Application for Special Permit & Dimensional Variance

Pursuant to Zoning Bylaw Sections 3.9 & 4.4

89 Kingland Road Stow, MA 01775

Applicant: Thomas Payne 89 Kingland Road Stow, MA 01775

Record Owner: Jill Sullivan & Thomas Payne 89 Kingland Road Stow, MA 01775

February 2nd, 2023 7094



February 2nd, 2023 Thomas Payne

1.0 Application, Checklist & Copy of Filing Fee

ZONING BOARD OF APPEALS

TOWN OF STOW

Karen Kelleher Board of Appeals Secretary kkelleher@stow-ma.gov 978-897-2784

Z.B.A MEETINGS ARE HELD THE FIRST MONDAY OF THE MONTH, EXCEPT IF DATE IS A HOLIDAY.

SUBMITTALS ARE DUE THE MONTH PRIOR TO THE MEETING DATE. THE FIRST TUESDAY BY NOON.

CHECK LIST FOR ZONING BOARD OF APPEALS SUBMITTALS

Application: Completed with all information required, including a description or narrative of the proposed project. (Separate applications when both a Special Permit and a Variance are requested.)

<u>List of Abutters: Request for List of Abutters must be submitted to</u> the Assessors' Office. The application is included in this package. The applicant is to make copies of the list of abutters provided by the Assessors office and insert it in each packet: special permit = 13 and variance = 8

Site plan prepared by engineer or land surveyor: If the application pertains to new construction or addition to an existing structure, the plan must show the location of the same with setbacks from the lot lines.

_____ Plan/drawing of the proposed new construction with dimensions, square footage, elevations, height, etc.

Check for the fee made payable to Town of Stow: Special Permit filing fee is \$150.00; Variance filing fee is \$100.00; plus \$6.00 for each abutter as listed by the Assessors. Payment may be made with one check.

10 Copies Provided

_____ For Special Permit: Thirteen (13) complete copies of the application, abutters list, plans and supporting documents.

For Variance: Eight (8) complete copies of the application, abutters list, plans and supporting documents.

Z.B.A Application, Abutters List and Additional Information are also available on-line at: <u>WWW.STOW-MA.GOV</u>



TOWN OF STOW ZONING BOARD OF APPEALS APPLICATION FOR:

SPECIAL PERMIT

DIMENSIONAL VARIANCE

□ SIGN VARIANCE

□ APPEAL of DECISION OF BUILDING INSPECTOR/ZONING ENFORCEMENT OFFICER/SIGN OFFICER

File one (1) copy of the Application (including plans and reports as required by the Rules and Regulations), folded to fit neatly within a legal sized file folder, to the Town Clerk.

Received and Fil	led with Town Clerk
Date	
Stow Town Clerk	k

File nine (9) copies of the Application (including plans and reports as required by the Rules and Regulations), folded to fit neatly within a legal sized file folder, to the Zoning Board of Appeals along with an Application fee payable to "Town of Stow" in the amount required by the Rules and Regulations. Refer to the Rules and Regulations for details on the information required.

APPLICANT'S NAME	PHONE #
Thomas Payne	EMAIL: + Payne 1258@gmail.com
MAILING ADDRESS:	
LOCATION AND STREET ADDRESS OF SITE	9 Kingland Road
AREA OF SITE 10,411 SF sq. ft./acres	FRONTAGE 60 linear feet
ZONING DISTRICT	TOWN OF STOW ASSESSOR'S
Residential	MAP Number(s) $\underbrace{1-04}_{Parcel Number(s)}$
SOUTH MIDDLESEX REGISTRY OF DEEDS BOOK AI	ND PAGE NO.(s): BOOK: 1577 Page 62
or LAND COURT CERTIFICATE OF TITLE NO.(s):	
PROPERTY OWNER(S) NAME	PHONE NO
Jill Sullivan & Thomas Payne	EMAIL <u>+ Payne 1258@gmail.com</u>
APPLICATION FEE MADE PAYABLE TO TOWN OF STOW	\$250.00 PLUS \$2.00 FOR EACH LISTED ABUTTER \$_276.00

Appendix 1 - Zoning Board of Appeals Application Adopted: 05/03/21 Effective 06/07/21

Appendix 1

TYPE OF APPLICATION

Special Permit	Check the appropriate box below
	□ Section 3.2.2 of the Zoning Bylaw (Residential District Use)
	□ Section 3.3.3 of the Zoning Bylaw (Business District Use)
	Section 3.9 of the Zoning Bylaw (Non-Conforming Use or Structure) (attach copy of form Appendix 7 for non-conforming vacant lots)
	□ Section 4.1.3 of the Zoning Bylaw (Two or more dwelling houses)
	□ Section 4.1.4 of the Zoning Bylaw (Floodplain)
	Section 4.1.6 of the Zoning Bylaw (Single Family dwelling on non-conforming lot in single ownership)
	Section 4.4 of the Zoning Bylaw (Table of Dimensional Requirements) for expansion of an existing non-conformity.
	Section 5.1.1.7 of the Zoning Bylaw (Floodplain Overlay District – Mapping Error)
	Other

X Variance (Section 4.4 (Dimensional Requirements) of the Zoning Bylaw)	Required Setback – Current Zoning Bylaw		Existing Setback	Proposed Setback	Variance Requested
	Front yard	<u>30</u> feet	117.6 feet	<u>563</u> feet	feet
	Side Yard	<u>25</u> feet	8.1 feet	<u>8.1</u> feet	<u>17</u> feet
	Rear Yard	<u>40</u> feet	16.5 feet	22.7 feet	<u>18</u> feet
	Other	(Describe)			

☐ Variance – Section 6.37.7 (Signs) of the Zoning Bylaw	Attach description of and justification for variance.
Appeal of Decision of the Building Commissioner/Zoning Enforcement Officer/Sign Officer	Attach description of and justification for appeal.

DESCRIPTION AND JUSTIFICATION FOR THE PROPOSED REQUEST:

Attach detailed description and justification for request.

Any additional maps, plans, photographs, deeds, or documents which the Applicant wishes to submit should be enclosed with each copy of this Application.

The undersigned hereby certify that the information on this Application and plans submitted herewith are correct, and that all applicable provisions of Statutes, Regulations, and Bylaws will be complied with.

The above is subscribed to and executed by the undersigned under the penalties of perjury in accordance with Section 1-A of Chapter 268, General Laws of the Commonwealth of Massachusetts.

APPLICANT			
Date: 02	032	0.23	ىيى بىلىغى بى يەر يېلىغى بىلىغى بىل
Name (print)	OMAS	PAyne	Signature

OWNER'S KNOWLEDGE AND CONSENT

I hereby assert that I have knowledge of and give my consent to the Application presented above.

Date: 02/03/2023	
Name (print)	Signature a A
MOMAS FAYNE	Ju Man

TRUST, CORPORATION OR COMPANY KNOWLEDGE AND CONSENT

Date:	
Name (print)	Signature
a second	

2.0 **Project Narrative**

Existing Conditions

The property is located at 89 Kingland Road which is shown on assessors Map U04, Parcel 62. The property is accessed by a gravel driveway and has frontage along the east side of Lake Boon. The parcel is approximately 10,411 SF in area and is located within the Residential Zoning District

The lot is non-conforming with respect to Lot area and Frontage. Additionally, the shape of the lot is narrow, which provides a very small building area. The existing dwelling does not meet the required rear yard & side yard zoning setback. As such, the lot is considered to be a Pre-Existing, Non-Conforming lot.

The existing dwelling is listed as a 2-bedroom dwelling based on the latest available assessors' records (See section 6 for property record cards). The dwelling has a total living area of 786 SF. Access to the dwelling is provided via a concrete stairway adjacent to a large concrete retaining wall.

Proposed Conditions

The applicant is proposing to remove the existing dwelling and construct a new two-bedroom dwelling with a paved driveway and new sewage disposal system. Additionally, the applicant is proposing to drill a new well to serve the proposed house. A site plan is attached showing the location of the proposed dwelling, septic system, & driveway.

The proposed house will be in an increase in the floor area as compared to the existing dwelling. As such, a Special Permit is required to extend the non-conformance of the property. The finished floor area of the proposed structure will be 2,060 SF. The house will also have an additional 720 SF of garage floor area.

Special Permit Criteria

Section 3.9.7.1 2. of the Zoning Bylaw states the following:

"the proposed alteration, extension or structural change itself does not conform to the requirements of the present Bylaw, and does intensify existing non-conformities or results in additional non-conformities, in which event a Petition for Special Permit must be made to the Board of Appeals, and the Board of Appeals must find that:

a) there is no substantial increase in the nonconforming nature of said structure; and

b) such reconstruction, alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.

February 2nd, 2023 Thomas Payne

The following is a brief description of the proposed project with respect to each criteria listed above:

"... no substantial increase in the nonconforming nature of said structure"

The existing dwelling is approximately 8.1-feet from the southern property line. The proposed dwelling will not be located any closer than 8.1 from the side lot line. Additionally, the proposed house (elevated deck) is approximately 27.3-feet from the rear lot line. This is an improvement over existing conditions, as the existing structure is approximately 16.5-feet from the rear lot line. The proposed house will meet the front yard zoning setback.

The finished floor area of the proposed house will increase from 786 SF to 2,060 SF. Section 4.4 (Table of Dimensional Requirements) does not have a maximum floor area ratio listed for the site. As such, the increase in the floor area of the structure does not create a great non-conformity on the lot.

"...not be substantially more detrimental to the neighborhood"

The applicant is proposing to remove an existing two-bedroom dwelling and construct a new, two-bedroom dwelling which will fit into the architectural character of the neighborhood. The proposed use will be identical to the existing use and harmonious with the other uses in the neighborhood. The applicant has been working with an architect to ensure that the proposed dwelling is consistent with other properties on Lake Boon and in the Town of Stow.

Architectural renderings prepared by the Client's Architect are attached.

Variance Criteria

As set forth in Mass. General Laws Chapter 40A and Section 4.1 of the Town of Stow Zoning Board of Appeals Application Requirements, Procedural Rules, and Application Forms for Variance...", the applicant must show that all of the following conditions are met:

- 1) That there are circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures, but not affecting generally the zoning district in which it is located.
- 2) That literal enforcement of the provisions of the ordinance or zoning bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant.
- 3) That the desired relief may be granted without substantial detriment to the neighborhood.
- 4) That the desired relief may be granted without nullifying or substantially derogating from the intent and purpose of such ordinance or bylaw.

February 2nd, 2023 Thomas Payne

The proposed project satisfies each of these criteria as follows:

"...circumstances relating to the soil conditions, shape, or topography..."

The existing site is a small lot at 10,411 Square Feet. As such, the buildable area on the lot is extremely limited, with the width of the area between the zoning setbacks being less than 10-feet wide. Additionally, the topography of the lot is level adjacent to Kingland Road, but slopes steeply toward Lake Boon just prior to the existing house, where a large retaining wall and stone steps provide access to the dwelling and to the edge of the water. The proposed dwelling will require a new septic system and private well. The septic system is proposed adjacent to the proposed driveway adjacent to Kingland Road and the proposed well will be installed down gradient from the septic system between the proposed house and Lake Boon.

Given the shape and size of the existing lot, the buildable area on the property within the zoning setbacks is only 10-feet wide, with a total footprint of less than 1,000 square feet. As such, it is not feasible to construct a livable home that conforms entirely with the required zoning setbacks. The proposed house has been situated on the lot such that a large portion of the living area falls within the footprint of the existing house or within the allowable building footprint area on the lot.

"....substantial hardship...."

The existing dwelling on the lot is not currently suitable as a living space for the owner of the property. The proposed structure will be meet the clients needs for a suitable living area and will be an improvement over the existing conditions of the site with respect to grading, layout, & access.

"...without substantial detriment to the neighborhood."

The proposed house will not be located any closer to a side lot line than the existing house. The proposed structure will comply with the front yard zoning setback and will decrease the level of non-conformity with the rear yard zoning setback. The property is abutted by a parcel of vacant land to the north (owned by the town of stow).

"...without nullifying or substantially derogating from the intent and purpose of the bylaw..."

The variance will positively serve the intent and purpose of the bylaw by allowing the construction of a new residential dwelling and appropriate sewage disposal system and private well. The proposed dwelling will have safer access, fit in with the existing topography of the site, and will provide a level of landscaping on the site that does not exist there today.

Specifically, the variance would not derogate from the intent of the Bylaw or its purposes as stated in Section 1.2, as follows:

1. Protect the public health and safety and general welfare of present and future inhabitants,

The existing house is currently accessed by a steep stone staircase with approximately 7 feet of elevation drop from the existing gravel parking area to the existing dwelling. The proposed dwelling will have a garage on the upper level of the property to provide ease of access to the dwelling. There will still be a staircase on the north side of the house to provide access to the lower level of the house and to Lake Boon. The grading of the proposed house is proposed to minimize the grading impacts to the existing topography of the site and will not have a substantial impact to the existing drainage patterns of the site.

2. Preserve environmental resources of the Town,

The proposed project will include the installation of a new private well and sewage disposal system to service the new dwelling. The proposed house has been situated on the lot such that it provides a greater setback from the edge of Lake Boon than the existing dwelling. All portions of the proposed house, including the proposed deck, are located outside of the 35-foot "No-Touch" wetland buffer zone. The proposed use of the site will be exactly the same as the current residential use of the property. As such, no adverse impacts to the environmental resources of the Town are anticipated.

3. Maintain open spaces by recognizing the concern for irretrievable loss of farmland, wetlands or woodlands while respecting the rights of landowners,

Tree removal for the proposed project has been minimized to the greatest extent practicable. The Applicant will be working with a Landscape Architect to produce a landscape & planting plan for the new dwelling. All disturbed areas that are not landscaped will be restored with a minimum 4" of loam and seed.

4. Encourage the most appropriate use of land through a proper balance of residential, commercial and industrial designations,

The proposed property falls within the residential zoning district. The proposed use of the site will be exactly the same as the existing use, a two-bedroom, single-family dwelling.

5. Preserve the historical and cultural characteristics of the Town,

The Applicant has been working with an architect to design a house that will fit with the architectural characteristics of the Town of Stow and that will be in consistent character with other residential dwellings on Lake Boon.

6. Achieve housing choices and a range of housing costs,

The proposed dwelling will replace the existing residential dwelling. The proposed dwelling will be deed restricted to two-bedrooms and the proposed use of the dwelling is

February 2nd, 2023 Thomas Payne

exactly the same as the existing dwelling.

7. To induce its citizens to remain in the community, thus providing a sense of history and continuity.

The Applicant and owner of the property is proposing to construct the new dwelling to provide a house that is better suited to their needs with respect to living area, ease of access to the dwelling, and with an increased setback to the edge of Lake Boon.

3.0 Abutters List

February 2nd, 2023 Thomas Payne

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ABUTTERS LIST 89 Kingland Road MAP U4 PARCELS 62

JULAN

Page 1 of :

00001-4 000059 00001-4 000060 00001-4 000061 00001-4 000063 00001-4 000063 00001-4 000066 00001-4 000068 0001-4 000075 00R-25 02A-2A 0000-4 000078 000-4 000058 RECENT SALES MAP/PARCEL 101 KINGLAND RD 95 KINGLAND RD 93 KINGLAND RD 73 KINGLAND RD 0 KINGLAND RD 0 KINGLAND RD 0 KINGLAND RD 92 KINGLAND RD 89 KINGLAND RD 0 KINGLAND RD 103 KINGLAND RD **98 KINGLAND RD** 0 WOODLAND WY **PROPERTY LOCATION** DION, MARCUS T. PAULEY KENNETH C/O ERNEST DODD TOWN OF STOW ROBERTS FRANK SCHANDELMAYER JR CLIFTON L KOTOSKY ROBERT J WALKER DANIEL A WALKER LIVING TRUST GARABEDIAN HELEN TISNE, SEVERINE ET AL TOWN OF STOW CHHABRA SHELLEY Monston No. **OWNER NAME 1** (REGISTERED LAND CERTIFICATE # 277654) (REGISTERED LAND CERTIFICATE # 277168) **OWNER NAME 2** TOWNHALL 65 GASTON ST 73 KINGLAND RD 89 KINGLAND ROAD **98 KINGLAND DR** 92 KINGLAND RD 95 KINGLAND ROAD 93 KINGLAND ROAD **101 KINGLAND ROAD 339 SUDBURY RD 103 KINGLAND ROAD** 380 GREAT RD 380 GREAT RD MAILING ADDRESS 6 STOW MEDFORD P MA MA MA MA F MA MA MA MA MA STATE MA MA 01775 01775 02155 01775 01775 01775 01775 01775 01775 01775 01775 CODE ZIP 31329 53275 50930 BOOK 59571 58003 14330 68515 13365 7387 1580 1577 947 848 PAGE 300 473 302 298 187



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February 2nd, 2023 Thomas Payne

4.0 Record Deed/Assessors Data

2021 01691085 Bk: 1677 Pg: 187 Oentil: 277168 Doo: DEED 08/20/2021 01:38 PM

Quitclaim Deed

We, Shirley A. Rossetti and Kurt Rossetti, Trustees of the Shirley A. Rossetti Trust u/d/t, dated July 20, 2005, as evidenced by a trustee certificate recorded with the Middlesex South Registry of Deeds in Document No. 1452646 and also by trustee certificate recorded herewith of Arlington, Middlesex County, Massachusetts

For Full Consideration paid of Four Hundred and Seventy Thousand (\$470,000.00) Dollars

Grant to

Severine Tisne of 25 Hale Road, Stow, MA 01775 a 66% interest, Allison Read of 39 Hardy Avenue, Watertown, MA 02472 a 21% interest, and Jill Sullivan of 89 Kingland Road, Stow, MA 01775 a 13% interest, all as tenants in common

With Quitclaim Covenants

That certain parcel of land situated in Stow in the County of Middlesex and said Commonwealth, described as follows:

NORTHWESTERLY by high water mark in Lake Boon;

NORTHEASTERLY by lots C15 and C16 as shown on plan hereinafter mentioned, about one hundred and seventy-six feet;

SOUTHEASTERLY by the middle line of a way as shown on said plan, sixty and 10/100 feet; and

SOUTHWESTERLY by lot A on said plan, about one hundred and sixty-nine feet.

Said parcel shown as lot C17 on said plan, (Plan No. 10130E).

1343 - 47

840248

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the land registration office, a copy of which is filed in the Registry of Deeds for the South District of Middlesex County in Registration Book 407, Page 253, with Certificate 60977.

So much of the above describer land as is included within the limits of the way twenty feet wide, as shown on said plan, is subject to the rights of all persons lawfully entitled thereto in and over the same, and there is appurtenant to the above described land the right to use the whole of said way in common with others entitled thereto.

MASSACHUSETTS EXCISE 740X Southern Middleeex District ROD \$ 001 Date: 09/20/2021 01/35 PM Oth# 344859 22044 Doo# 01891055 Fee: \$2,143.20 Cons: \$470,000.00

Property Address: 89 Kingland Road, Stow, MA 01775

1891085

WITNESS my hand and seal this _____ day of August, 2021.

Shirley A. Rossetti, Trustee

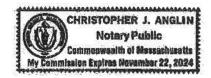
COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

..

On <u>///</u> day of August, 2021, before me, the undersigned Notary Public, personally appeared the above-named Shirley A. Rossetti, Trustee of the Shirley A. Rossetti Trust Under Declaration of Trust dated July 20, 2005 proved to me through satisfactory evidence of identification which was <u>/////</u>, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose, as trustee.

Notary Public: My commission expires:



CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed. the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document. State of California County of Marin bafore me, Andrew Holzbaur, Notary Public, personally appeared who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is an subscribed to the within instrument and acknowledged to me that he she they executed the same in his/hei/their authorized capacity(ies), and that by his/hei/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERIURY under the laws of State of California that the foregoing paragraph is true and correct. ANDREW HOLZBAUR COMM. # 2276785 NOTARY PUBLIC CALIFORNIA MARIN COUNTY My Corum. Explices MAR. 05, 2023 WITNESS my hand and official scal. SIGNATUR PLACE NOTARY BEAL ABOVE Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document. . Description of attached document Title or type of document: (Dood

Document Date:____

Number of Pages

Signer(s) Other than Named Above:___

B9 KINGLAND RD

Location	89 KINGLAND RD	Mblu	000U-4/ 000062/ / /
Acct#	000U-4 000062	Owner	SULLIVAN, JILL
PBN	SINGLE FAMILY	Assessment	\$457,700
Appraisal	\$457,700	PID	985

Building Count 1

Current Value

	Appraisal		
Valuation Year	Improvements	Land	Total
2022	\$53,100	\$404,600	\$457,700
	Assessment		
· Valuation Year	Improvements	Land	Total
2022	\$53,100	\$404,600	\$457,700

Dwner of Record

Owner	SULLIVAN, JILL	Sale Price	\$470,000
Co-Owner	READ, ALLISON & TISNE, SEVERINE	Certificate	
Address	89 KINGLAND RD	Book & Page	1577/187
	STOW, MA 01775	Sale Date	08/20/2021
		Instrument	10

Dwnership History

Ownership History						
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date	
SULLIVAN, JILL	\$470,000		1577/187	10	08/20/2021	
ROSSETTI SHIRLEY A TRUST	\$100	0	1343/47	1F	08/23/2007	
ROSSETTI SHIRLEY A	\$47,000	0	940/48	00	01/01/1980	
CHAPMAN, W. DONALD	\$0		779/12		01/01/1969	

Building Information

Building 1 : Section 1

In-Law Apts	0	
Special Feature	Unknown	
Family Room(s)	0	
Brick Size 1	0	
Stone Size 1	0	
CDU	Average CDU	
Basement	Part	
Unheated Area	0	
Stone Size 2	0	
Bath Remodel	No	
Kitchen Remodel	No	*****
Brick Size 2	0	

Extra Features

Extra Features			Legend
No Data for Extra Features			
.and			
Land Use		Land Line Value	ation
Use Code	1010	Size (Acres)	0.24
Description	Single Family	Frontage	0
Zone	R	Depth	0
Neighborhood	104.01	Assessed Value	\$404,600
Alt Land Appr	No	Appraised Value	\$404,600
Category			

Dutbuildings

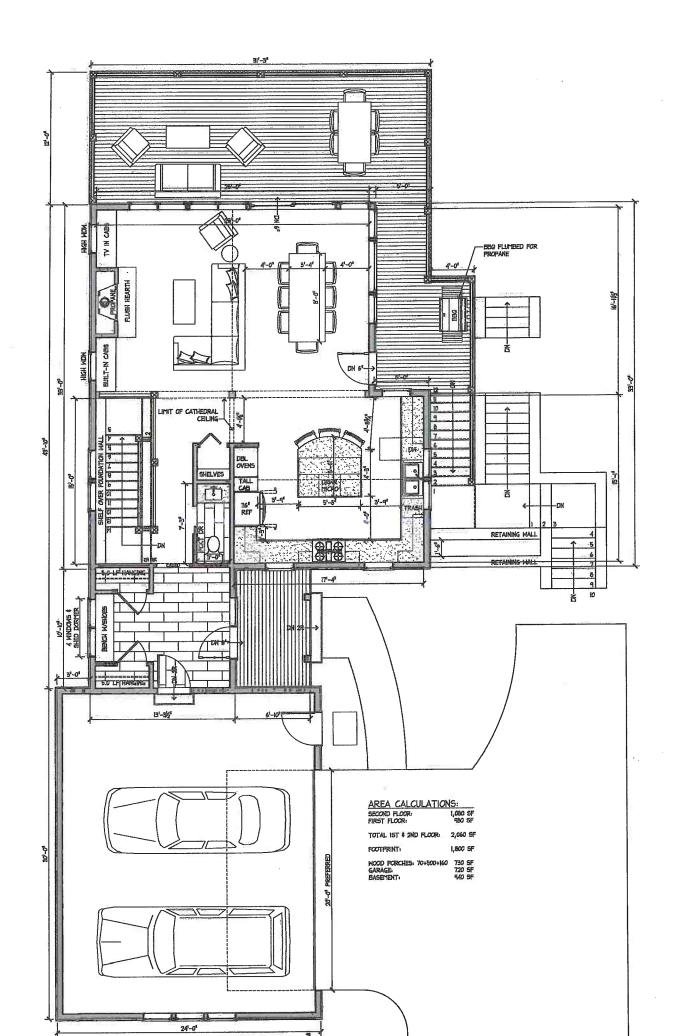
Outbuildings	Legend
No Data for Outbuildings	

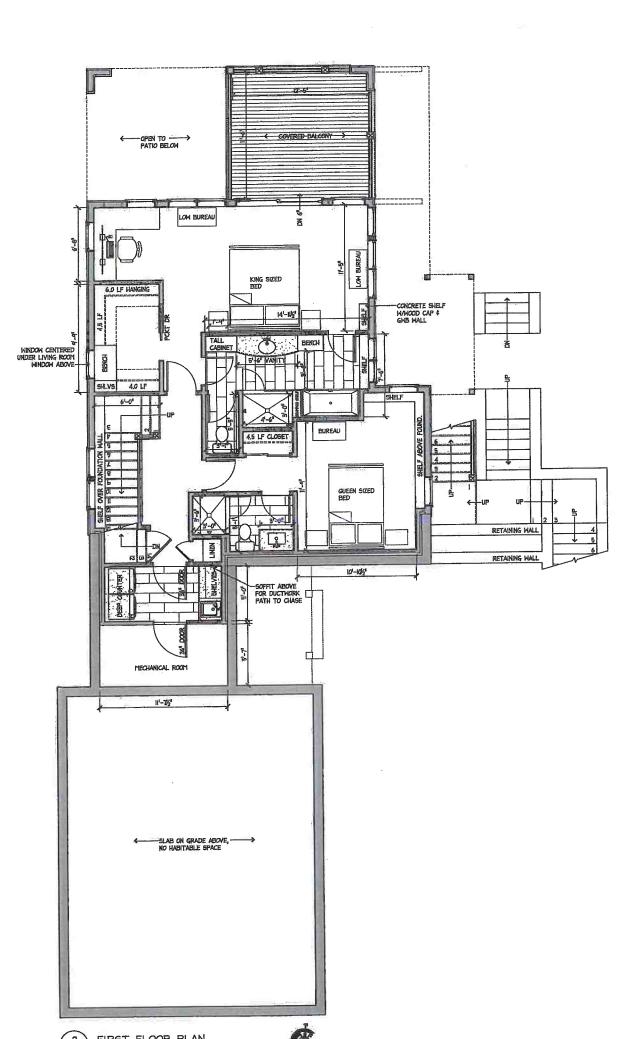
/aluation History

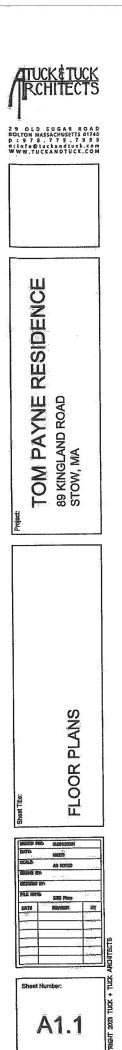
Appraisal					
Valuation Year	Improvements	Land	Total		
2021	\$51,100	\$342,400	\$393,500		
2020	\$84,100	\$345,800	\$429,900		
2019	\$81,600	\$345,800	\$427,400		

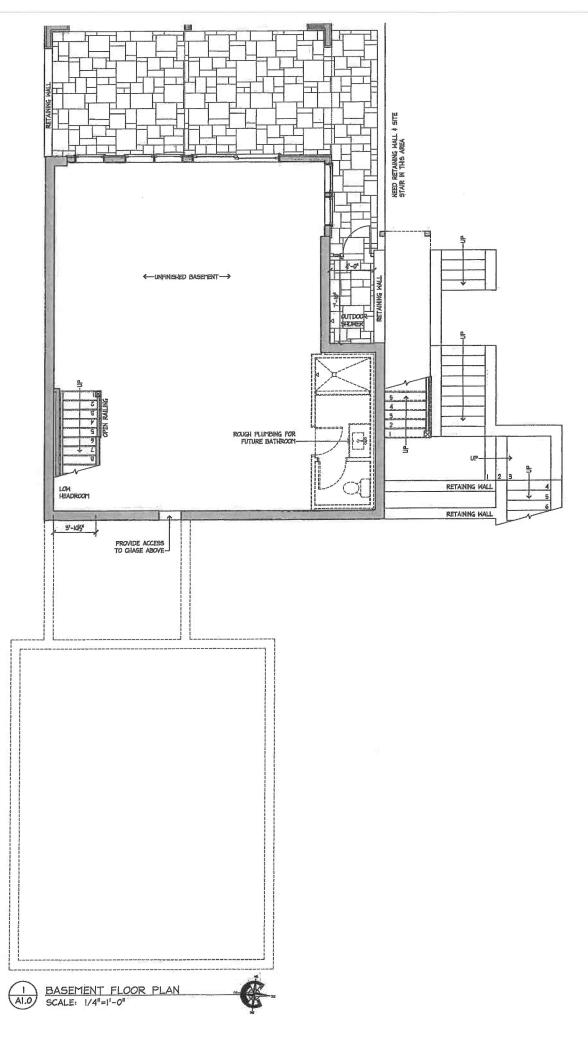
5.0 Architectural Plans

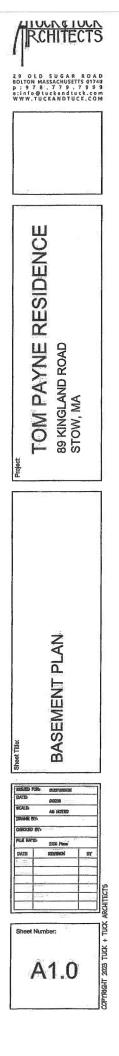
February 2nd, 2023 Thomas Payne



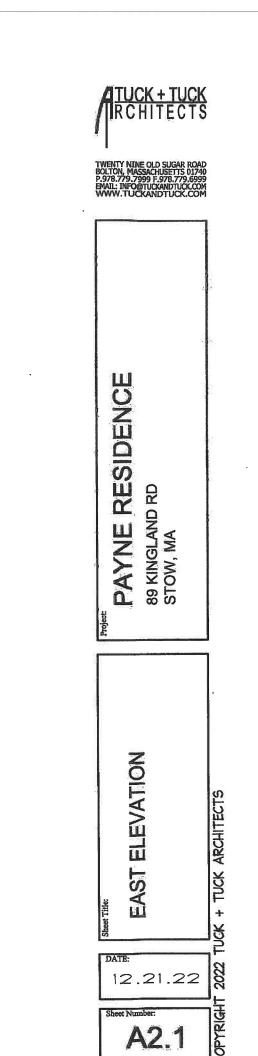










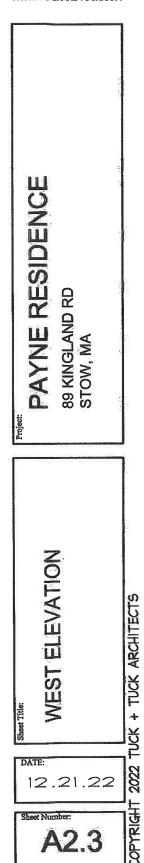




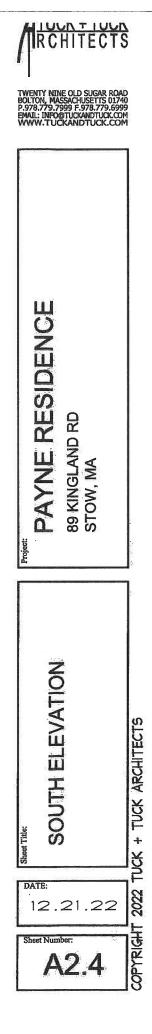




TWENTY NINE OLD SUGAR ROAD BOLTON, MASSACHUSETTS 01740 9.978.779.7999 F.978.779.6999 EMAIL: INFO@TUCKANDTUCK.COM WWW.TUCKANDTUCK.COM







6.0 Site Plan

February 2nd, 2023 Thomas Payne