



August 10, 2021

**Medway Planning & Economic Development Board
Meeting**

ZBA Petitions

- 4 Hawthorne Street for a rear yard variance for a pool – Gregory and Lizabeth Antonuccio
- 4 Williams Street for a kennel license for 4 dogs – Lee Skelton
- 25 Winthrop Street for appeal of the Building Commissioner's cease and desist order re: D & D Mulch and Landscape, Inc.

NOTE – The ZBA's hearings on these petitions are scheduled for August 18, 2021.



TOWN OF MEDWAY
ZONING BOARD OF APPEALS

155 Village Street
Medway MA 02053

GENERAL APPLICATION FORM

Case Number: _____

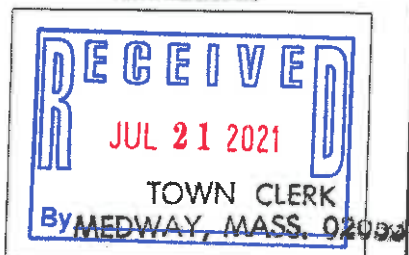
Phone: 508-321-4915 | zoning@townofmedway.org
www.townofmedway.org/zoning-board-appeal

NOTE: THE APPLICATION WILL NOT BE CONSIDERED "COMPLETE" UNLESS ALL NECESSARY DOCUMENTS, FEES, & WAIVER REQUESTS ARE SUBMITTED. A GENERAL APPLICATION FORM MUST BE COMPLETED FOR ALL APPLICATIONS.

TO BE COMPLETED BY THE APPLICANT

Applicant/Petitioner(s): Gregory Antonuccio	Application Request(s): Appeal <input type="checkbox"/> Special Permit <input type="checkbox"/> Variance <input checked="" type="checkbox"/> Determination/Finding <input type="checkbox"/> Extension (provide previous case #) <input type="checkbox"/> Modification (provide previous case #) <input type="checkbox"/> Withdrawal <input type="checkbox"/> Comprehensive Permit <input type="checkbox"/>
Lizabeth Antonuccio	
Property Owner(s): Gregory Antonuccio	
Lizabeth Antonuccio	
Site Address(es): 4 Hawthorne Road, Medway, MA 02053	
Parcel ID(s):	
54-114	
Zoning District(s): AR II	
Registry of Deeds Book & Page No. and Date or Land Court Certificate No. and Date of Current Title: Book 28895, Page 272	

TOWN CLERK STAMP



TO BE COMPLETED BY STAFF:

Check No.: 261676

Date of Complete Submittal: 7/20/21

Comments:

GENERAL APPLICATION FORM

Case Number: _____

APPLICANT/PETITIONER INFORMATION

The owner(s) of the land must be included as an applicant, even if not the proponent. Persons or entities other than the owner may also serve as co-applicants in addition to the owner(s), however, in each instance, such person shall provide sufficient written evidence of authority to act on behalf of the owner(s). For legal entities such as corporations, LLCs, etc., list the type and legal status of ownership, the name of the trustees/officer members, their affiliation, and contact information. Please provide attachment for information if necessary.

Applicant/Petitioner(s): Gregory Antonuccio	Phone:
Lizabeth Antonuccio	Email:
Address: 4 Hawthorne Road, Medway, MA 02053	
Attorney/Engineer/Representative(s): Stephen J. Kenney	Phone: 508-533-6711
Stephen J. Kenney	Email: sjk@kenney-law.com
Address: 181 Village Street, Medway, MA 02053	
Owner(s): Gregory Antonuccio	Phone:
Lizabeth Antonuccio	Email:
Mailing Address: 4 Hawthorne Road, Medway, MA 02053	

Please list name and address of other parties with financial interest in this property (use attachment if necessary):

None

Please disclose any relationship, past or present, interested parties may have with members of the ZBA:

None

I hereby certify that the information on this application and plans submitted herewith are correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of my knowledge, and that all testimony to be given by me during the Zoning Board of Appeals public hearing associated with this application are true to the best of my knowledge and belief.

Signature of Applicant/Petitioner or Representative

Date

Signature Property Owner (if different than Applicant/Petitioner)

Date

Case Number: _____

APPLICATION INFORMATION

YES NO

Applicable Section(s) of the Zoning Bylaw: Section 6.1, 3.2	Requesting Waivers?	<input type="radio"/>	<input checked="" type="radio"/>
	Does the proposed use conform to the current Zoning Bylaw?	<input checked="" type="radio"/>	<input type="radio"/>
Present Use of Property: Single Family Residence	Has the applicant applied for and/or been refused a building permit?	<input type="radio"/>	<input checked="" type="radio"/>
	Is the property or are the buildings/ structures pre-existing nonconforming?	<input type="radio"/>	<input checked="" type="radio"/>
Proposed Use of Property: Single Family Residence	Is the proposal subject to approval by the BOH or BOS?	<input type="radio"/>	<input checked="" type="radio"/>
	Is the proposal subject to approval by the Conservation Commission?	<input checked="" type="radio"/>	<input type="radio"/>
Date Lot was created: 1988	Is the property located in the Floodplain District?	<input type="radio"/>	<input checked="" type="radio"/>
Date Building was erected: 1988	Is the property located in the Groundwater Protection District?	<input type="radio"/>	<input checked="" type="radio"/>
Does the property meet the intent of the Design Review Guidelines? Yes	Is the property located in a designated Historic District or is it designated as a Historic Landmark?	<input type="radio"/>	<input checked="" type="radio"/>

Describe Application Request:

Petitioners seek a rear yard variance from the required 15' to 11.3' in order to construct an above ground pool.

GENERAL APPLICATION FORM

Case Number: _____

FILL IN THE APPLICABLE DATA BELOW

Required Data	Bylaw Requirement	Existing	Proposed
A. Use		Single Family Residence	Single Family Residence
B. Dwelling Units		1	1
C. Lot Size		53,182 SF	53,182 SF
D. Lot Frontage		175.20'	175.20'
E. Front Setback		>35	>35
F. Side Setback		>15'	>15'
G. Side Setback		>15'	>15'
H. Rear Setback		>15'	11.3'
I. Lot Coverage		<30%	<30%
J. Height		N/A	N/A
K. Parking Spaces		N/A	N/A
L. Other			

FOR TOWN HALL USE ONLY

To be filled out by the Building Commissioner:

7/20/2021
Date Reviewed

Josh M...
Medway Building Commissioner

Comments:

After completing this form, please submit an electronic copy to zoning@townofmedway.org
and 10 paper copies to the Community & Economic Development Department.



TOWN OF MEDWAY

ZONING BOARD OF APPEALS

155 Village Street
Medway MA 02053

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TO BE COMPLETED BY THE APPLICANT

Please provide evidence regarding how the Variance Criteria, outlined below, is met. All Variance Criteria must be met to be considered. Provide attachments if necessary.

1. What circumstances exist relating to the shape, topography, or soil conditions of the subject property which do not generally affect other land in the zoning district? (See MGL c. 40A Section 10)

See Attached

2. What substantial hardship, financial or otherwise, is caused by the circumstances listed above when the literal enforcement of Medway Zoning Bylaw is applied? (See MGL c. 40A Section 10) (Cannot be *personal hardship*)

See Attached

3. State why desirable relief may be granted without substantial detriment to the public good.

See Attached

4. State why relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw.

See Attached

Signature of Applicant/Petitioner or Representative

Date

1. The circumstances that exist relating to the shape, topography, or soil conditions of the subject property which do not generally affect other land in the zoning district are as follows. The subject lot is located at 4 Hawthorne Road, Medway, MA is a large lot of 53,812 square feet in a zoning district which requires 22,500 square feet. The lot has extensive wetlands located on it which are located primarily to the right of the home as the home is looked at from Hawthorne Road. As a result, the proposed location of the above ground pool and its relation to the home located on the project is, practically speaking, the only location that the pool could be built upon. The pool cannot be located any further to the right of where it is proposed to be located because it would be intruding upon the wetlands. The proposed pool cannot be built to the left of the home because that is where the driveway is located and there is not enough land to the left of the driveway to place the pool upon. The Petitioner has been before the Conservation Commission and has received proper permits from the Conservation Commission in order to construct the pool in the proposed location.

Additionally, the septic field is located in the right front yard of the home which prevents any building in that location.

It is the shape of the lot and the soil conditions on the lot and the location of the wetlands, i.e., the soil conditions, that prevent the pool from being constructed in any other location on the lot. This is a unique lot in that it is over sized for the Zoning District but is encumbered by wetlands to a great degree.

2. The substantial hardship, financial or otherwise, that is caused by the circumstances listed above when the literal enforcement of the Medway Zoning Bylaw is applied is as follows. Because of the size of the lot and the amount of wetlands located on the lot, as well as the location of the wetlands located on the lot, the proposed location of the above ground pool to be built is the only location that it can be built without intruding on the wetlands. Additionally, the location requested to be built would be the least amount of intrusion on the rear yard requirement of 15 feet to the degree of only 3.7 feet. The hardship that is created is the fact that if the pool cannot be placed in its present location there is no location on the lot that the pool could be built, again, because of the extensive wetlands located on the lot as well as there being no other location on the lot to construct an above ground pool.
3. Desirable relief may be granted without substantial detriment to the public good in that the variance requested is a minor variance of 3.7 feet. The public good will not be substantially harmed by the allowance of a variance of 3.7 feet to construct an above ground pool on a lot of 53,812 square feet, which said lot contains extensive wetlands.
4. The relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw as the relief requested of 3.7 feet does not nullify or substantially derogate from the intended purpose of the Zoning By-Law for a rear yard requirement. The Zoning Bylaw requirement of 15 feet rear yard set back is to assure that there are not structures placed directly on the lot line and that structures are placed a

reasonable distance from a lot line. The proposed above ground pool is not a building and will be much lower in height than a building would be. Nevertheless, it is considered a structure for purposes of the Zoning Bylaw. The Petitioner submits that 3.7 feet from the required 15-foot rear yard setback is not a substantial derogation or nullification from the intent of the purposes of the Zoning Bylaw of assuring that a structure is not built on a lot line. The area is a heavily wooded area in the rear of the parcel and as stated to the right of the home there is a large area of wetlands.

PROPOSED POOL
PLAN OF LAND

SCALE: 1" = 20' MARCH 25, 2021
REVISED: JUNE 2, 2021
REVISED: JUNE 15, 2021

OWNER: Greg & Elizabeth Antonuccio
S.F. 4 Hawthorne Road
Medway, Ma. 02053

COLONIAL ENGINEERING INC,
11 AWL STREET MEDWAY, MA.
508-533-1644

REQUEST WAIVER OF ZONING REARYARD
FROM 15' TO 11.3'

I CERTIFY THAT THE PROPOSED POOL
DOES NOT LIE WITHIN THE FLOOD PLAIN



Amthor, Nellore

ZONE AR1
AREA 22,500 S.F.
FRONTAGE 15'
SETBACK 35'
SIDEYARD 15'
REARYARD 15'
LOT COVERAGE
STRUCTURE 30%
STRUCT. & IMPER. 40%
NOT WITHIN THE W.P.D.

PROPOSED DISTURBANCE 480 S.F.
PROPOSED STRUCTURE COVERAGE 4.29%
PROPOSED STRUCT. & IMPERV. 8.34%
LAND REMOVED IN THE 25' BUFFER FOR

NOTE: NO CHANGE TO TOPOGRAPHY PROPOSED
LARGE ROCK TO BE REMOVED OR HAMMERED.

REQUEST WAIVER IN WORK IN 25' BUFFER ZONE

- = 12 ASSORTED SHRUBS
- 4 SHEEP LAUREL
- 4 HOBBLE BUSH
- 4 LOWBUSH BLUEBERRY

LOT 26
53,812 S.F.

ROAD

ACCESS FOR BOSCA

50' BUFFER ZONE

WETLANDS

DRAIN EASEMENT

CONSTRUCTION SEQUENCE

- 1) INSTALL EROSION CONTROL
- 2) INSPECTION BY CON. COMM.
- 3) EXCAVATE FOR POOL (2' DEEP)
- 4) STOCKPILE MATERIAL OUTSIDE 25' BUFFER.
- 5) CONSTRUCT POOL.
- 6) BACKFILL AROUND POOL.
- 7) REMOVE EXCESS MATERIAL FROM SITE.
- 8) SET MONUMENTS.
- 9) LEAN AND SEED DISTURBED AREA
- 10) FINAL INSPECTION BY CON. COMM.
- 11) REQUEST CERTIFICATE OF COMPLIANCE WITH AS-BUILT PLAN.
- 12) REMOVE EROSION CONTROL AFTER GROWTH.

AND FILLER SHALL BE CONSTRUCTED BY A 12" WOODWORKING BLOCK SHALL
FILL 100% FILLER MEDIA (WOODWORKING BLOCK OR OTHERS). FILLER SHALL BE
BE FILLED BY SITE OR PRE-FILL. IF PRE-FILL, Joints SHALL BE
OVERLAPPED BY AT LEAST TWO FEET.

FILTER SOCK WITH SILT FENCE DETAIL

GENERAL APPLICATION FORM



TOWN OF MEDWAY

ZONING BOARD OF APPEALS

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TO BE COMPLETED BY THE APPLICANT

Applicant/Petitioner(s): MS. LEE SKELTON	Application Request(s):
Property Owner(s): MS. LEE SKELTON	Appeal <input type="checkbox"/>
Site Address(es): 4 WILLIAMS ST. MEDWAY MA 02053	Special Permit KENNEL <input checked="" type="checkbox"/>
Parcel ID(s): 58-093-0000	Variance <input type="checkbox"/>
Zoning District(s): AR 2	Determination/Finding <input type="checkbox"/>
Registry of Deeds Book & Page No. and Date or Land Court Certificate No. and Date of Current Title: 33754 - 147 TITLE DATE 12/11/2020	Extension <input type="checkbox"/>
	Modification <input type="checkbox"/>
	Comprehensive Permit <input type="checkbox"/>

TOWN CLERK STAMP



TO BE COMPLETED BY STAFF:

Check No.: 136
Date of Complete Submittal: 7/22/21
Comments:

[Signature]

7/22/21

GENERAL APPLICATION FORM

APPLICANT/PETITIONER INFORMATION

The owner(s) of the land must be included as an applicant, even if not the proponent. Persons or entities other than the owner may also serve as co-applicants in addition to the owner(s), however, in each instance, such person shall provide sufficient written evidence of authority to act on behalf of the owner(s). For legal entities such as corporations, LLCs, etc., list the type and legal status of ownership, the name of the trustees/officer members, their affiliation, and contact information. Please provide attachment for information if necessary.

Applicant/Petitioner(s): MS LEE SKELTON		Phone: 508-918-5394
		Email: LEESKELTON02@GMAIL.COM
Address: 4 WILLIAMS STREET, MEDWAY		
Attorney/Engineer/Representative(s):		Phone:
		Email:
Address:		
Owner(s): MS LEE SKELTON		Phone: 508-918-5394
		Email: LEESKELTON02@GMAIL.COM
Mailing Address: 4 WILLIAMS ST, MEDWAY, MA, 02053		

Please list name and address of other parties with financial interest in this property (use attachment if necessary):

NONE N/A

Please disclose any relationship, past or present, interested parties may have with members of the ZBA:

NONE N/A

I hereby certify that the information on this application and plans submitted herewith are correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of my knowledge, and that all testimony to be given by me during the Zoning Board of Appeals public hearing associated with this application are true to the best of my knowledge and belief.

Signature of Applicant/Petitioner or Representative

7/22/2021

Date

Signature Property Owner (if different than Applicant/Petitioner)

Date

APPLICATION INFORMATION

		YES	NO
Applicable Section(s) of the Zoning Bylaw:			
3.4 5.4 SCHEDULE	Requesting Waivers?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Present Use of Property: RESIDENTIAL	Does the proposed use conform to the current Zoning Bylaw?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Proposed Use of Property: RESIDENTIAL / KENNEL	Has the applicant applied for and/or been refused a building permit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Date Lot was created:	Is the property or are the buildings/ structures pre-existing nonconforming?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Date Building was erected: 1890	Is the proposal subject to approval by the BOH or BOS?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Does the property meet the intent of the Design Review Guidelines? YES	Is the proposal subject to approval by the Conservation Commission?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Is the property located in the Floodplain District?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Is the property located in the Groundwater Protection District?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Is the property located in a designated Historic District or is it designated as a Historic Landmark?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Describe Application Request:			
<p>KENNEL PERMIT FOR 4 X CANINES</p> <p>- NO REQUEST FOR BOARDING, BREEDING, DAYCARE -</p> <p>REQUEST IS FOR ZONING PERMIT TO KEEP 4 X DOMESTIC PETS ON PREMISES</p> <p>- ALL 4 X CANINES ARE EITHER NEUTERED OR SPAYED</p> <p>PLEASE SEE ATTACHED LETTER EXHIBIT "A" FOR DETAIL & JUSTIFICATION</p>			

GENERAL APPLICATION FORM


FILL IN THE APPLICABLE DATA BELOW

Required Data	Bylaw Requirement	Existing	Proposed
A. Use			
B. Dwelling Units			
C. Lot Size			
D. Lot Frontage			
E. Front Setback			
F. Side Setback			
G. Side Setback			
H. Rear Setback			
I. Lot Coverage			
J. Height			
K. Parking Spaces			
L. Other			

FOR TOWN HALL USE ONLY

To be filled out by the Building Commissioner:

7/22/2021
Date Reviewed


Medway Building Commissioner

Comments:

After completing this form, please submit an electronic copy to zoning@townofmedway.org and 4 paper copies to the Community & Economic Development Department.



TOWN OF MEDWAY

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TO BE COMPLETED BY THE APPLICANT

Please provide evidence regarding how the Special Permit Decision Criteria, outlined below, is met. Please write "N/A" if you believe any of the Criteria is Not Applicable. Provide attachments if necessary.

1. The proposed site is an appropriate location for the proposed use:

THE RESIDENTIAL PROPERTY IS APPROPRIATE FOR OCCUPANCY OF 4 X CANINES - ALL OF WHICH ARE EITHER SPAYED OR NEUTERED. THERE IS A LARGE 6FT. FULLY ENCLOSED FENCED YARD - AS DEPICTED ON PLOT LAYOUT.

2. Adequate and appropriate facilities will be provided for the operation of the proposed use:

N/A

THERE IS NO BUSINESS OR CHANGES REQUESTED, NO BREEDING FACILITIES OR KENNEL FACILITIES REQUESTED

3. The proposed use as developed will not create a hazard to abutters, vehicles, pedestrians, or the environment:

N/A

THE REQUEST IS TO PERMIT 4 DOGS AT PROPERTY - ALL SPAYED OR NEUTERED - NO BREEDING OR KENNEL FACILITIES

4. The proposed use will not cause undue traffic congestion or conflicts in the immediate area:

N/A

THERE WILL BE NO ADDITIONAL TRAFFIC OR CONGESTION

5. The proposed use will not be detrimental to the adjoining properties due to lighting, flooding, odors, dust, noise, vibration, refuse materials, or other undesirable visual, site, or operational attributes of the proposed use:

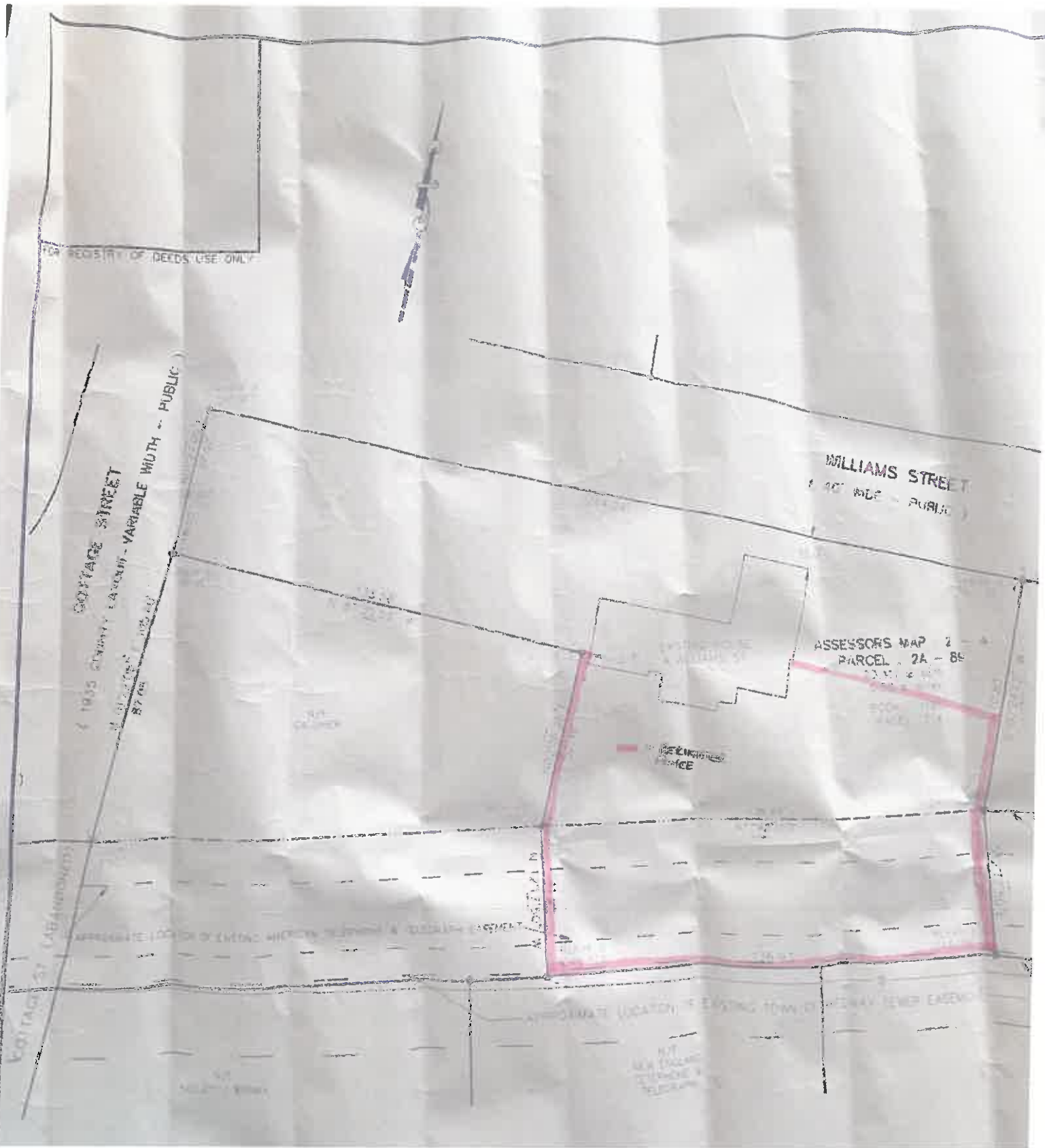
ALL ADJOINING NEIGHBOURS ARE DOG OWNERS AND THERE WILL BE NO ADDITIONAL NOISE THAN THERE IS CURRENTLY

6. The proposed use as developed will not adversely affect the surrounding neighborhood or significantly alter the character of the zoning district:

N/A

THE REQUEST IS TO PERMIT 4 CANINES. THERE IS NO REQUEST TO BREED OR RUN A KENNEL FROM THE PROPERTY

EXHIBIT B
PLOT LAYOUT



GENERAL APPLICATION FORM



TOWN OF MEDWAY

ZONING BOARD OF APPEALS

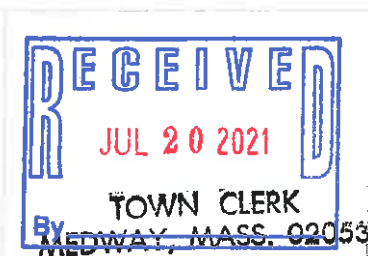
155 Village Street
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TO BE COMPLETED BY THE APPLICANT

Applicant/Petitioner(s): Paul Doherty, D & D Mulch and Landscape, Inc	Application Request(s):	
Property Owner(s): Robert Briggs, Trustee, Shady Oaks Trust	Appeal	<input checked="" type="checkbox"/>
Site Address(es): 25 Winthrop Street, Medway	Special Permit	<input type="checkbox"/>
	Variance	<input type="checkbox"/>
	Determination/Finding	<input type="checkbox"/>
	Extension	<input type="checkbox"/>
	Modification	<input type="checkbox"/>
Parcel ID(s): 38-010	Comprehensive Permit	<input type="checkbox"/>
Zoning District(s): AR1		
Registry of Deeds Book & Page No. and Date or Land Court Certificate No. and Date of Current Title: Book 8613, Page 557		



TO BE COMPLETED BY STAFF:

Check No.: 3942
Date of Complete Submittal: 7/20/2021
Comments:

Megan Amis

7/20/21

APPLICANT/PETITIONER INFORMATION

The owner(s) of the land must be included as an applicant, even if not the proponent. Persons or entities other than the owner may also serve as co-applicants in addition to the owner(s), however, in each instance, such person shall provide sufficient written evidence of authority to act on behalf of the owner(s). For legal entities such as corporations, LLCs, etc., list the type and legal status of ownership, the name of the trustees/officer members, their affiliation, and contact information. Please provide attachment for information if necessary.

Applicant/Petitioner(s): Paul Doherty, D & D Mulch and Robert Briggs, Trustee of Shady Oaks Realty Trust		Phone: 508-922-6009
		Email: paul@ddmulch.com
Address: 236 Maple Street, Bellingham		
Attorney/Engineer/Representative(s): John R. Maciolk, Esq		Phone:
		Email:
Address: 749 Main Street, Suite G Osterville, MA 02655		
Owner(s): Shady Oaks Realty Trust		Phone:
		Email:
Mailing Address:		

Please list name and address of other parties with financial interest in this property (use attachment if necessary):

N/A

Please disclose any relationship, past or present, interested parties may have with members of the ZBA:

N/A

I hereby certify that the information on this application and plans submitted herewith are correct, and that the application complies with all applicable provisions of Statutes, Regulations, and Bylaws to the best of my knowledge, and that all testimony to be given by me during the Zoning Board of Appeals public hearing associated with this application are true to the best of my knowledge and belief.

John R. Maciolk
Signature of Applicant/Petitioner or Representative

July 20, 2021

Date

Robert A Briggs
Signature Property Owner (if different than Applicant/Petitioner)

Date

July 19-2021

APPLICATION INFORMATION

		YES	NO
Applicable Section(s) of the Zoning Bylaw:	Requesting Waivers?	<input type="checkbox"/>	<input type="checkbox"/>
	Does the proposed use conform to the current Zoning Bylaw?	<input type="checkbox"/>	<input type="checkbox"/>
Present Use of Property: Agricultural	Has the applicant applied for and/or been refused a building permit?	<input type="checkbox"/>	<input type="checkbox"/>
	Is the property or are the buildings/ structures pre-existing nonconforming?	<input type="checkbox"/>	<input type="checkbox"/>
Proposed Use of Property: Agricultural	Is the proposal subject to approval by the BOH or BOS?	<input type="checkbox"/>	<input type="checkbox"/>
	Is the proposal subject to approval by the Conservation Commission?	<input type="checkbox"/>	<input type="checkbox"/>
Date Lot was created:	Is the property located in the Floodplain District?	<input type="checkbox"/>	<input type="checkbox"/>
Date Building was erected:	Is the property located in the Groundwater Protection District?	<input type="checkbox"/>	<input type="checkbox"/>
Does the property meet the intent of the Design Review Guidelines?	Is the property located in a designated Historic District or is it designated as a Historic Landmark?	<input type="checkbox"/>	<input type="checkbox"/>
Describe Application Request:			

GENERAL APPLICATION FORM


FILL IN THE APPLICABLE DATA BELOW

Required Data	Bylaw Requirement	Existing	Proposed
A. Use			
B. Dwelling Units			
C. Lot Size			
D. Lot Frontage			
E. Front Setback			
F. Side Setback			
G. Side Setback			
H. Rear Setback			
I. Lot Coverage			
J. Height			
K. Parking Spaces			
L. Other			

FOR TOWN HALL USE ONLY

To be filled out by the Building Commissioner:

7/20/2021
Date Reviewed


Medway Building Commissioner

Comments:

After completing this form, please submit an electronic copy to zoning@townofmedway.org
and 4 paper copies to the Community & Economic Development Department.



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ZONING BOARD OF APPEALS

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APPEAL FORM

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TO BE COMPLETED BY THE APPLICANT

Please attach any decision or denial for which you are requesting an appeal.

Please attach any and all materials submitted to the Town Board or Official with respect to the decision or denial you are appealing.

Date of Decision and/or Denial: July 1, 2021	Application Request(s): Reversal of Decision and/or Denial <input checked="" type="checkbox"/> Modification to the Decision <input type="checkbox"/> Direct Issuance of a Permit <input type="checkbox"/> Direct the Enforcement of a Section of the Zoning Bylaw <input type="checkbox"/>
Board or Official who made Decision and/or Denial: Jack Mee	
Applicant(s): Paul Doherty D & D Mulch and Landscape, Inc	

Evidence to support grant of appeal (use attachments if necessary):

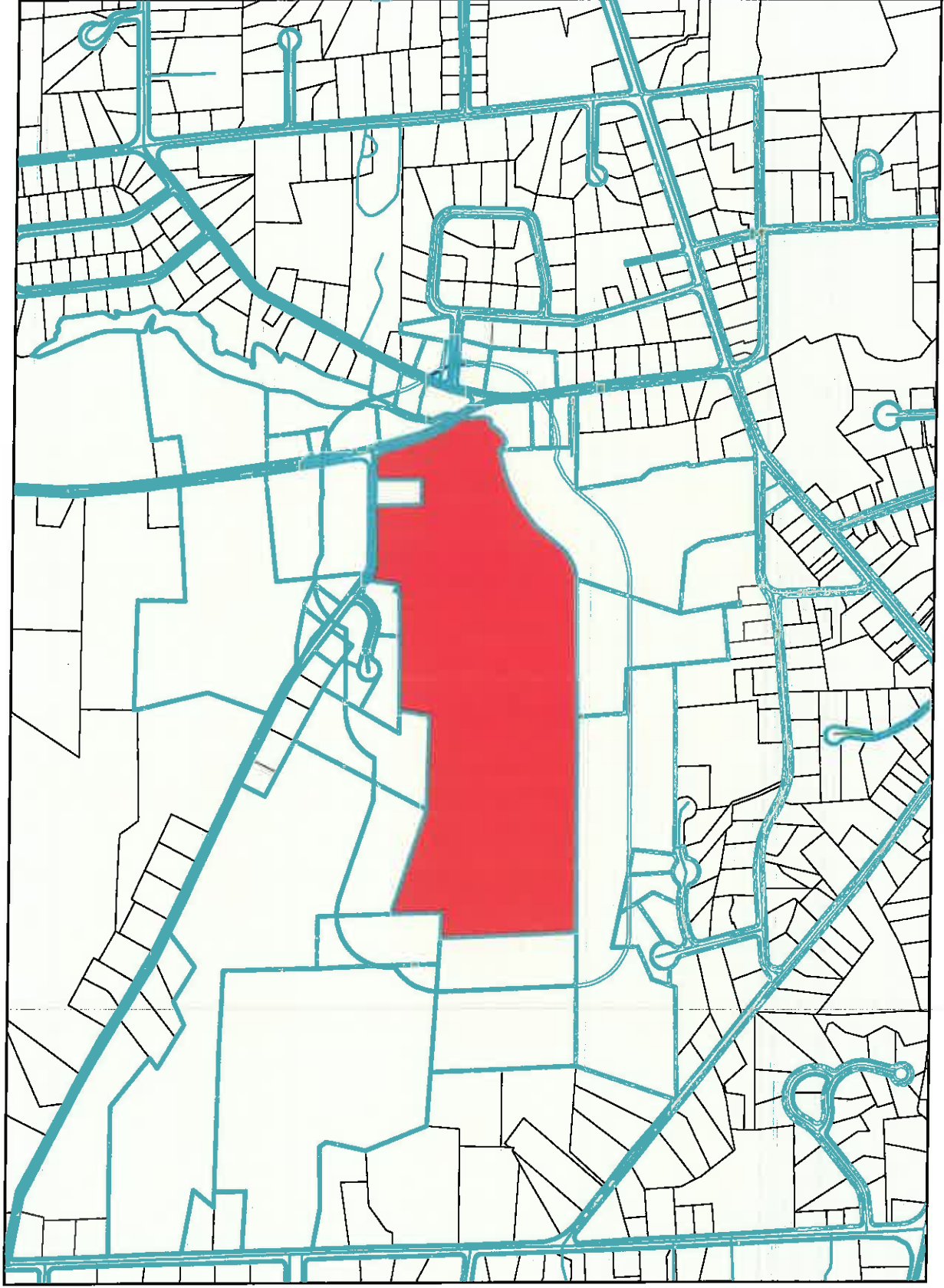
D & D Mulch and Landscape, Inc. (D & D) has used 25 Winthrop Street since April 16, 2016 to cultivate soil, which is an agricultural use of the property and allowed by zoning. Prior to beginning to use the property D & D met with all necessary local officials and obtained authorization. D and D has invested resources into its use of the property. The use has never changed. Neighbors have complained about the use over the years and the Town has investigated. The Town officials have never identified a violation. The Building Inspector correctly declined to take action upon a complaint by Mr. Linardy on February 8, 2021. No appeal was taken then. On or about March 10, 2021, Mr. Jack Mee called D & D and indicated the matter was closed. Nothing has changed since February of 2021, indeed there has been no change in the use since the inception of D and D's use over five years ago

How are you aggrieved by the decision or denial?

I am aggrieved because my use is an allowed use and I have invested time and resources into the use of this property. I sought and received authorization from the Building Inspector when I started cultivating soil at this location. I also obtained a permit from the Massachusetts Department of Environmental Protection. I am aggrieved because my use is an allowed use and was approved BEFORE I started to operate over 5 years ago. I have invested resources into this land, and much of the investments were completed because the Town officials requested them. I have obtained any and all permits needed for this operation. This "new" decision, dated July 1, 2021 is completely opposite from what the Town has been saying for over 5 years

Signature of Applicant/Petitioner or Representative

7-16-2021
Date



300' 38-010



TOWN OF MEDWAY
BUILDING DEPARTMENT
155 VILLAGE STREET
MEDWAY MASSACHUSETTS
PHONE 508-533-3253
FAX-508-321-4983

Jack Mee
Building Commissioner &
Zoning Enforcement
jmee@townofmedway.org

Rindo Barese
Building Inspector
rbarese@townofmedway.org

July 1, 2021

Paul Doherty - President
D&D Mulch and Landscape, Inc
236 Maple Street
Bellingham, MA 02019

HAND DELIVERED BY JACK MEE
PRESENTED AND SIGNED FOR BY TOM
WITNESSED BY PATROLMAN CHRIS BULLEN
FROM MEDWAY POLICE
7/1/2021 11:00 A.M. Jack Mee

**RE: CEASE AND DESIST COMMERCIAL OPERATIONS AT 25 WINTHROP STREET
MEDWAY, MA**

Dear Mr. Doherty:

As you are aware, the Town of Medway continues to receive complaints from residents surrounding your operation, located at 25 Winthrop Street in Medway, owned by Shady Oaks Realty Trust, Robert Briggs, Trustee. These complaints involve noise, dust, vibration, odors, and the number of trucks entering and exiting the property daily. I am aware of your General Permit with the Massachusetts Department of Environmental Protection for composting. You have indicated that this composting operation provides this product to add nutrients to Mr. Briggs' growing fields. However, it has become quite apparent that this operation is a commercial enterprise which is not allowed within the AR1 zoning district. There are numerous large trucks hauling product in and out of the site, well in excess of the need for Mr. Briggs' property. We have been monitoring the use on this property continuously over the last 16 months and have determined that the use has changed from the compost operations to more of a processing plant. It is quite apparent that the screening of gravel including rocks has become the primary operations on the property.

I understand that you take the position that D&D's current use of the property is allowed under the agricultural exemption of General Laws chapter 40A, section 3. That statute, however, provides in part no zoning by-law "shall prohibit, unreasonably regulate, or require a special permit for the use of land for the **primary purpose** of commercial agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture". At this time, based on the volume of activity with your business, it has become quite apparent that you are operating a commercial compost and loam screening and processing enterprise, the primary purpose of which is not agricultural, which is not allowed within the AR1 Zoning district.

With these facts we are issuing you an **IMMEDIATE CEASE AND DESIST** from operating at this location.

An appeal to the Board of Appeals may be taken by any person aggrieved by reason of a decision or order from the Building Commissioner, as provided in General Laws chapter 40A section 8.

Sincerely,

Jack Mee

Cc; Michael Boynton / Mr. Briggs