



Town of Stow
BOARD OF APPEALS
380 Great Road
Stow, Massachusetts 01775-2127
978-897-2784

January 6, 2020

NOTICE AND DECISION OF SPECIAL PERMIT GRANTING AUTHORITY

1. Special Permit Requested:

This document is the DECISION of the Stow Board of Appeals (hereinafter the Board) on the application of Tiffany Brown (hereinafter the Applicant) for property located at 28 South Acton Road submitted to the Board on June 7, 2019.

A special permit is sought under G.L.c.40A, s.6 and Stow Zoning Bylaw Section 3.2.2.5 to allow a Kennel in the Residential District.

2. Applicant/Owner:

Tiffany Brown
28 South Acton Road
Stow, MA 01775

3. Premises Affected:

28 South Acton Road, Stow, MA shown on Stow Property Map Sheet R-21 as Parcel No. 33 containing 2.1+/- acres.

2. Board Action

After due consideration of the Application, the record of proceedings, and based upon the findings and conditions set forth below, the Board voted by an affirmative vote of four (4) of the five (5) members present throughout the proceedings, to **GRANT** the Special Permit to allow a Kennel at 28 South Acton Road subject to findings and conditions set forth below.

3. Proceedings

The Application for Special Permit to allow a Kennel at 28 South Acton Road was received by the Board on June 7, 2019, pursuant to G.L.c.40A, s.6 and the Town of Stow Zoning Bylaws (hereinafter the Bylaw).

A duly noticed Public Hearing was opened on August 5, 2018 and continued with the Applicant's consent to September 9, 2019 and November 4, 2019. The Public Hearing closed at the conclusion of the November 4, 2019 Public Hearing.

The Applicant's Attorney, Alex Parra of D'Agostine, Levine, Parra & Netburn, PC. assisted the Applicant with the presentations. Board Members Mark Jones, William Byron, Ernest Dodd and Associate Members Andrew DeMore and Leonard Golder were present throughout the

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proceedings. The minutes of the Hearing and submissions on which this Decision is based, together with this Decision, constitutes the record of the proceedings may be referred to in Town Clerk's Office at the Stow Town Building.

4. Exhibits

Submitted for the Board's deliberation were the following exhibits:

Special Permit Application

- Cover letter from Attorney Louise N. Levine
- Application Form
- Abutters List Request Form
- Certified List of Abutters
- Locus MAP
- Building Plan
- Plan of Shed
- Filing Fee

Additional Documents Submitted by Applicant

- July 30, 2019 Letter with attached letters from Community Members in support of the Application
- July 6, 2019 Business Certificate
- Site Plan indicating Lot 2 (1.8 acres), Private Way, Lot 3 (4.98 Acres) and right of way joining lots 1 and 2)
- August 22, 2019 email with copy of Animal Control Officer Kennel Inspection Report, Business Plan and enrollment forms
- Documents submitted at September 9, 2019 Public Hearing Session
 - Cover Letter
 - Traffic Log
 - Deed
 - Plot Plan
 - DoodyCalls Contract
 - Building Floor Plan
 - Regulations for primary enclosures (9 CFR Section 3.6 – Primary enclosures)
 - Tiffany Brown – Dog Trainer Certificate
 - Letter from Karalyn Killough – in support
 - Email correspondence between Nathan Michel and K9 Kompanion
 - Photographs of dogs with children
- Letter, dated October 28, 2019, from Attorney Alex Para

Documents submitted by Town Boards and Departments

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- **Conservation Commission** - Interoffice Memorandum, dated July 16, 2019, Conservation Commission
- **Assistant Town Clerk** - Memorandum (Timeline) dated August 26, 2019, consisting of the following:
 - Section 1 – 2018 Personal Kennel Process
 - Section 2 – 2 Issues
 - Section 3 – 2019 Personal Kennel License
 - Section 4 – Violation
 - Section 5 – ZBA Application and Notices from Hearing
 - Section 6 – Letter to Zoning Enforcement Officer
 - Section 7 – Comparison Kennel Definitions MGL and Stow Bylaw
- **Board of Health** –
 - Documents submitted by the Applicant to the Board of Health
 - August 28, 2019 Letter from DoodyCalls to Meaghen Doherty re: Pet Waste Removal proposal
 - Kennel building and floor plans (12' x 20' 2-story building)
 - Regulations for Dog Kennels (<https://animals.mom.me/regulations-for-dog-kennels-12331176.html>)
 - 9 CFR Section 3.7 – Primary enclosures <https://www.law.cornell.edu/cfr/text/9/3.6>
 - Overview of K9Kompanion Services, Vet Release Form, Training Release Form and Intake Form
 - Interoffice Memorandum, dated September 9, 2019
 - Plot Plan from Board of Health indicating location of abutting wells
 - Interoffice Memo, dated 09/20/19 from Board of Health – recommended conditions
- **Town Counsel** – Email dated September 9, 2019

Documents submitted by others

- Letter, dated August 4, 2019, from Francis Warren Jr.
- Documents submitted by Caitlin Costigan on August 5, 2019
 - K9 Kompanion Facebook Page
 - 08/07/2014 – Notice of Dangerous Dog Hearing
 - 08/28/2014 – Email re: dog incident/hearing
 - 06/02/2014 – Email from Acton Town Manager re: Aggressive dog
 - 08/07/2014 – Order to Show Cause Notice to Tiffany Brown Re: dog complaint
 - 05/31/2-14 – Police Report re: dog bite
 - 04/03/2014 – Town of Acton Complaint Log
 - 04/02/2014 – Town of Acton Animal Bite Report
 - 04/08/2014 – Notification of Animal Bite from Emerson Hospital
 - 04/02/2014 – Town of Acton Dispatch Incident Detail

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- 04/02/2014 - Order of Quarantine –Town of Acton
- 05/31/2014 – Order of Quarantine – Town of Acton
- 06/02/2014 – Acton Animal Bite Report
- 05/31/2014 – Sudbury Police Incident Report
- 05/31/2014 – Acton Order of Quarantine
- 06/04/2014 – Dr. Report
- 05/31/2014 – Pediatrics at Newton Wellesley report to Acton Dog Officer
- 05/31/2014 – Sudbury Police Accident Report
- 08/04/2019 – Report on dangers of dog waste on the ecosystem and health of neighbor
- Letter, dated August 9, 2019 from Real Estate Appraiser, O’Hara- Buthray Associates, Inc. to Caitlin Costigan
- Letter from concerned abutters opposed to Special Permit
- Letter, dated September 6, 2019, from Victoria Anne and Andrew James Carter, Inn Keepers at 61 West Acton Road
- Letter, received September 9, 2019, from Mallory Sidorchuk , 276 Taylor Road
- Letter, received September 9, 2019, from Joanna Sacco, 40 Delaney Street
- Letter, received September 9, 2019, from Karalyn Killough
- Letter, received September 9, 2019, from Mallory Sidorchuk
- Email, dated 09/11/2019 from Nathan Michel
- Letter, dated November 3, 2019 from Kathy Sferra, 74 West Acton Road
- Email, dated November 3, 2019 from Claudia Mueller Thomson

Decision of the Board

Pursuant to Massachusetts General Laws Chapter 40A, after referring to the application for Special Permit, the following decision has been made by the Stow Board of Appeals as hereby certified after the public hearing.

The Board, by an affirmative vote of four (4) of the five (5) members present, **VOTED TO GRANT A SPECIAL PERMIT** to allow construction of and operation of a Kennel, based on the following findings and subject to the following conditions:

Findings and Conditions

1. **Finding** - The Applicant proposes to operate a Kennel at 28 South Acton Road to be located in a proposed 12-foot by 20-foot shed as shown on plans entitled:
 - “Building Permit Plan, Stow, Massachusetts”, dated May 31, 2019, prepared by Ducharme & Dillis Civil Design Group, Inc., and photographic plan entitled “Plan of Shed – Tiffany Brown, pages (1 of 2) and 2 of 2).
 - Building construction plans, submitted to the Board of September 9, 2019 including the following sheets:
 - 1st Floor Plan
 - 2nd Floor Plan
 - Building Profile Plan

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- o Construction Detail Plan

Premises Affected

2. **Finding** - The property is located in Residential District and contains 2.1± acres. The initial Application described the property as 28 South Acton Road as shown on the Town' of Stow Assessor's Map Sheet R-21 as Parcel 33. During the Public Hearing the Applicant noted a 20-foot right of way across an abutting property to a 4.98± acre parcel also owned by the Applicant. The Application and notice of public hearing was based only on the 2.1± acre lot and private way as shown on Assessor's Map Sheet R-21 as Parcel 33.
3. **Finding** - The Applicant advised that they take the dogs to hiking trails and fields where dogs are allowed to be on and off leash. If those sites are closed due to inclement weather, or if the dogs need an extra training boost, they take them to the fenced in 4.98± acre parcel of land. The 4.98± acre parcel is shown Assessor's Map Sheet R-21 as Parcel 35 and on a plot plan entitled "Plan of Land in Stow, Mass", dated December 31, 2014, prepared by Colonial Surveying Co., Inc.
4. **Condition:** This Special Permit applies only to 28 South Acton Road as shown on Assessor's Map Sheet R-21 as Parcel 33. Use of the abutting right of way, as shown on Assessor's Map Sheet R-21 as Parcel 34 and the 4.98± acre parcel as shown on Assessor's Map Sheet R-21 as Parcel 35 for Commercial Kennel use is not approved by this decision.

Use subject to Special Permit

5. **Finding** – The Board finds that the Residential District is the only district in which a Commercial Kennel permit may be granted. In accordance with Section 3.2.2.5 and 3.10 of the Zoning Bylaw, a kennel is an allowed use in the Residential District subject to a Special Permit, granted by the Board of Appeals.

Defining the term Kennel

6. **Finding** – The Zoning Bylaw does not define the term "kennel".
7. **Finding** - The Town of Stow General Bylaw (Article 6, Section 7) includes several definitions for Commercial and a Personal Kennels:
 - **Commercial Boarding or Training Kennel:** An establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment , at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal provided, however, that "commercial boarding or training kennel" shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and not for overnight boarding or an individual who temporarily, and not in the normal course of business, boards or cares for animals owned by others. G.L. c.140 ss136A.
 - **Commercial Breeder Kennel:** An establishment, other than a personal kennel engaged in the business of breeding animals for sale or exchange to wholesalers, brokers or pet shops in return for consideration.

- **Kennel:** One pack or collection of dogs on a single premises, whether maintained overnight for breeding, boarding, sale training, hunting or other purposes and including any shop where dogs are on sale, and also including every pack or collection of more than three dogs three months old or over owned or kept by a person on a single premises irrespective of the purpose for which they are maintained overnight, but excluding daytime only services such as a dog grooming, dog training, supervised playtime and dog walking with no more than twelve dogs on a single premises.
 - **Personal Kennel:** “A pack or collection of more than 4 dogs, 3 months or older, owned or kept under single ownership for private personal use provided however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further, that selling, trading, bartering or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers or pet shops; provided further, that a personal kennel shall not sell, trade, barter or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an animal shelter or rescue registered with the department, may be sold, traded, bartered or distributed if the transfer is not for profit.
 - **Veterinary Kennel:** A veterinary hospital or clinic that boards dogs for reasons in addition to medical treatment or care; provide, however that “veterinary kennel: shall not include a hospital or clinic used solely to house dogs that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.
8. **Finding:** The General Bylaw Article 6, Section 7.b.2. (Commercial Kennel License) states that a kennel maintained as a business for boarding, grooming, breeding or sale of dogs shall be subject to the provision of the Zoning Bylaw, Section 3.2.2.5.
 9. **Finding:** It is the general practice of the Office of the Town Clerk to require a Special Permit granted by the Board of Appeals only prior to issuance of a “Commercial” Kennel License and not a “Personal” Kennel License.
 10. **Finding:** The Board finds that the intent of the General Bylaw is that a “Commercial” Kennel is subject to a Special Permit granted by the Board of Appeals.
 11. **Finding:** The Board finds that the intent of the Zoning Bylaw is that “Keeping of pets and animals for use of the residents of the premises” is an allowed use “by right” under Section 3.2.1.5 of the Zoning Bylaw and therefore subject only to kennel license issued by the Town Clerk’s office in accordance with Article 6, Section 7 of the General Bylaw.
 12. **Finding:** The Board finds that the intent of the term “kennel”, as listed in Sections 3.2.2.5 of the Zoning Bylaw in the same category as “Veterinary hospitals”, is to mean a “Commercial Kennel” as defined in the General Bylaw. The Board further finds that Section 3.10 (Table of Principal Uses) lists Kennels as a Commercial Use in the Residential District. As a

Commercial Kennel is not a typical residential use that would otherwise be allowed by right, both Sections 3.2.2.5 and 3.10 of the Zoning Bylaw require a Special Permit in addition to a Kennel License issued by the Office of the Town Clerk. The Board further finds that this finding is consistent with Article 6, Section 7.b.2 (Commercial Kennel License) of the General Bylaw which states a Commercial Kennel License is subject to the provisions of Section 3.2.2.5 of the Zoning Bylaw and such license is subject to the approval of the Board of Appeal.

Operating without a Special Permit

13. **Finding** – The Applicant is currently operating a dog care and training care business at the site and also owns nine (9) personal dogs. As indicated in a report from the Assistant Town Clerk. A Personal Kennel License was issued for 5-10 dogs and tags were issued for seven (7) dogs registered under the license. The Applicant noted that they are now fostering two (2) dogs in addition to the seven (7) dogs for which tags have been issued.
14. **Finding** - An Application for a Home Occupation was denied by the Building Commissioner because a Commercial Kennel requires a Special Permit. According to the report from the Assistant Town Clerk, at that time the owner decided not to pursue the Commercial Kennel license and obtained a Business Certificate for a Home Office in the name of "K9 Kompanion Training" from the Town Clerk's Office. A business certificate is only for consumer protection; it records the name of the business and business owner with the Town for consumer protection purposes and is neither a license nor a permit to do business under the Town of Stow Zoning or General Bylaw.
15. **Finding** – Based on notes in the Assistant Town Clerk's report and Animal Control Inspection reports, it appears there was some ambiguity as to permitting requirements. The Assistant Town Clerk's report indicated correspondence in July and August of 2018 and verbal communication in 2019 regarding the Zoning Bylaw requirement that a Special Permit by the Board of Appeals is required for a Commercial Kennel. The Animal Control Officer conducted an inspection in July of 2018 and indicated in the report that the maximum number of dogs allowed is 20 and in July of 2019 the report indicated a maximum of dogs allowed is 30. During the Public Hearing, the Applicant noted that based on the Animal Control Officer's report, they were under the understanding that no further permits were needed.
16. **Finding** – As stated above, the Town of Stow General Bylaw (Article 6, Section 7.b.2) requires that a Commercial Kennel is subject to a Special Permit granted by the Board of Appeals.
17. **Condition** – The proposed Commercial Kennel shall be subject to a Special Permit granted by the Board of Appeals and a Commercial Kennel License from the Office of the Town Clerk.

Number of Dogs

18. **Finding:** The initial Application for Special Permit did not indicate the number of dogs proposed for the kennel. During the Public Hearing the Applicant noted they are asking to have 18 dogs at any one time during the day and 10 dogs overnight. The Business Plan,

submitted to the Board on September 9, 2019, indicates, in addition to their 9 personal dogs, they currently have 17 dogs in the playgroup program and they would keep no more than 10 dogs overnight.

19. **Finding:** There appears to be some ambiguity in the General Bylaw (Article 6, Section 7.a) definition) for "Kennel", as to whether the limitation of "no more than 12 dogs" on the premises applies only to overnight dogs or if the limitation applies to the total number of dogs, including daytime dogs. The Board of Health recommends, due to the ambiguity, this decision should rely on the General Bylaw definition for a "Commercial Kennel".
20. **Finding** - During the Public Hearing and in its Business Plan, the Applicant proposed no more than 10 overnight dogs.
21. **Condition** - There shall be no more than 10 overnight dogs at the property at any one time.
22. **Finding** - The Board of Health recommends, and the Applicant agreed to, a limitation on the number of dogs to no more than 25 dogs, including personal dogs, on the property at any given time.
23. **Finding** - The Board finds that a limitation of no more than 25 dogs, including personal dogs, on the property at any given time is reasonable based on the size of the property and its location in the residential neighborhood.
24. **Condition** – There shall be no more than 25 dogs, including personal dogs, on the property at any given time.
25. **Finding** - The Board of Health recommends, and the Applicant agrees, that all of the "commercial kennel" dogs on the property must be 12 months of age or older.
26. **Condition** – All dogs in the care of K9 Kompanion, other than personal dogs, shall be 12 months of age or older.

Property Values

27. **Finding** – During the Public Hearing concern was raised about the proposed use impacting property values.
28. **Finding** – The Board finds the proposed Kennel Use is a permitted use in the residential district by Special Permit and shall be subject to Board mandatory findings as required by Section 9.2.6 of the Zoning Bylaw. Board further finds that the conditions of this Special Permit and requirements of the Zoning Bylaw adequately protect abutting properties.

SECURITY

29. **Finding** - During the Public Hearing, concern was raised about security and assurances that the dogs do not get loose.
30. **Finding** – The Applicant advised that they have taken security steps to ensure that the dogs do not escape, including extending the fence enclosures to the proposed shed and double

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gating the enclosure.

31. **Condition** – Security measures shall be in place at all times to ensure that dogs do not escape from the property.
32. **Condition** - Fencing conditions, including extending the fence enclosures to the proposed shed and double gating the enclosure, shall be maintained sufficient to confine the dogs.
33. **Condition** - Measures shall be in place to prevent unauthorized access to the kennel area. Control of the gates shall be under control of the owners or duly authorized employees.

Noise

34. **Finding** – During the public hearing concern was raised about noise from barking dogs.
35. **Finding** – The Applicant advised that their training program focuses on distractions that may cause barking and they use bark collars for particularly anxious dogs in certain situations when they are crated or gated.
36. **Condition** – Dogs shall be refrained from excessive barking at all times.

Sanitation

37. **Finding** – During the public hearing concern was raised about odor and contamination from dog waste and potential impact on abutting private wells.
38. **Finding** – The Board of Health noted concern that the property's well is located in the owner's basement and the septic system is a cesspool. The septic system would not have the capacity for the additional flow from cleaning the dog shed, blankets, towels, dogs, etc.
39. **Finding** – The proposed kennel structure is described as a 12-foot x 20-foot two-story building with electricity and heat. No plumbing is proposed.
40. **Finding** - The Applicant advised that no plumbing is proposed for the kennel structure and they will rely on water from the existing home on the property.
41. **Condition** – There shall be no plumbing to serve the proposed kennel structure
42. **Finding** - The Applicant indicated that they have a cleaning company once per week as indicated in a proposal and invoices from DoodyCalls, and upon approval of the Commercial Kennel, they will increase that to twice weekly. In between cleanings they vacuum and sanitize the floor and change bed covers daily. They have feces removal company once per week to remove waste from the fenced in area and from surrounding area of their land.
43. **Finding** – The Applicant indicated that waste is immediately removed and property and disposed of.
44. **Condition** – Waste shall be removed and properly disposed of in a timely fashion.

45. **Finding** - The Board of Health recommended that dog blankets and bedding should be laundered at a laundromat.
46. **Condition** – All dog blankets and bedding shall be laundered according to Board of Health recommendations.
47. **Finding** – The Board of Health recommends that the Applicant test their well water annually for total coliform, fecal coliform, nitrates, and PH levels, and submit the results to the Board of Health.
48. **Condition** – The Applicant shall test their well water for total coliform fecal coliform, nitrates, and PH levels annually. Test results shall be submitted to the Board of Appeals, the Building Department and the Board of Health.

Traffic

49. **Finding** – During the public hearing, concern was raised about increased traffic.
50. **Finding** – The Applicant advised that in most instances they pick up the dogs from clients' homes in and outside of town that are attending particular programs between the hours of 8:00 am and 11:30 am. (Monday, Wednesday and Friday for Playgroup and Tuesday, Thursday, Saturday and Sunday for other programs) the dogs are dropped off at the clients' home between 4:00 pm and 7:00 pm.
51. **Finding** – The Applicant submitted a traffic log taken by a personal camera over a 19 day period (August 6, 2019 through August 25, 2019). The log indicated a total of 304 total trips for that time period, 41 of which were dog related (drop off, pick up or DoodyCalls service).
52. **Finding** – The Board finds the traffic log indicates existing traffic is consistent with residential use. No evidence was submitted to suggest that traffic would increase with the addition boarding facility.

Mandatory Findings

53. **Finding** - The Board makes the following mandatory findings as required by Section 9.2.6 of the Zoning Bylaw:
The Board finds the proposed use and development, as conditioned herein:
 - a. is in harmony with the purpose and intent of the Zoning Bylaw;
 - b. will not be detrimental or injurious to abutting properties or ways, the neighborhood, community amenities or the Town of Stow;
 - c. is appropriate for the site for which the petition is submitted and is related harmoniously to the terrain and to the use, scale and proportions of existing and proposed BUILDINGS in the immediate vicinity that have functional or visual relationship to the proposed use;
 - d. includes sufficient mitigating measures for any adverse effects noted in reports from town boards and agencies, reports from consultants and public hearings;
 - e. will result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland;
 - f. will result in no significant effect on the "level of service" (LOS) of the town roads or intersections of these roads;

- g. will result in no significant effect on level of service for any service provided by the Town;
- h. will result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties;
- i. will result in no transport by air or water of erodible material beyond the boundary line of the LOT;
- j. will provide adequate provision for pedestrian traffic; and
- k. will comply with requirements of Site Plan Approval and all other applicable requirements of this Bylaw.

54. **Condition** - The proposed construction and use shall result in no pollution or contamination of the GROUND WATER, a GROUND WATER recharge area, a well, pond, stream, watercourse or inland wetland.

55. **Condition** - The proposed construction and use shall result in no redirection of existing surface water runoff such that there would be material impact on abutting parcels or downstream properties;

56. **Condition** - The proposed construction and use shall result in no transport by air or water of erodible material beyond the boundary line of the LOT.

57. **Condition** – The proposed construction and use shall apply to all applicable requirements of the Zoning Bylaw.

General Conditions

58. **Condition** – As required by Section 3.2.2.5 of the Zoning Bylaw, the kennel structure shall not be located within 100-feet of a lot line.

59. **Condition** – The Commercial Kennel is subject to issuance of a Commercial Kennel License issued by the Office of the Town Clerk.

60. **Condition** - The design and construction shall be essentially in conformance with documents and plans on file with the Board.

61. **Condition** - The proposed construction shall comply with conditions set by other Town Departments, Boards and Commissions.

62. **Condition** - The proposed construction shall comply with all applicable requirements of the Zoning Bylaw.

63. **Condition** - Exterior construction activity shall take place only between the hours of 7:00 a.m. and 5:00 p.m., Monday through Friday (excluding holidays), and 8:00 a.m. to 12:00 p.m. Saturdays unless specific approval is granted by the Building Commissioner.

Consultant Review Fee

64. **Finding** – Pursuant to M.G.L. Ch. 44 S. 53G and based upon legal questions raised during the public hearing, in deliberating conditions of the Special Permit, the Board incurred the cost for Town Counsel advice.

65. **Condition** – This Special Permit is subject to a fee deposit to cover the cost of legal consultation.

Special Permit Limitations

66. **Condition** - This Special Permit shall be limited to Tiffany Brown, owner of K9 Kompanion Training and shall not be transferrable. Any change in ownership shall render this Special Permit extinguished and shall be subject to application for a new Special Permit.

67. **Finding** – In accordance with of the Zoning Bylaw, Section 9.2.9, the Board will conduct annual reviews of the Special Permit to ensure compliance with the conditions imposed within the special permit. Failure of the Applicant to rectify any noted deficiencies may result in rescission of the special permit or other zoning enforcement proceedings.

68. **Condition** - This Special Permit shall lapse with two (2) years of recording unless substantial use or construction has commenced or in the case of a permit for construction or reconstruction, if construction has not begun by such date, except for good cause (Massachusetts General Laws Chapter 40A, Section 9).

69. **Condition** - This Special Permit shall not take effect until a copy of the decision has been recorded, at the owner's expense, in the Registry of Deeds and duly indexed or noted on the owner's certificate of title. A copy of the recorded decision, certified by the Registry, or notification by the owner of the recording including recording information, shall be furnished to the Board of Appeals, Town Clerk and Building Inspector.

The Board has complied with all statutory requirements in the granting of this Special Permit.


Two copies of this decision, together with copies of the application for special permit, site plans, other plans and records, have been filed with the Town Clerk. A detailed record of the proceedings, setting forth the reasons for the decision, shall be filed within fourteen (14) days with the Town Clerk and shall be a public record. Copies of this decision have been or will be mailed to all parties, persons and boards as required by Chapter 40A, Sections 11 and 15.

Any appeal from this decision shall be made pursuant to Massachusetts General Laws Chapter 40A, Section 17 and must be filed within twenty (20) days after the decision has been filed with the Town Clerk.

Stow Board of Appeals



Mark Jones, Chairman




William Byron


Ernest Dodd



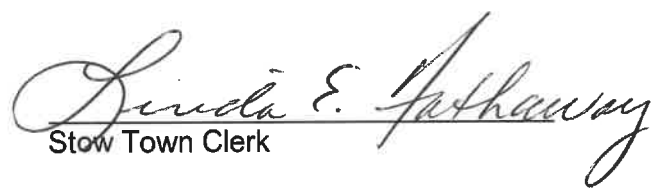
Andrew DeMore, Associate Member



Leonard Golder, Associate Member



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Linda E. Athaway
Stow Town Clerk



D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.
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VIA HAND DELIVERY
Zoning Board of Appeals
c/o Planning Department
Town of Stow
380 Great Road
Stow 01775

June 6, 2019



JUN 10 2019

Stow Board of Appeals

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268 Main Street | P.O. Box 2223 | Acton, MA 01720
tel 978.263.7777
fax 978.264.4868

Re: Application of Tiffany Brown for a Special Permit Pursuant to Section 3.2.2.5 of Stow Zoning Bylaw ("Application") for Property Situated at 28 South Acton Road, Stow, MA, Assessors Map R-21 / PCL. 33 ("Property").

Dear Members of the Board:

In connection with the above referenced Application for the Property, enclosed please find the following:

1. Original and 13 copies of Application for Hearing;
2. Original and 13 copies Certified Abutter's list;
3. 13 Copies of Locus Maps (Town of Stow GIS R17 and R21);
4. 13 Copies of Plan entitled "Building Permit Plan Stow, Massachusetts Prepared for: Tiffany Brown," dated May 31, 2019 by Ducharme & Dillis Civil Design Group, Inc;
5. 13 Copies of Plan entitled, "Plan of Shed – Tiffany Brown" (2 pages)
6. Original Check in the amount of \$234.00 representing the filing fee of \$150.00 and \$6.00 for each abutter as listed by the Assessors.

Thank you for your courtesies and cooperation.

Very truly yours,
TIFFANY BROWN
By Her Attorneys
D'AGOSTINE, LEVINE, PARRA & NETBURN, P.C.
By: Louis N. Levine /mp
Louis N. Levine
e-mail: llevine@dlpnlaw.com

LNL/mp
Enclosures
Cc: Town of Stow Town Clerk – Via Hand Delivery
Client– Via E-mail

**ZONING BOARD OF APPEALS
STOW, MASSACHUSETTS 01775**

APPLICATION FOR HEARING

Please follow the instructions carefully. Failure to complete the form properly or to supply the required plan, properly engineered, will result in denial of the request. Submission of the form to the Board for review prior to filing is strongly recommended.

1. Nature of relief sought. Circle only one. If multiple relief is sought, complete a form for each item.

a. PETITION FOR VARIANCE: Applicable Bylaw Section _____

b. APPLICATION FOR SPECIAL PERMIT: Applicable Bylaw Section 3.2.2.5

c. APPEAL FROM UNFAVORABLE ACTION: Specify action _____

Board or Official _____ Date of Action _____

d. OTHER (Specify) _____

2. Name of Applicant Tiffany Brown

Address 28 South Acton Road

State MA Zip Code 01775

3. Location of Property 28 South Acton Road, Stow, MA 01775

Assessors' Map # R21 Parcel # 00R-21 33 Area in sq. ft. approx. 2.1 acres

Applicant is Owner Tenant _____ Agent/Attorney _____ Purchaser _____

Property Owner Name Tiffany Brown

Address 28 South Acton Road Telephone 978-760-4222

4. Definitive plan(s) or site plans in accordance with the accompanying instruction sheet shall be included with the application. See enclosed Plan entitled, "Building Permit Plan Stow, Massachusetts Prepared for: Tiffany Brown," dated May 31, 2019 by Duscharme & Dillis Civil Design Group, Inc. and enclosed Plan entitled, "Plan of Shed - Tiffany Brown" (1 and 2).

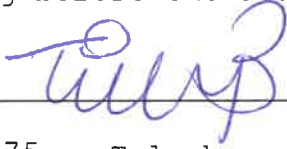
5. Description of problem for which relief is sought. If a request for lot line variance(s), state the variance(s) sought in actual feet.

N/A

6. Justification for request: Applicant wishes to operate kennel at the property. The property is the applicant's residence. The kennel will be located in the proposed shed shown on the Plan submitted herewith, which is more than 100 feet from every abutting lot line. See Assessor's list dated May 29, 2019 enclosed.

7. List of names and addresses of abutters and abutters of abutters within 300 feet of the property line of the petitioner, together with a copy of the Assessors' map showing the corresponding locations of those names listed.

I hereby certify that I have read and complied with the instructions accompanying this application and request a hearing before the Board of Appeals.

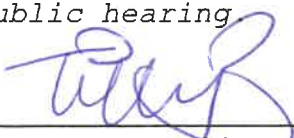
Signature of applicant or representative 

Address 28 South Acton Road, Stow, MA 01775 Telephone 978-760-4222

Owner's permission (if other than applicant) _____

WARNING

Failure to provide all of the information and documentation as required by the Stow Board of Appeals rules, regulations and instructions for filing an application for special permit or a petition for variance may very well result in an automatic denial by the Board after opening the public hearing

Read and understood: 
Signature of Applicant/Petitioner

SUMMARY OF BOARD OF APPEALS ACTION

Received by ZBA _____ Hearing Date _____

Publishing Dates _____ Abutter Mailing _____

Decision required by _____ Decision notices sent _____
(Within 100 days of filing for variance)
(Within 90 days of hearing for special permit)

Granted _____ Denied _____

Withdrawn on _____ By _____
Signature

04/02

**ASSESSORS OFFICE
ABUTTERS LIST REQUEST FORM**

DATE REQUESTED: May 28, 2019
(Lists will be available within 10 days of receipt of request.)

PROPERTY
LOCATION: 28 South Acton Road

NAME: Tiffany Brown

ADDRESS: 28 South Acton Road

TELEPHONE: 978 760-4222

REASON FOR ABUTTERS LIST: application for Special Permit

For office use only:

DC _____ DPU _____ CH _____ NR _____

FEE FOR ABUTTERS LIST: \$20.00 for first 20 entries or less and
\$ 1.00 per entry above 20 entries.



Town of Stow
BOARD OF ASSESSORS

380 Great Road
Stow, Massachusetts 01775-1122

(978) 897-4597
FAX (978) 897-4534

May 29, 2019

Labels for: 28 SOUTH ACTON ROAD
MAP R-21 PARCEL 33

Requested by: MELISSA PERRY
978-263-7777 X221
MPERRY@DLPNLAW.COM

Total Due:	Abutters List	\$ 20.00
	Labels 1 Page @ \$2.00	\$ 2.00
	Total Due:	\$ 22.00

Remit to: Assessors Office
380 Great Road
Stow, MA 01775

PAID MAY 29 2019
Cash \$22.00 Kas

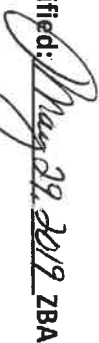
ABUTTERS LIST
28 SOUTH ACTON ROAD
MAP R-21 PARCEL 33

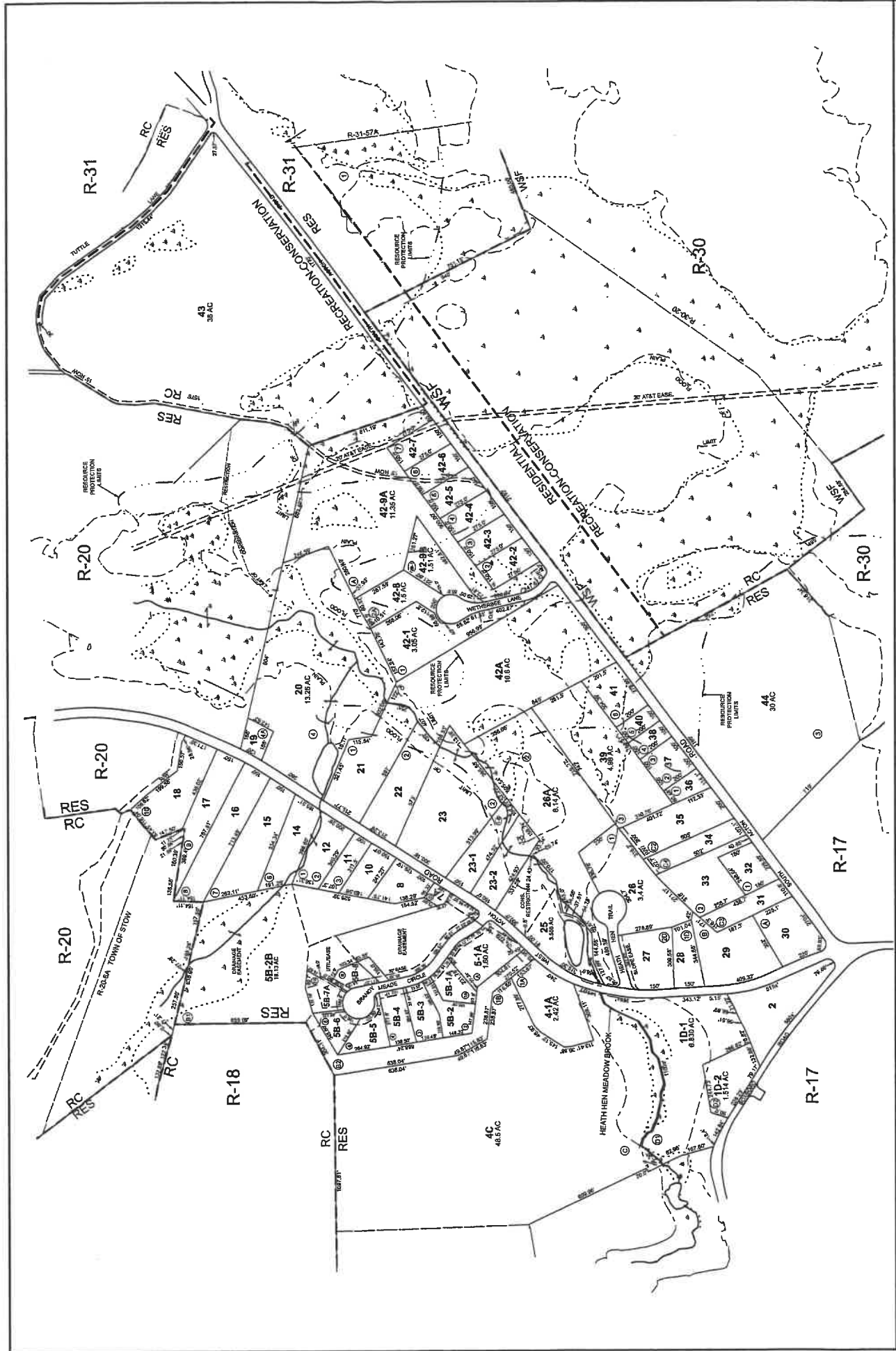
MAP/PARCEL	PROPERTY LOCATION	OWNER NAME 1	OWNER NAME 2	MAILING ADDRESS	CITY	STATE	ZIP CODE	DEED BOOK	DEED PAGE
00R-17 000001	76 CRESCENT ST	WARREN FRANCIS JR		P O BOX 18	STOW	MA	01775	13117	452
00R-21 000026	89 WEST ACTON RD	WEATHERS PAMELA J TR	TR PAMELA J WEATHERS REALTY	89 WEST ACTON ROAD	STOW	MA	01775	30982	404
00R-21 000027	83 WEST ACTON RD	HAMCKE DAVID J		83 WEST ACTON ROAD	STOW	MA	01775	27917	80
00R-21 000028	77 WEST ACTON RD	WARD DAVID	CARIGNAN MICHELLE	77 WEST ACTON RD	STOW	MA	01775	71206	245
00R-21 000029	61 WEST ACTON RD	CARTER ANDREW J	CARTER VICTORIA A	61 WEST ACTON RD	STOW	MA	01775	51052	41
00R-21 000030	51 WEST ACTON RD	LATHAM SUSAN G		51 W ACTON RD	STOW	MA	01775	14530	492
00R-21 000031	12 SOUTH ACTON RD	WEGIEL DAVID		12 SOUTH ACTON RD	STOW	MA	01775	61106	544
00R-21 000032	24 SOUTH ACTON RD	KILLOUGH JASON R		24 SOUTH ACTON ROAD	STOW	MA	01775	63957	174
00R-21 000033	28 SOUTH ACTON RD	BROWN TIFFANY		28 SOUTH ACTON ROAD	STOW	MA	01775	70456	347
00R-21 000034	32 SOUTH ACTON RD	MICHEL NATHAN	COSTIGAN CAITLIN	32 SOUTH ACTON ROAD	STOW	MA	01775	71353	118
00R-21 000035	38 SOUTH ACTON RD	TUCKER MARGARET		38 SOUTH ACTON RD	STOW	MA	01775	49808	342
00R-21 000036	42 SOUTH ACTON RD	MULYONO ARIS	ROSDIANA DEWI	42 SOUTH ACTON RD	STOW	MA	01775	45064	531
00R-21 000039	SOUTH ACTON RD	JOKINEN JOHN A	FLORA I JOKINEN	28 SOUTH ACTON ROAD	STOW	MA	01775	24521	560
00R-21 000044	SOUTH ACTON RD	PILOT GROVE FARM INC		P O BOX 18	STOW	MA	01775	23045	129

Certified by the Stow Board of Assessors:



Date Certified or Re-Certified: May 29, 2019 ZBA

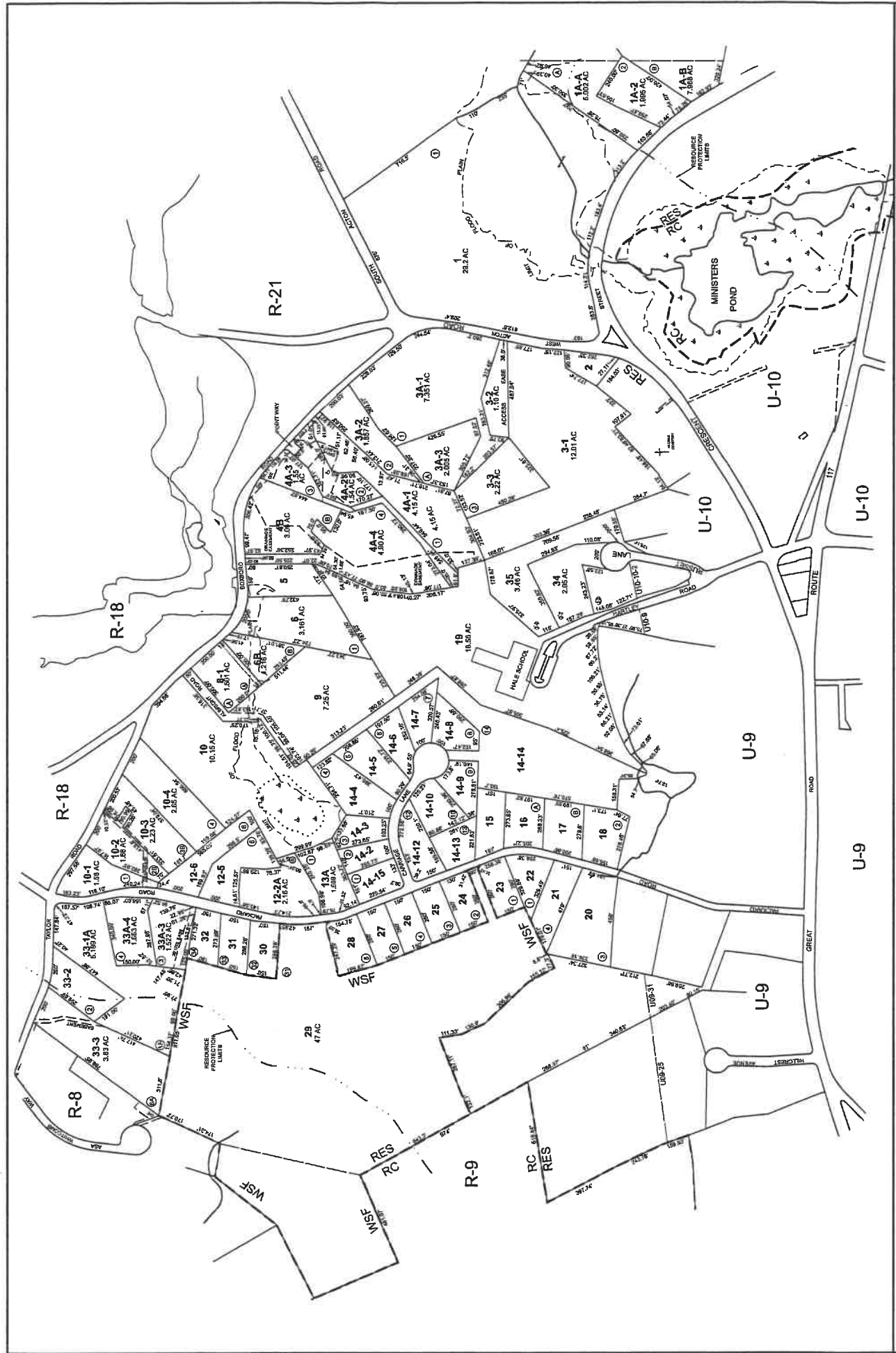




PROPERTY MAPS
STOW, MASSACHUSETTS

PREPARED, REVISIONS & COMPILERS BY:
 JOHN E. O'CONNELL & ASSOCIATES
 AUBURN, MAINE 02901

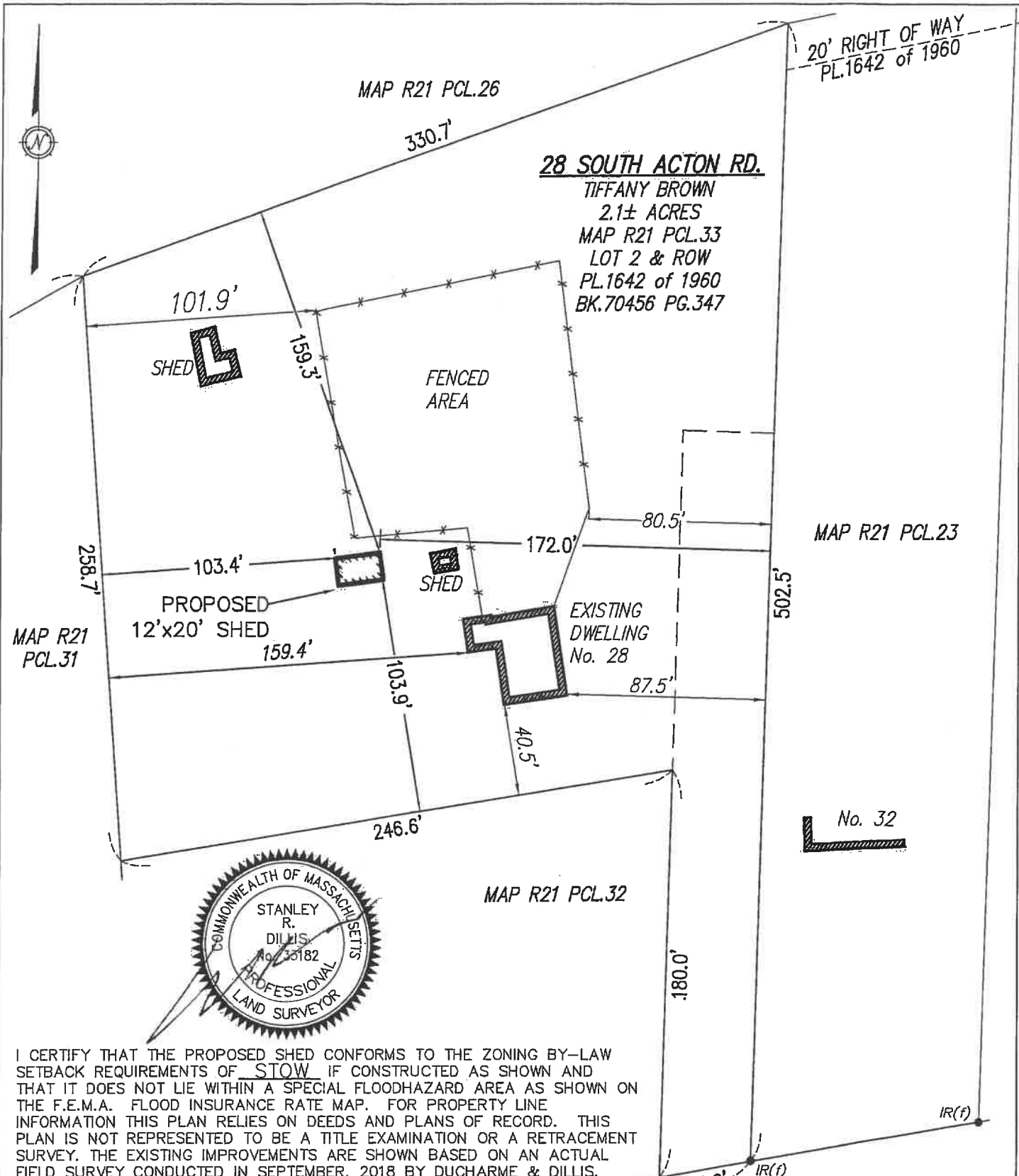
DIGITIZED BY GIS BY: WENDELL BERRYMAN, INC.
 200 WASHINGTON ROAD, SUITE 400
 NORFOLK, MASSACHUSETTS 01901
 UPDATED JANUARY 1, 2019 BY PROGRESS-CADASTRAL SERVICES



PROPERTY MAPS
STOW, MASSACHUSETTS

FROM MAP ORIGINALS COMPILED BY:
JOHN W. O'DONNELL & ASSOCIATES
100 WILMINGTON AVENUE
STOW, MASSACHUSETTS 01771

DIGITIZED BY: AERIAL SURVEY AND PHOTO, INC.
244 AIRPORT ROAD, PO BOX 649
MIDDLETOWN, MASSACHUSETTS 01847
UPDATED: JANUARY 1, 2019 BY: TROSBY CONSULTING SERVICES



I CERTIFY THAT THE PROPOSED SHED CONFORMS TO THE ZONING BY-LAW SETBACK REQUIREMENTS OF STOW IF CONSTRUCTED AS SHOWN AND THAT IT DOES NOT LIE WITHIN A SPECIAL FLOODHAZARD AREA AS SHOWN ON THE F.E.M.A. FLOOD INSURANCE RATE MAP. FOR PROPERTY LINE INFORMATION THIS PLAN RELIES ON DEEDS AND PLANS OF RECORD. THIS PLAN IS NOT REPRESENTED TO BE A TITLE EXAMINATION OR A RETRACEMENT SURVEY. THE EXISTING IMPROVEMENTS ARE SHOWN BASED ON AN ACTUAL FIELD SURVEY CONDUCTED IN SEPTEMBER, 2018 BY DUCHARME & DILLIS.

BUILDING PERMIT PLAN
STOW, MASSACHUSETTS

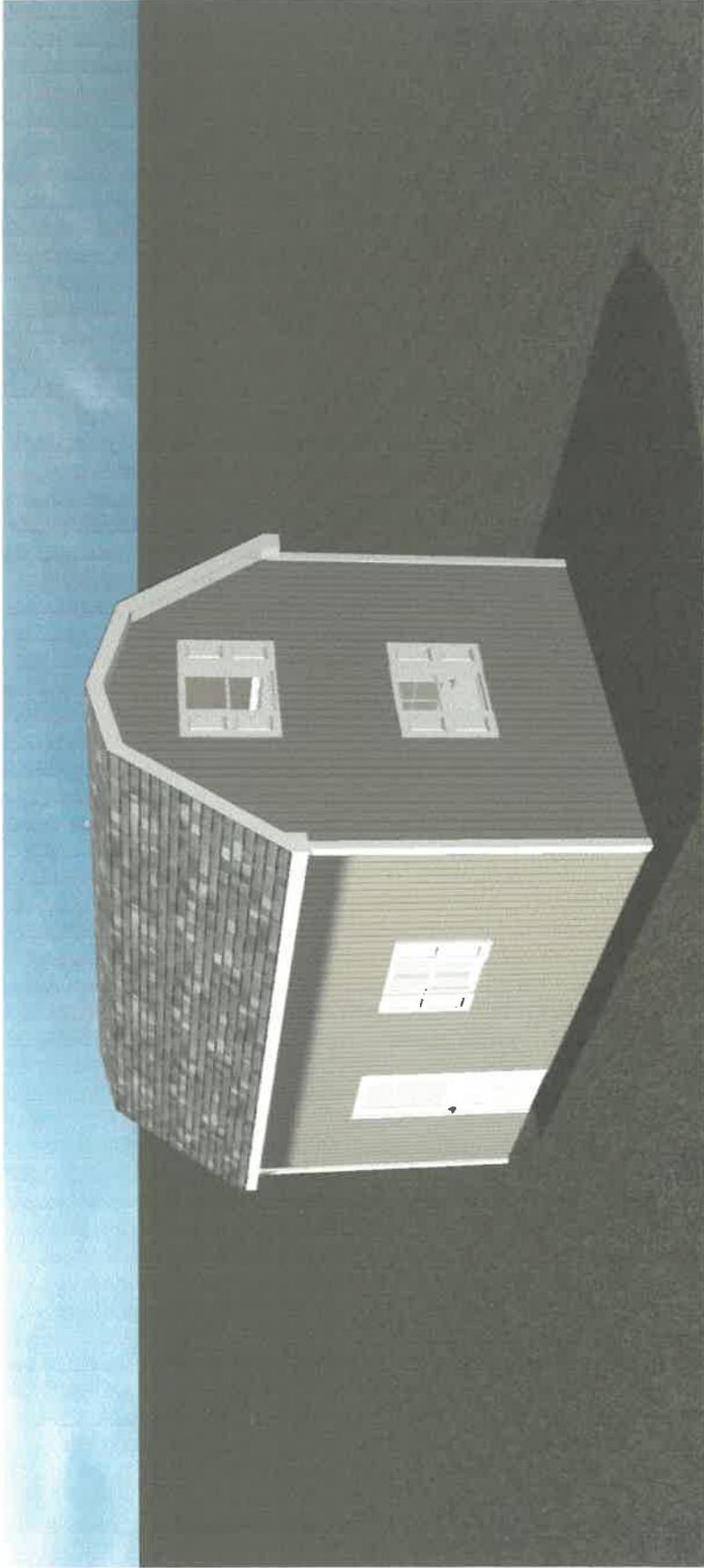
PREPARED FOR: TIFFANY BROWN



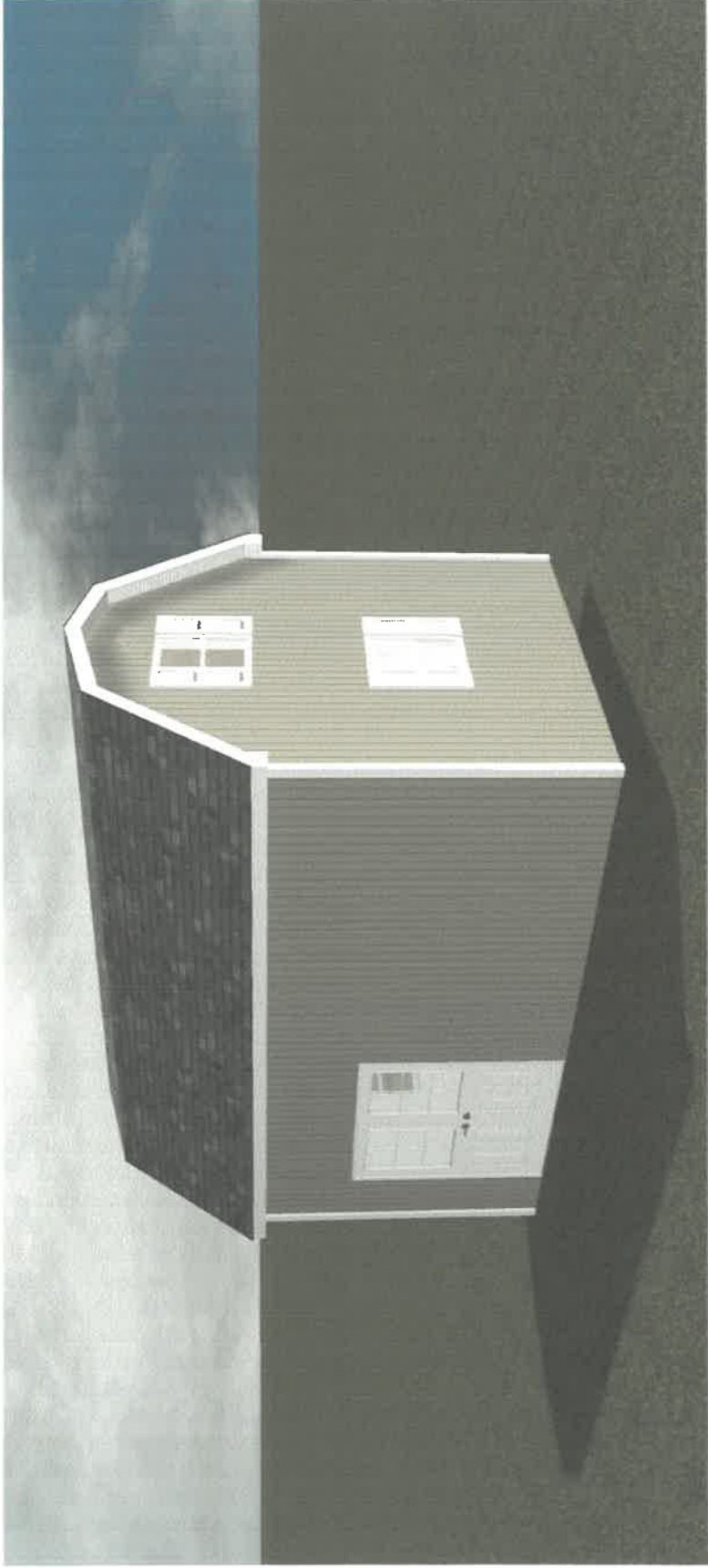
CIVIL ENGINEERS • LAND SURVEYORS • WETLAND CONSULTANTS

1092 MAIN STREET, P.O. BOX 428 PHONE: (978) 779-6091
BOLTON, MASSACHUSETTS 01740 www.ddcdg.com

SCALE: 1" = 60'
DATE: MAY 31, 2019
FILE No. 5956



Plan of Shed - Tiffany Brown (1 of 2)



Plan of Shed - Tiffany Brown (2 of 2)

Quitclaim Deed

I, Christopher M. Chaves, Personal Representative for the Estate of John A. Jokinen, Middlesex Probate and Family Court Docket No. MI17P1823EA, under License to Sell recorded herewith,

For full consideration paid of Three Hundred Sixty-five Thousand and 00/100 Dollars (\$365,000.00)

Grant to Tiffany Brown, individually

Of 28 South Acton Road, Stow MA

with ***QUITCLAIM COVENANTS***

Several parcels of land, with the buildings thereon, situated on the Northerly side of South Acton Road in Stow, Middlesex County, and being shown as Lots 2 and 3 and a parcel marked "Private Way" and an easement joining Lots 2 and 3 all as shown on a plan entitled "Land in Stow, owned by Toivo Jokinen and Viola A. Jokinen", by Harlan E. Tuttle Surveyor, dated July 29, 1960, and recorded with Middlesex South District Deeds, in Book 9706, Page 57 and bounded:

The parcel marked "Private Way" is bounded as follows:

SOUTHERLY	by South Acton Road, forty and 85/100 (40.85) feet;
WESTERLY	by Lot 1 and 2 on said plan, three hundred thirty (330) feet;
NORTHERLY	by said Lot 2, forty (40) feet; and
EASTERLY	by land now or formerly of David L. Brewer, three hundred twenty-one and 71/100 (321.71) feet.

28 South Acton Road, Stow, MA 01775

Lot 2 being known and numbered as

28 South Acton Road, Stow MA 01775

is described as follows:

- EASTERLY by the "Private Way" hereinbefore described, one hundred fifty (150) feet;
- SOUTHERLY by said Private Way, forty (40) feet;
- EASTERLY by land now or formerly of said Brewer, one hundred eighty and 79/100 (180.79) feet;
- NORTHERLY by land now or formerly of David Clemens, three hundred eighteen (318) feet;
- WESTERLY by land now or formerly of Egon R.H. Teodorson, two hundred fifty-eight and 70/100 (258.70) feet; and
- SOUTHERLY by Lot 1 on said plan, two hundred forty-six and 64/100 (246.64) feet.

Containing according to said plan, 1.80 acres, more or less.

Lot 3 is described as follows:

- WESTERLY by land now or formerly of John Cudhea, three hundred ten and 76/100 (310.76) feet;
- NORTHERLY by land now or formerly of said Clemens, seven hundred forty-two (742) feet;
- EASTERLY by land now or formerly of Dorothy T. Burbidge, two hundred eighty-one and 50/100 (281.50) feet;
- SOUTHERLY by land formerly of Toivo and Viola A. Jokinen, seven hundred eighty-four and 87/100 (784.87) feet.

Containing according to said plan, 4.98 acres, more or less.

Together with the right to pass and repass over a strip of land twenty feet in width adjacent to the northerly line of said Brewer and Cudhea parcels as shown on said plan.

Meaning and intending to convey the same premises conveyed by deed dated May 5, 1994 and recorded at the Middlesex County Registry of Deeds in Book 24521, Page 560.

Flora I. Jokinen died July 29, 2014 See Death Certificate and Estate Tax Affidavit recorded herewith. See also death certificate and Estate Tax Affidavit for John A. Jokinen who died February 18, 2017 recorded herewith.

I, the Grantor named herein, does hereby voluntarily release all our rights of Homestead, if any, as set forth in M.G.L. Chapter 188 and state that there is no other person entitled to such rights.

Witness my hand and seal this 21st day of December, 2017.

Estate of John A. Iokinen

Christopher M. Chaves

Christopher M. Chaves,
Personal Representative

Commonwealth of Massachusetts

Middlesex,ss

December 27, 2017

On this 21st day of December 2017 before me, the undersigned notary public, personally appeared Christopher M. Chaves, Personal Representative, and proved to me through evidence of identification, which was personally known to me and identified by an operator's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed voluntarily for its stated purpose on behalf of the Estate.

Wendy Long Smith

Notary Public
My Commission Expires 1/11/19



Quitclaim Deed

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For full consideration paid of Three Hundred Sixty-five Thousand and 00/100 Dollars (\$365,000.00)

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Witness my hand and seal this 21 day of December, 2017.

Estate of John A. Jokinen

Christopher M. Chaves
Christopher M. Chaves,
Personal Representative

Commonwealth of Massachusetts

Middlesex,ss

December 27, 2017

On this 21 day of December 2017 before me, the undersigned notary public, personally appeared Christopher M. Chaves, Personal Representative, and proved to me through evidence of identification, which was personally known to me and identified by an operator's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed voluntarily for its stated purpose on behalf of the Estate.

Wendy Long Smith
Notary Public
My Commission Expires 1/11/19

