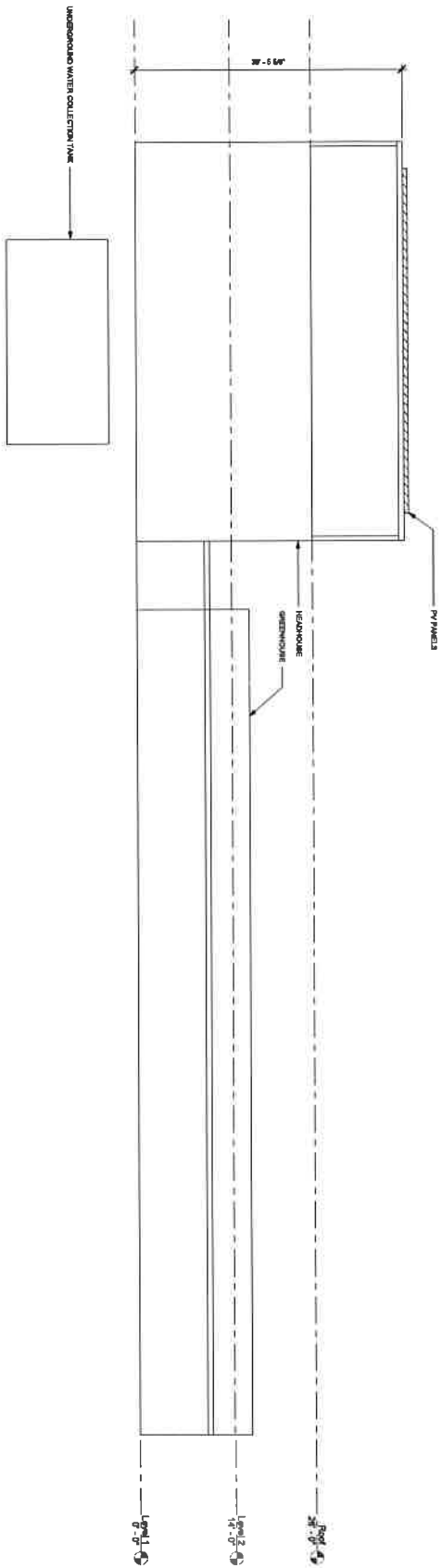
PROGRESS SET	DESIGN SET
BD SET	
PERMIT SET	
CONSTRUCTION SET	

DATE	SCALE	DRAWN BY:	REVIEWED BY:
	3/8" = 1'-0"		
DATE	2023/10/08	PROJECT NO.	

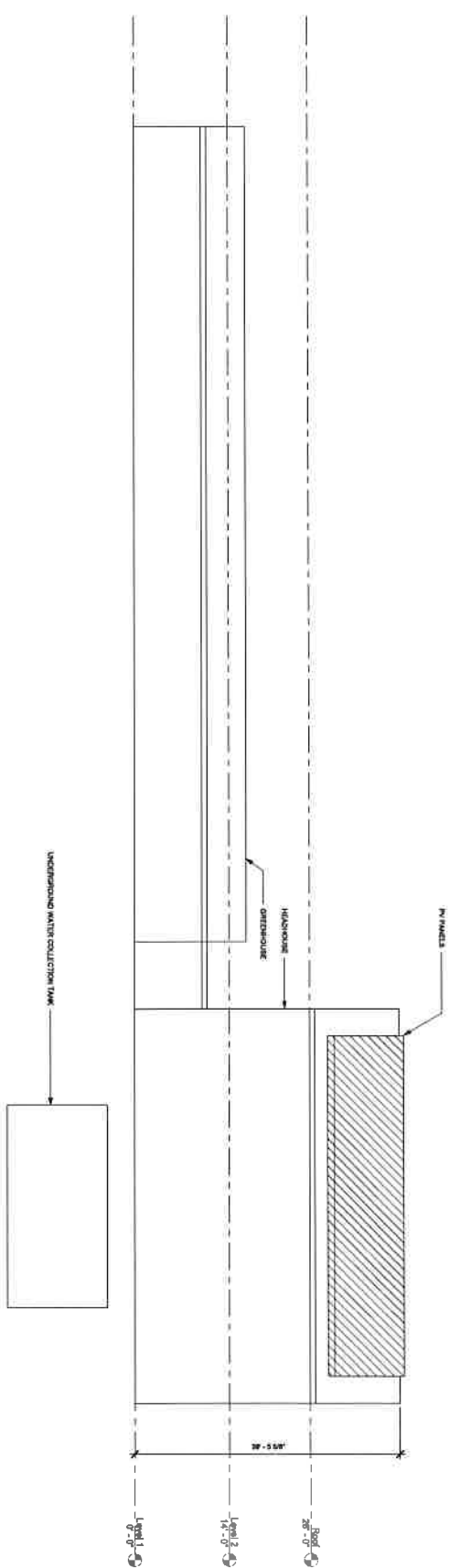
DATE	SCALE	DRAWN BY:	REVIEWED BY:
	3/8" = 1'-0"		
DATE	2023/10/08	PROJECT NO.	



ROOF PLAN
A-103



1 NORTH ELEVATION
1/8" = 1'-0"



2 SOUTH ELEVATION
1/8" = 1'-0"



**ALLEGRONE
COMPANIES**
ARCHITECTS ENGINEERS
PLANNERS

ARCHITECT: ALLEGRONE COMPANIES
CIVIL ENGINEER: ALLEGRONE COMPANIES
STRUCTURAL ENGINEER: ALLEGRONE COMPANIES
MECHANICAL ENGINEER: ALLEGRONE COMPANIES
ELECTRICAL ENGINEER: ALLEGRONE COMPANIES
PLUMBING ENGINEER: ALLEGRONE COMPANIES
LANDSCAPE ARCHITECT: ALLEGRONE COMPANIES
INTERIOR DESIGNER: ALLEGRONE COMPANIES
GENERAL CONTRACTOR: ALLEGRONE COMPANIES

PROFESSIONAL SEAL

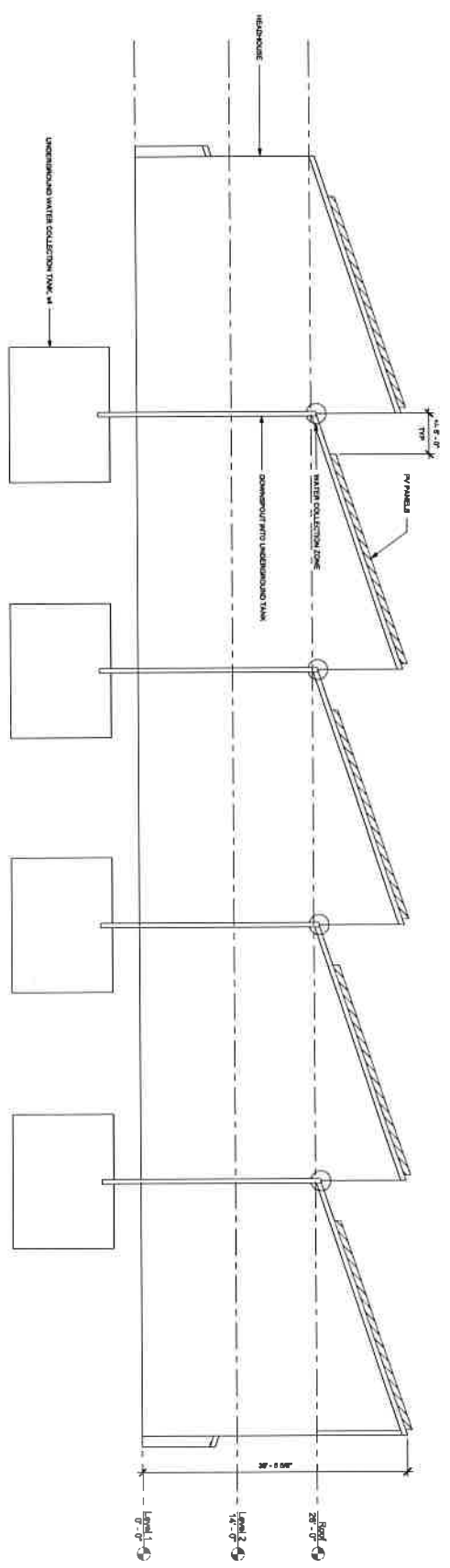
**CANNA SELECT HOLDINGS -
CANNABIS CULTIVATION**
23 LISIEN DR., WINDHAM, MA 01093

PROJECT NO.	PROGRESS SET
DATE	ISSUED FOR
CONTRACT NO.	CONTRACT NO.

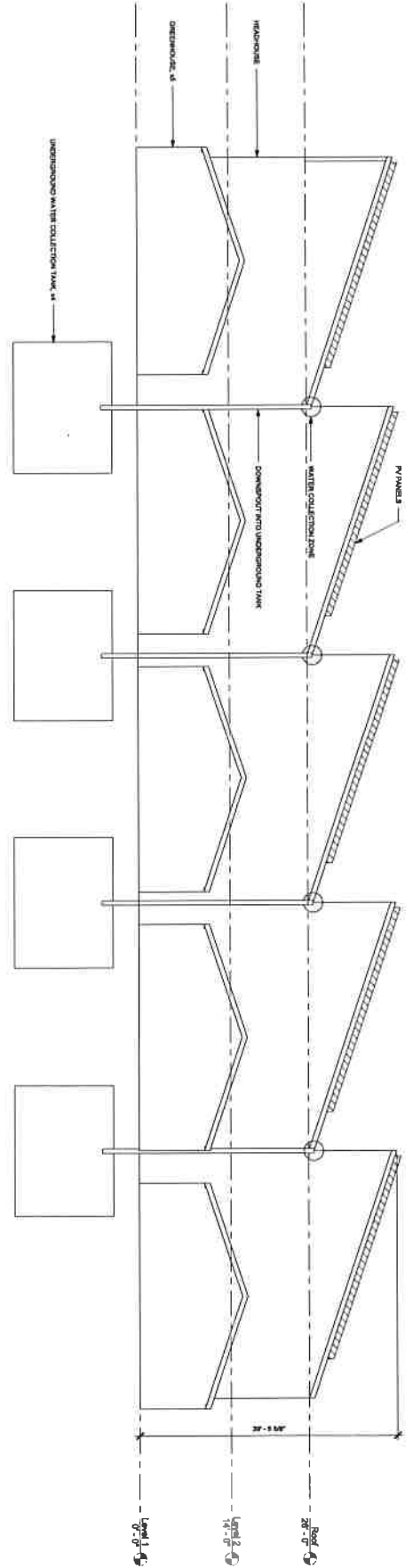
DATE	ISSUED FOR
CONTRACT NO.	CONTRACT NO.

DATE	ISSUED FOR
CONTRACT NO.	CONTRACT NO.

BUILDING ELEVATIONS
A-201



① EAST ELEVATION
1/8" = 1'-0"



② WEST ELEVATION
1/8" = 1'-0"



ARCHITECT: ALEXANDRE GONZALEZ
 CIVIL ENGINEER: [blank]
 STRUCTURAL ENGINEER: [blank]
 MEP ENGINEER: [blank]

FIRE PROTECTION: [blank]
 FOOD SERVICE: [blank]

PROFESSIONAL SEAL: [blank]

**CANNA SELECT HOLDINGS -
 CANNABIS CULTIVATION**

23 LISLEDA DR., WINDHAM, MA 01093

PROGRESS SET	
NO SET	
PERMIT SET	
CONSTRUCTION SET	

DESIGNED FOR: [blank]

DATE	BY

DRAWN BY: [blank]
 CHECKED BY: [blank]
 SCALE: 1/8" = 1'-0"
 DATE: 2/21/2025
 PROJECT NO.: [blank]

BUILDING ELEVATIONS

A-202

EXHIBIT B
CONTACT SHEET

Owner:

LaSalle Florists Inc.
PO Box 34
Whately MA 01093
John C. LaSalle, President

Applicant:

Whately RE Holdings LLC
Robert F. Cimini, Manager
56 Skyline Drive
Hinsdale MA 01235
(413) 281-2568
robocim3@gmail.com

Counsel to the Applicant:

Andrea F. Nuciforo Jr.
Nuciforo Law Group LLC
75 North Street, Suite 410
Pittsfield MA 01201
(617) 419-7155 Boston office
(413) 553-5515 Pittsfield office
www.nuciforo.com
anuciforo@nuciforo.com

EXHIBIT C
ABUTTERS



300 foot Abutters List Report

Whately, MA
August 06, 2021

Subject Property:

Parcel Number: 12-0-26
CAMA Number: 12-0-26
Property Address: 23A LASALLE DR

Mailing Address: LASALLE FLORISTS INC
PO BOX 34
WHATELY, MA 01093

Abutters:

Parcel Number: 12-0-11
CAMA Number: 12-0-11
Property Address: 7 CLAVERACK RD

Mailing Address: LOMELI ANN FUTTER
PO BOX 107
WHATELY, MA 01093

Parcel Number: 12-0-13
CAMA Number: 12-0-13
Property Address: 26 CLAVERACK RD

Mailing Address: LUDLAM STUART D & MARGARET E
PO BOX 235
WHATELY, MA 01093

Parcel Number: 12-0-14
CAMA Number: 12-0-14
Property Address: N/S CLAVERACK RD

Mailing Address: OWNER UNKNOWN
N/S CLAVERACK RD
WHATELY, MA 01093

Parcel Number: 12-0-15
CAMA Number: 12-0-15
Property Address: 41 CLAVERACK RD

Mailing Address: WILSON MICHAEL E
PO BOX 197
WHATELY, MA 01093

Parcel Number: 12-0-16
CAMA Number: 12-0-16
Property Address: 48 CLAVERACK RD

Mailing Address: GREEN TODD F STURDIVANT
NICHOLAS
127 LEYDEN RD
GREENFIELD, MA 01301

Parcel Number: 12-0-17
CAMA Number: 12-0-17
Property Address: 47 CLAVERACK RD

Mailing Address: BERUBE PAMELA
PO BOX 253
WHATELY, MA 01093

Parcel Number: 12-0-18
CAMA Number: 12-0-18
Property Address: 13 LASALLE DR

Mailing Address: CYBULSKI ALEC E & THERESA M
GORDON CHRISTINE C, CYBULSKI M
13 LASALLE DRIVE
S DEERFIELD, MA 01373

Parcel Number: 12-0-19
CAMA Number: 12-0-19
Property Address: S/S CLAVERACK RD

Mailing Address: CYBULSKI ALEC E & THERESA M
GORDON CHRISTINE C, CYBULSKI M
13 LASALLE DRIVE
S DEERFIELD, MA 01373

Parcel Number: 12-0-20
CAMA Number: 12-0-20
Property Address: CORNER CLAVERACK/LASALLE
RD

Mailing Address: LASALLE FLORISTS INC
PO BOX 34
WHATELY, MA 01093

Parcel Number: 12-0-24
CAMA Number: 12-0-24
Property Address: 148 STATE RD

Mailing Address: MONAHAN KYLE J
PO BO 803
WHATELY, MA 01093



www.cai-tech.com

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300 foot Abutters List Report

Whately, MA
August 06, 2021

Parcel Number: 12-0-24-1
CAMA Number: 12-0-24-1
Property Address: BETW STATE/I-91

Mailing Address: MONAHAN KYLE J
146 STATE RD
S DEERFIELD, MA 01373

Parcel Number: 12-0-25
CAMA Number: 12-0-25
Property Address: 145 STATE RD

Mailing Address: TENANES BARBARA
145 STATE RD
S DEERFIELD, MA 01373

Parcel Number: 12-0-31
CAMA Number: 12-0-31
Property Address: 1 LASALLE DR

Mailing Address: MALINOWSKI EDWARD L JR
280 WEST STREET
N HATFIELD, MA 01066

Parcel Number: 19-0-22
CAMA Number: 19-0-22
Property Address: 161 STATE RD

Mailing Address: ALLARD JOSEPH N & JOANNE
161 STATE RD
S DEERFIELD, MA 01373



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EXHIBIT D

EXISTING SPECIAL PERMIT

Franklin Registry of Deeds Bk 7784 Pg 162



NOTICE OF VARIANCE
OR SPECIAL PERMIT

TOWN OF WHATELY
TOWN CLERK

TOWN OF WHATELY
MASSACHUSETTS

2021 APR 12 AM 11:54

ZONING BOARD OF APPEALS

Date 3/27/21

Notice is hereby given that a Conditional or Limited Variance or Special Permit has been granted

To Whately RE Holdings, LLC
Owner or Petitioner

Address P.O. Box 163 Hinsdale MA 01235
by the Town of Whately Board of Appeals affecting the rights of the owner with respect to the use of premises on

23A LaSalle Drive, Whately
The record title standing in the name of LaSalle Florists, Inc.

whose address is 23 LaSalle Drive Whately MA
Street City or Town State

by a deed duly recorded at the Franklin County Registry of Deeds in Book 1355 Page 291 ✓

or Franklin County Registry District of Land Court, Certificate No. _____, Book _____ Page _____

The decision, and all plans and documents referred to in said decision of the Board of Appeals, made in compliance with the statutory requirements, has been filed with the Town Clerk and the Planning Board of the Town of Whately.

Dated: 3/27/21

Robert Lynton
Chairman, Board of Appeals
Robert Lynton
Clerk, Board of Appeals

5/3/21

Certification is given that twenty days have elapsed, and no appeal has been filed, or if such appeal has been filed, that it has been dismissed, since the filing in the office of the Town Clerk of the Decision of the Zoning Board of Appeals in connection with the land herein affected.

Lynn M. Sibley
Town Clerk, Town of Whately

Received and entered with the Registry of Deeds _____ District in the County of Franklin.

Book _____ Page _____

Attest: _____
Registrar of Deeds

Note: This notice must be recorded by the landowner before a Building Permit can be issued. This notice must be recorded at Franklin County Registry of Deeds before the decision of the Zoning Board of Appeals is effective.

TOWN OF WHATELY, MASSACHUSETTS
ZONING BOARD OF APPEALS

NOTICE OF DECISION

Whately RE Holdings, LLC
Applicant or Petitioner

Date: 3/27/21

23A LaSalle Dr. Whately MA
Premises affected

Case No.: _____

Appeal
Variance Petition
Special Permit Application

Referring to the above appeal, petition or application, so as to permit indoor marijuana
cultivation

after a public hearing held on ^{Nov. 5, 2020 +} Feb. 4 + Mar. 4, 2021, the Board of Appeals, at its meeting on Mar. 4, 2021

VOTED TO GRANT: _____ A variance from requirements under Article _____, Section _____ of the Zoning By-Laws.

A Special Permit under Article 171, Section 28-6 of the Zoning By-Laws.

_____ Authorized the Building Inspector to allow for the construction of the above work, or desired use of, premises, subject to the following conditions:

VOTED TO DENY: The Appeal, Petition for Variance, or Application for Special Permit.

The decision of the Board, together with a detailed record of its proceedings, indicating the vote of each member upon each question and setting forth clearly the reason or reason for its decision and of its official actions, is on file at the office of the Town Clerk.

Robert J. [Signature]
Clerk, Zoning Board of Appeals of Whately

NOTE: This granting (if made) is effective only after a Notice has been recorded at the Franklin County Registry of Deeds, said Notice having been signed by the Chairman and Clerk of the Zoning Board of appeals and certified by the Town Clerk.

APPEAL PROVISIONS: Any person aggrieved by a decision of the Board may appeal to the Superior Court by bringing an action within 20 days after the decision has been filed in the office of the Town Clerk. Notice of the action with a copy of the complaint shall be given to such town clerk within 20 days, in accord with Chapter 40A, Section 17.



TOWN OF WHATELY, MASSACHUSETTS

Date filed: _____

RECORD OF PROCEEDINGS - ZONING BOARD OF APPEALS

I, Robert Smith, Clerk of the Board of Appeals under the Zoning board of appeals under the zoning By-Laws of the Town of Whately hereby certify that the following is a detailed record of all its proceedings

relative to the (petition) (application) (appeal) of Whately RE Holdings, LLC

For a (variance) (special permit) under Section 171-28.6 of the Zoning By-Laws.

The Applicant desires to: conduct indoor marijuana cultivation
in 3 existing greenhouses on the LaSalle property,
in existence on April 24, 2018.

The premises affected are located at 23A LaSalle Drive being in the

RR/1-AR/2 Zone, in which zone the above-mentioned use requires: a special permit, or is not

permissible under the terms of said By-Law.

1. On Oct. 8, 2020 (a petition) (an application) (an appeal), of which a true copy marked "A" accompanies this certificate and is made a part of this record, was presented to the Board of Appeals, accompanied by the filing fee of \$225 and in the case of an appeal, the Refusal of the Building Inspector or the selectmen to issue a permit, a true copy of which refusal, marked "B", accompanies this certificate and is made a part of this record.
2. An advertisement, a true copy of which, marked "C" accompanies this certificate and is made a part of this record, was published in the Recorder, a newspaper published in Greenfield and circulated in Franklin County, on Oct. 22, 2020 and on Oct. 29, 2020.
3. A copy of the advertisement in the form of a notice was posted at the Town Hall for a period of not less than fourteen days before the date of the hearing, and copies of said notice, a copy of which, marked "D" accompanies this certificate and is made a part of this record, were mailed postage prepaid, to the petitioner, abutters, owners of land directly opposite on the public or private way, owners of land within three hundred feet of the property line as appearing on the most recent applicable tax list, the Planning Board of the Town of Whately and the Planning Board of every abutting town, the Building Inspector and the Board of Selectmen.

4. On Nov. 5, 2020 + Feb 4 + Mar 4, 2021 a hearing was held Via Zoom at which hearing opportunity was given to all those interested to be heard in favor of, or in opposition to said petition, application or appeal, at which hearing the following took place,

The Board heard from:

John LaSalle
Attorney Sofia Bitzas, Whately RE Holdings
Chris Cimini, Whately RE Holdings
Bob Cimini, Whately RE Holdings
Neal Dach, Whately RE Holdings
Mark Byers, Byers Scientific
Mark Cybulski
Christine Gordon
We also took a View of the Premises.

5. Following the hearing, the Board made the following specific findings regarding the land in question and the proposed use, and the following reasons for the decision of the Board are cited. If this is a re-hearing, the required changes in conditions are cited.

The Board listened to the participants and read aloud the letters submitted by interested parties.

We agreed that all criteria in the ByLaw Sect. 28-6 were satisfied. The project seems well thought out, and we were glad to have had the opportunity to view the premises. The Bylaw holds the project owners to a standard of no odors at the property line. We were happy that the heart of the LaSalle agricultural operation will remain.

We granted a Special Permit application to allow for an indoor marijuana cultivation establishment in three greenhouses in existence on April 24, 2018, on premises zoned A/R1 and A/R2 located at 23A LaSalle Drive and owned by LaSalle Florists, Inc.

The vote, concerns and comments of each member are shown below. If a member was absent, or failed to vote, said absence said absence or failure is noted:

Member: ROGER LIPTON
Vote: VOTED IN FAVOR AFTER A COMPLETE REVIEW OF THE PLANS + ALL CRITERIA IN THE MARIJUANA PORTION OF THE BY-LAWS (SECT. 28-6), WITH CONDITIONS NOTED IN EXIA.

Member: ROBERT SMITH
Vote: in favor after review of plans - Conditions to apply as noted

Member: KRISTIN DEVON
Vote: Voted in favor of a special permit after review of plans and the conditions set forth

Member: _____
Vote: _____

Member: _____
Vote: _____

7. The record of these proceedings and all attachments relating to said hearing shall be filed with the Town Clerk and shall be a public record, said filing to be made within fourteen days of the date of decision. Notice of said decision shall be mailed forthwith to the petitioner, applicant or appellant, to all parties in interest, and to every person present at the hearing who requested the same.

8. DECISION OF THE BOARD: Deny the petition, application, or appeal.
GRANT the petition, application, or appeal, subject to the following conditions, if any:

SEE ATTACHED EXHIBIT "A"


Clerk, Zoning Board of Appeals

EXHIBIT A
CONDITIONS

An Odor Control Plan is to be submitted before the beginning of operations, to be endorsed by a Professional Engineer (PE) or a Certified Industrial Hygienist (CIH). The plan must address:

- Standard Operating Procedures

- A commitment to the Use of Best Available Technology (BAT); and a description of the BAT planned for this location.

- Proposed Questions for any Complainants

- Proposed Protocols for Responding to Complaints

ATTEST: FRANKLIN, Scott A. Cote Register

EXHIBIT E
APPLICATION FEE

Nuciforo Law Group LLC
Clients Trust/IOLTA Account
100 North Street, Suite 405
Pittsfield, Massachusetts 01201

1248

DATE August 9, 2021 53-7169/2118

PAY
TO THE
ORDER OF

TOWN of WHATELY

\$ 175.00

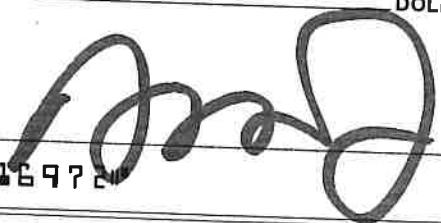
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Exhibit F

Greenhouse Evaluation

6/15/21

LaSalle Florists
23 LaSalle Drive
Whately, Mass.

By David Laczynski
Deerfield Greenhouse
Builders and Repairs



**Deerfield Greenhouse Builders
Repairs**

345 Greenfield Rd., Deerfield, MA 01342
Phone: 413-773-5295 Fax: 413-773-5285

New Structures	David	Insured
Renovations	Laczynski	Experienced
Benching	Owner	Dependable

6/6/21

Evaluation of LaSalle Florist Greenhouses and Site in Whately Massachusetts

Greenhouse #1 Built 1934 87 years old
32ft. X 120ft. 3840 Sq. ft.

The concrete foundation is not very heat efficient, lap glass is loose, has tremendous heat loss, roof vents need to be replaced and are not suitable for cannabis growing. The roof bars, and steel pipe frame deteriorated. The glass roof is sagging in spots, the house is not very energy or labor efficient. The greenhouse has outlived its usefulness, its too far gone. Recommend removal of greenhouse.

Greenhouse #2 Built 1950 71 years old
22ft. X 74ft. 1628 Sq. ft.

The concrete foundation is not heat efficient. Lap glass has tremendous heat loss, roof bars are deteriorated and need replacement, steel frame is deteriorated in spots. Some old p.c.s.s. cover needs replacement. Energy and Labor inefficient, Renovation is possible but time consuming and expensive, too much to do for cannabis growing, maybe for flower or vegetable production but a stretch. Recommend removal of greenhouse.

Greenhouse #3 Built 1952 69 years old
32ft. x 120ft. 3840 Sq. ft.

Roof vents need replacement and are not desirable for cannabis growing. Lap glass is loose and not heat efficient same with concrete foundations, roof bars are twisted and deteriorated and need replacement, structural steel frame is not too bad. Vents are expensive to repair. Not labor or energy efficient, Recommend removal of greenhouse, its just too far gone.

Greenhouse #4 Built 1955 66 years old
28ft. x 72ft. 2016 Sq. ft.

The concrete foundation has heat loss and is deteriorated, lap glass and p.c.s.s. roof cover needs to be replaced, roof bars need replacement, steel frame has some deterioration but not too bad. Could be renovated for storage with a metal roof but a lot of work. Not suitable for cannabis production. Recommend removal of greenhouse.

Greenhouse #5 Built 1995 26 years old
22ft. x 96ft. hoop house 2112 Sq. ft.

House has poly roof, steel hoops is in good shape but too short in height for cannabis production, could be used for seedlings, a starter house, or sell to a vegetable or flower grower. Recommend removal.

Review of the whole site

The layout of the greenhouses is not very labor efficient and all the outside walls create heat loss. The greenhouses are old and need tremendous renovation and are energy and labor inefficient. Better to remove them and start with a clean slate. Cannabis is a new ballgame when it comes to greenhouse design. Recommend new gutter connect greenhouses, you could collect the rainwater for reuse. Much more labor and energy efficient and suitable for cannabis production.

Note:

The Lasalle family has maintained the greenhouses for a very long time and the houses served them well a few generations of flower production. But time and weather, use has caught up with the greenhouses time to modernize. For cannabis growing a must.

David J. Jacopini

D.G.B.

NUCIFORO
Law Group LLC

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Boston, Massachusetts 02110
Direct (617) 535-7720

75 North Street • Suite 410
Pittsfield, Massachusetts 01201
Direct (413) 553-5515

August 12, 2021

Amy Schrader, Town Clerk
Town of Whately, Massachusetts
Whately Town Offices
4 Sandy Lane
Whately, MA 01373

RE: Application for a Variance – 23 LaSalle Drive, Whately, MA

Dear Clerk Schrader:

I enclose herewith an Application for a Variance, in duplicate, filed on behalf of Whately RE Holdings, LLC pertaining to property at 23 LaSalle Drive, Whately, Massachusetts.

Also enclosed are several exhibits depicting the land to which this Application pertains along with a memorandum describing the circumstances surrounding the Application.

Lastly, I enclose herewith our check in the amount of \$175.00 as required.

We would appreciate this Application for Variance being heard at the upcoming ZBA meeting on September 2, 2021.

NUCIFORO LAW GROUP



Devon W. Grierson, Esq.

Enclosure