



STATE OF CONNECTICUT – COUNTY OF TOLLAND
INCORPORATED 1786

TOWN OF ELLINGTON

55 MAIN STREET – PO BOX 187
ELLINGTON, CONNECTICUT 06029-0187
www.ellington-ct.gov

TEL. (860) 870-3120 TOWN PLANNER'S OFFICE FAX (860) 870-3122

ZONING BOARD OF APPEALS REGULAR MEETING AGENDA MONDAY, JULY 6, 2020, 7:00 PM **ZOOM MEETING**

PUBLIC IN-PERSON ATTENDANCE NOT PERMITTED DUE TO COVID19, INSTRUCTIONS TO JOIN VIRTUAL MEETING PROVIDED BELOW

I. CALL TO ORDER:

II. PUBLIC COMMENTS (ON NON-AGENDA ITEMS):

III. PUBLIC HEARINGS:

1. V202002 – Widlansky Solo 401K Trust, owner/applicant, request for variance of the Ellington Zoning Regulations Section 2.1.10-Highway Clearance Setback & Section 3.2.3-Minimum Yard Setbacks: to reduce the front yard setback from 60' to 20.4' (20.4' existing) on Sandy Beach Road and 35' to 8' (7.8' existing) on Crystal Street to demolish and rebuild a house at 227 Sandy Beach Road, APN 129-083-0000 in a Lake Residential (LR) zone. (**Notice requirements met, hearing may commence.**)

IV. ADMINISTRATIVE BUSINESS:

1. Approval of the February 3, 2020 Regular Meeting Minutes.
2. Correspondence/Discussion:

V. ADJOURNMENT:

Join Meeting via ZOOM Video Communications:

In order to comply with COVID-19 limited in-person meetings and social distancing requirements, this meeting will be conducted using the online video conferencing service provider Zoom. Meeting details will be provided on the Agenda and posted on the Ellington webpage (www.ellington-ct.gov), Agenda & Minutes, Zoning Board of Appeals.

Join Zoom Meeting via link:
<https://zoom.us/j/92356748655>
Meeting ID: 923 5674 8655
Password: 798363

Join Zoom Meeting by phone:
1-646-558-8656 US (New York)
Meeting ID: 923 5674 8655
Password: 798363

Note: Next regular meeting is scheduled for 8/3/2020

Town of Ellington Zoning Board of Appeals Application

Application # V202002
Date Received 6/16/2020

Type of Application: Variance Appeal of Decision Auto Dealer / Repairer License

Notices associated with this application will be sent to the applicant unless otherwise requested.

Owner's Information

Name: WIDLANSKY SOLO HOLDINGS TRUST
Mailing Address: 63 FINE GREEN LANE
SO. WINDSOR, CT. 06074
Email: KWID810@GMAIL.COM

WHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? Yes No

Primary Contact Phone #: 860-796-1230

Secondary Contact Phone #: _____

Owner's Signature: [Signature] Date: 6-15-20

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted. Moreover, by signing above I/we expressly provide written consent to the filing of the application and access to the site by the Board or its staff.

Notices associated with this application will be sent to the applicant unless otherwise requested.

Applicant's Information (if different than owner)

Name: SAME
Mailing Address: SAME
Email: SAME

WHEN NOT REQUIRED BY LAW TO MAIL NOTICE BY USPS, MAY NOTICES BE EMAILED TO YOU? Yes No

Primary Contact Phone #: 860-796-1230

Secondary Contact Phone #: _____

Applicant's Signature: [Signature] Date: 6-15-20

By signing below I certify that all information submitted with this application is true and accurate to the best of my knowledge, that I am aware of and understand the application requirements and regulations, and acknowledge that the application is to be considered complete only when all information and documents required by the Board have been submitted.

Street Address: 227 SANDY BEACH Rd

Assessor's Parcel Number (APN): 129 - 083 - 0000 Zone: LR

Public Water: Yes No Public Sewer: Yes No
If not served by public water and sewer, applicant/owner shall make application to North Central District Health Department (Enfield Office).

Is parcel within 500' to any municipal boundary? Yes No

Are there any wetlands/watercourses within 100' of construction activity or within 250' of wetlands/watercourses when located in the Shenipsit Lake Drainage Basin? Yes No

Is the project in a public water supply watershed area? Yes No
If YES, applicant shall notify Connecticut Water Company and Commissioner of Public Health about the proposed project by certified mail, return receipt within 7 days of application Conn. Gen. Stat. §8-3i(b). Copy of application, plans, and supporting documents must accompany notice. Proof of notice and copies of return receipts must be provided to the Planning Department.

Previous Variances related to this property? Yes No If yes, specify date _____

Requesting a Variance to Zoning Regulations Section: (For Variance Application only) 3.2.2 - 3.2.3

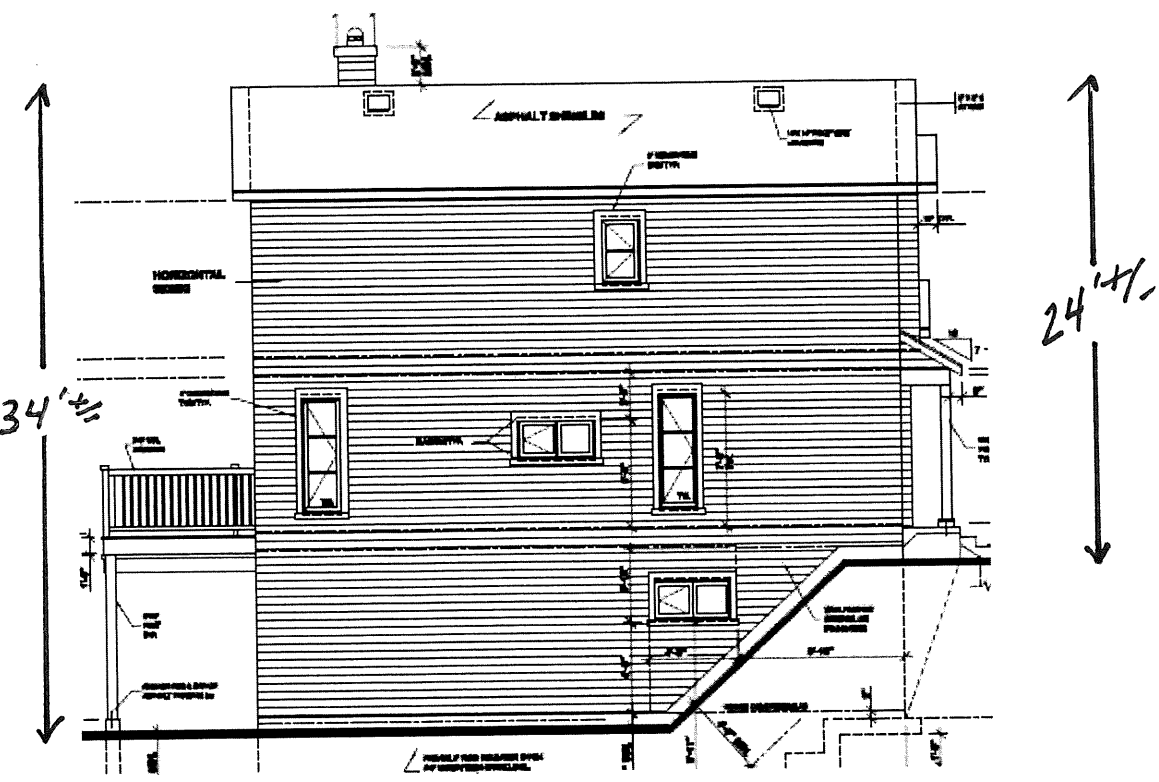
Describe Variance Request, Appeal of Decision, or Auto Dealer/Repairer License: (Attach additional sheets if needed)
EXISTING DWELLING NEEDS TO BE DEMOLISHED AND REBUILT

Hardship: Describe hardship and indicate why other options are unacceptable. (For Variance Application only)
HARDSHIPS ARE - LOT SIZE, SET BACKS, LOT CONFIGURATION AND EXISTING WELL LOCATION

227 SANDY BEACH ROAD

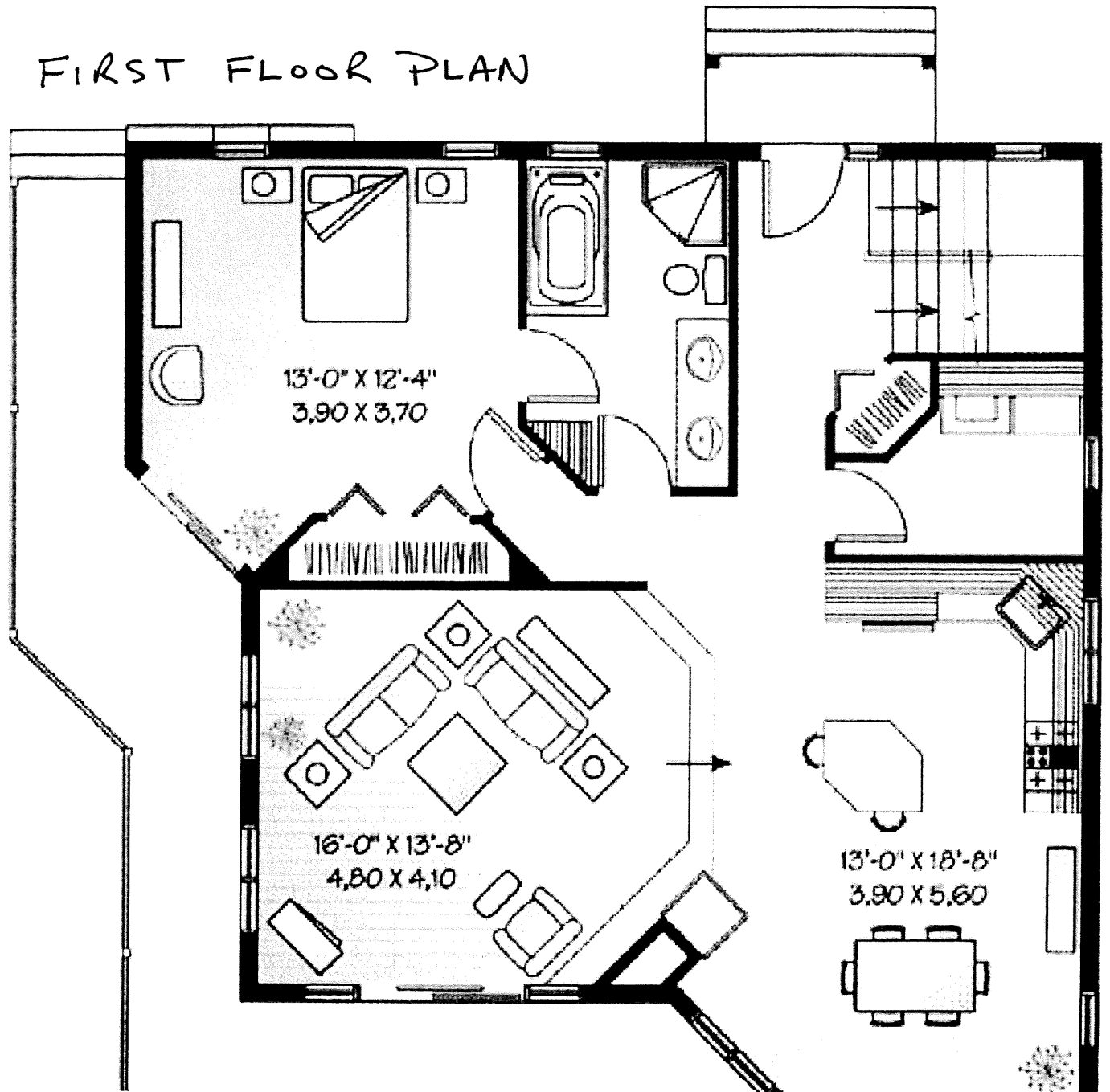


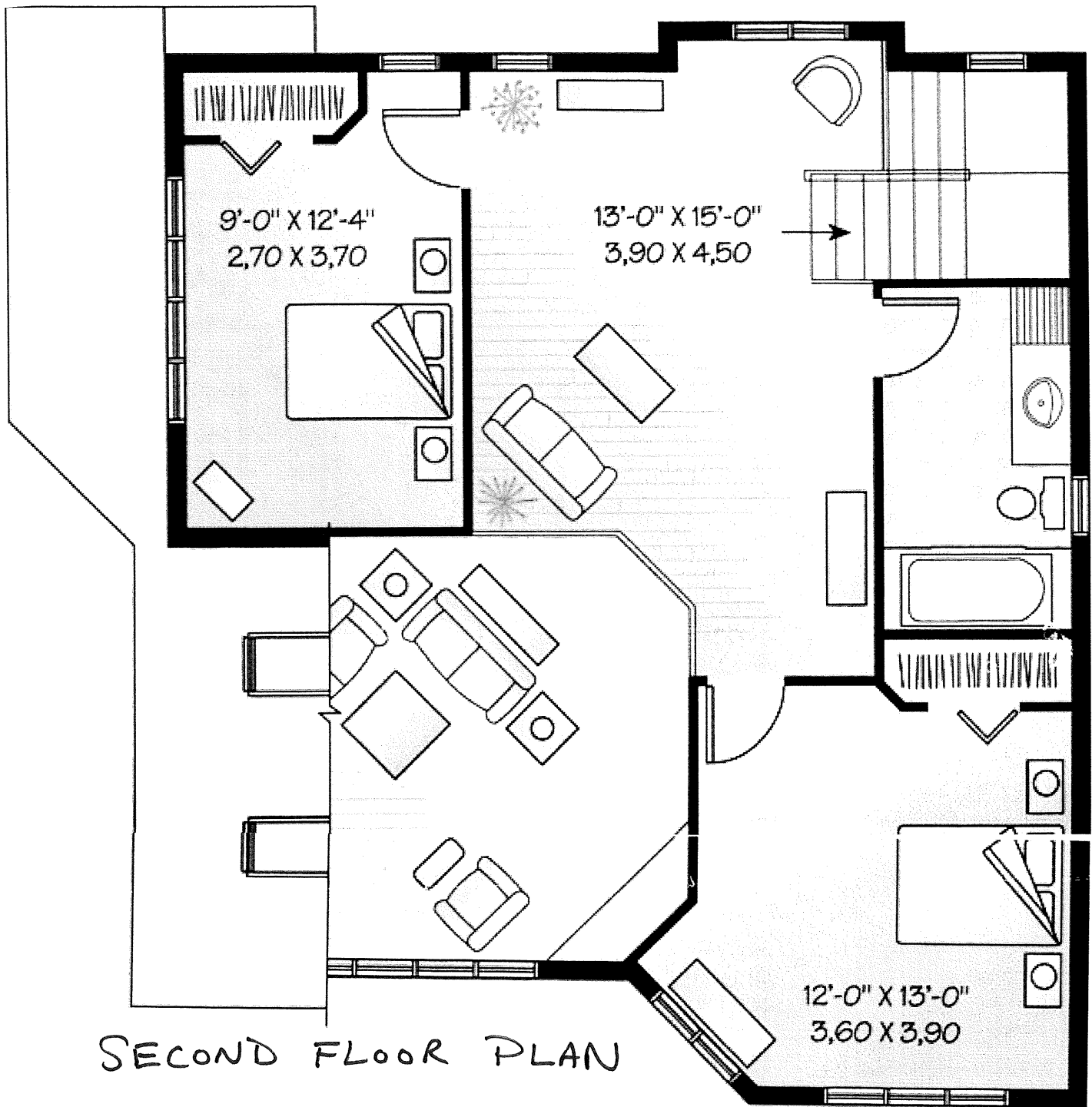
REAR RENDITION



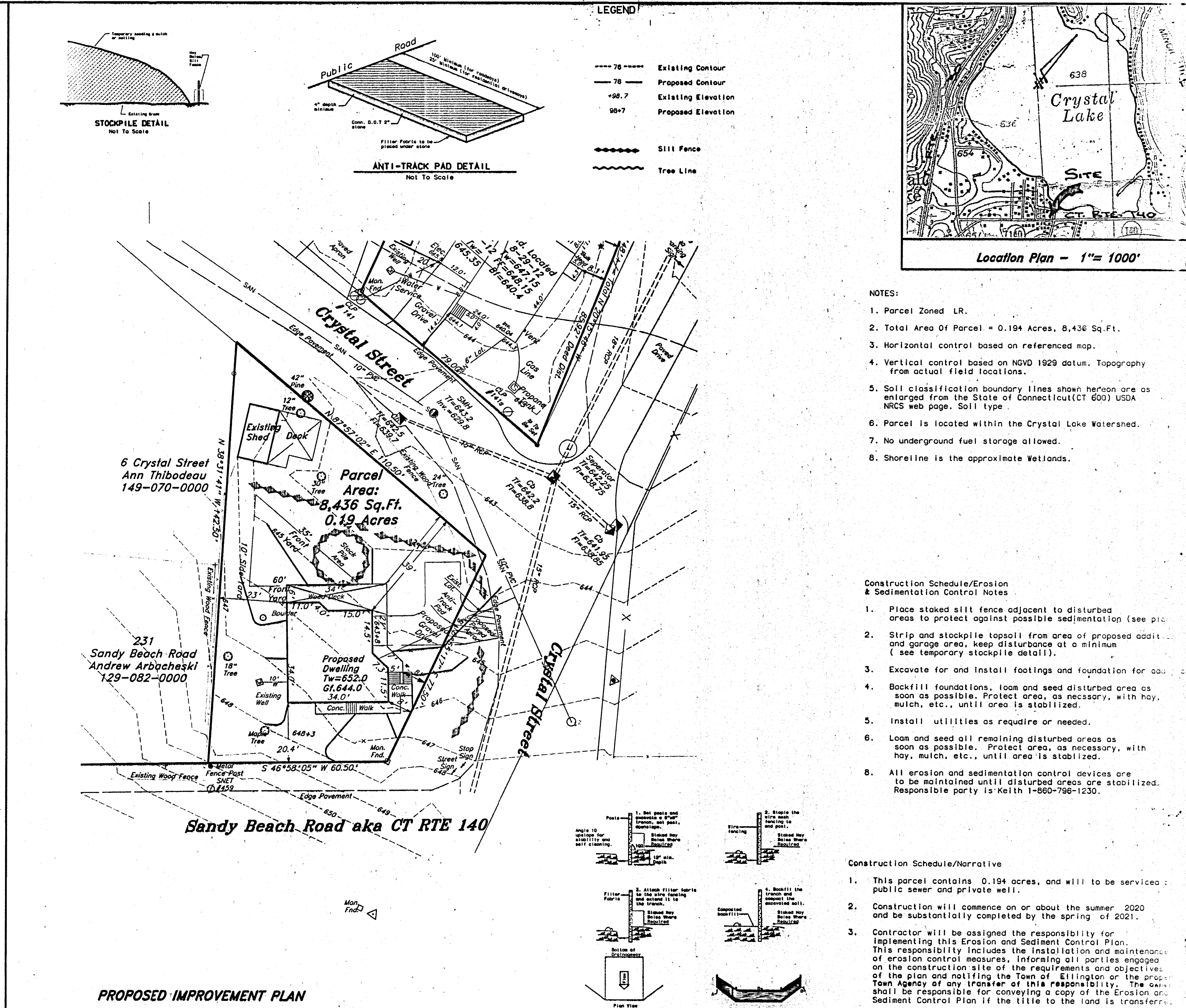
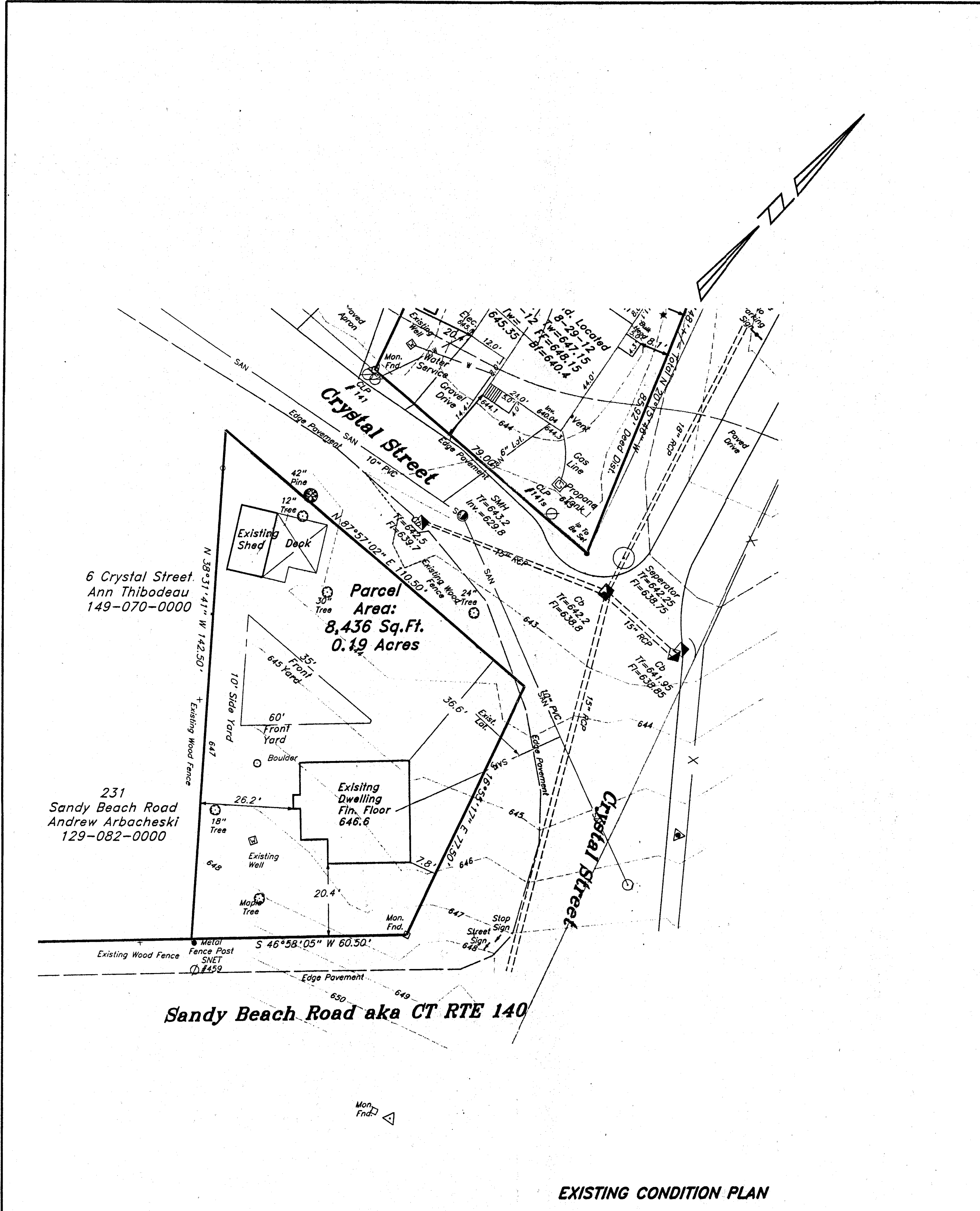
LEFT ELEVATION

FIRST FLOOR PLAN





SECOND FLOOR PLAN



Map Reference:

1) "AS-BUILT STORM DRAINAGE UPGRADES DATA ACCUMULATION PLAN PREPARED FOR TOWN OF ELLINGTON GREEN STREET, CRYSTAL LAKE ELLINGTON CONNECTICUT LANDMARK SURVEYS, LLC 62 LOWER BUCHER ROAD ELLINGTON, CONNECTICUT, SCALE: 1"=20" DATE: 2-20-2009 NO: 20806-7"

2) "BOUNDARY SURVEY PREPARED FOR ROCKVILLE FISH & GAME CLUB 5 CRYSTAL STREET ELLINGTON CONNECTICUT MESSIER & ASSOCIATES, INC. MAIN STREET MANCHESTER, CONNECTICUT, SCALE: 1"=20" DATE: 12-09 NO: 09-027"

3) "PLAN OF PROPOSED STREETS ON LAND OF WILLIAM J. BOWLER, CRYSTAL LAKE CONNECTICUT PROPOSED FOR ACCEPTANCE BY THE TOWN OF ELLINGTON, AT TOWN MEETING OCT. 2, 1922 SCALE: 60 FEET = 1 INCH C.H. BANCROFT, SURVEYOR"

Zoning Bulk Table: [LR-LAKE RESIDENTS ZONE - Existing]	Zoning Bulk Table: [LR-LAKE RESIDENTS ZONE - Existing]	Zoning Bulk Table: [LR-LAKE RESIDENTS ZONE - Proposed]
Lot Area ----- 40,000 Sq. Ft./ 25,000 Sewer/Water	Lot Area ----- 8,436 Sq. Ft. **	Lot Area ----- 8,436 Sq. Ft. **
Lot Frontage ----- 100 Ft.	Lot Frontage ----- 60.5 **	Lot Frontage ----- 60.5 **
Front Yard ----- 35 Ft.	Front Yard ----- 20.4 Ft.**	Front Yard ----- 20.4 Ft. **
60 Ft on Arterial Roads	Side Yard ----- 26.2 Ft.	Side Yard ----- 23.0 Ft.
Side Yard ----- 10 Ft.	Rear Yard ----- na	Rear Yard ----- na
Rear Yard ----- 10 Ft.	Build. Hgt. ----- 25 Ft.	Build. Hgt. ----- 25 Ft.
Build. Hgt. ----- 38 Ft.	Lot Coverage = 12.1 %	Lot Coverage = 23.2 %
Maximum Lot Coverage 25%		

Scale 1" = 20"

NOTES:

1) Field Verify all utilities prior to construction.

** Entire Parcel is Non Conforming - Variances are required.

CALL BEFORE YOU DIG:
1-800-922-4455

NOTE: THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH SECTIONS 20-300b-1 THROUGH 20-300b-20 OF THE REGULATIONS OF CONNECTICUT STATE AGENCIES - "MINIMUM STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ENDORSED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. IT IS A SITE SURVEY BASED ON AN INDEPENDENT RESURVEY, CONFORMING TO HORIZONTAL ACCURACY CLASSIFICATION "T-2".

TO MY KNOWLEDGE AND BELIEF THIS MAP IS SUBSTANTIALLY CORRECT AS NOTED HEREON.

L.S. 15484
REGISTRATION NO.

6-10-20
DATE

Owner/Applicant:
Widlansky Solo 401K Trust
63 Evergreen Lane
South Windsor, CT 06074

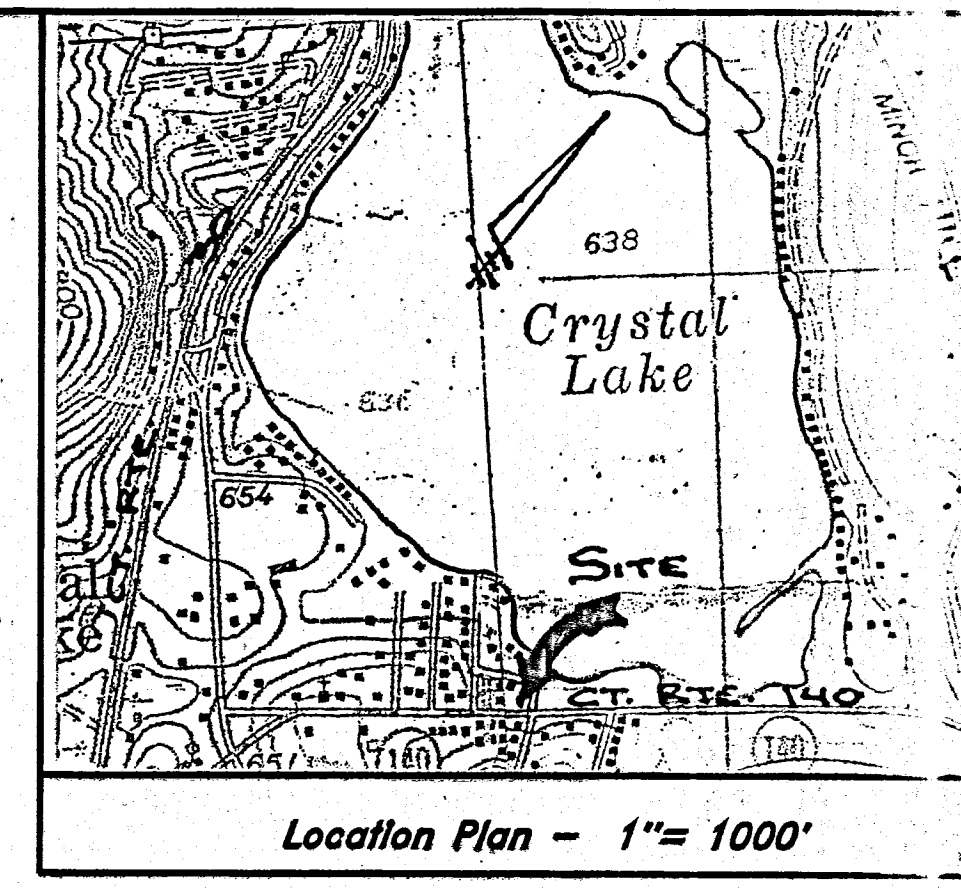
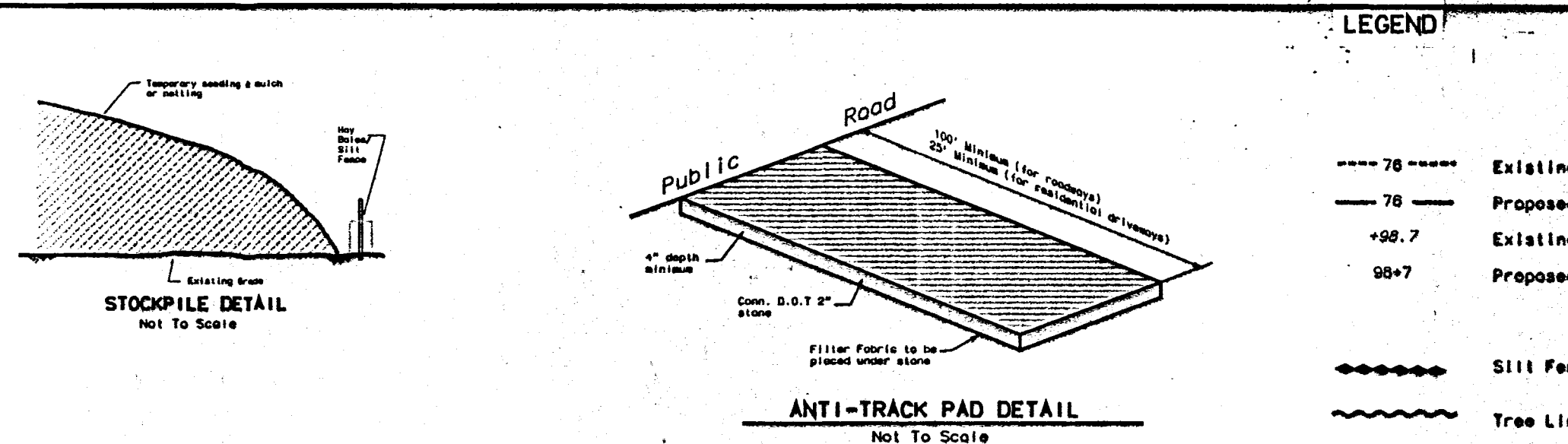
RECEIVED
JUN 16 2020
TOWN OF ELLINGTON
PLANNING DEPARTMENT

APN 129-083-0000 V202002

EXISTING CONDITION / SITE PLAN
PREPARED FOR
WIDLANSKY SOLO 401 K TRUST
227 SANDY BEACH ROAD aka CT RTE. 140
ELLINGTON, CONNECTICUT

TARBELL, HEINTZ & ASSOC., INC.
CIVIL ENGINEERS - LAND SURVEYORS
1227 BURNSIDE AVE. STE. 8A, EAST HARTFORD, CT (860) 526-1111

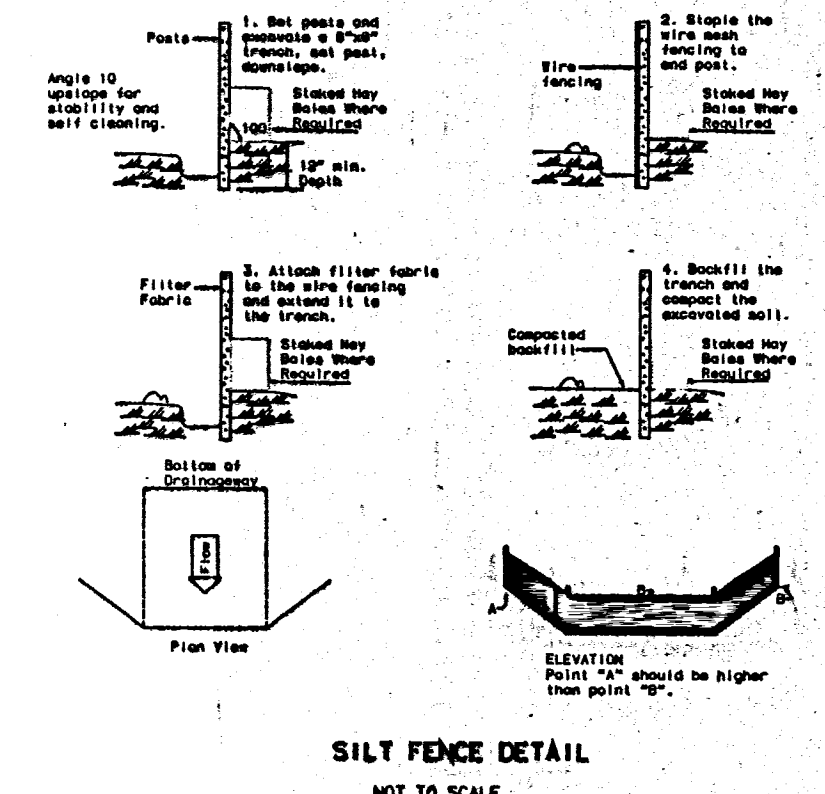
JOB NO.	DATE	SCALE	DRAWN BY	SHEET NO.
1873	6-10-20	1" = 20'	R.H.H.	1 of 1



- NOTES:
- Parcel Zoned LR.
 - Total Area Of Parcel = 0.194 Acres, 8,436 Sq.Ft.
 - Horizontal control based on referenced map.
 - Vertical control based on NGVD 1929 datum. Topography from actual field locations.
 - Soil classification boundary lines shown hereon are as enlarged from the State of Connecticut(CT 600) USDA NRCS web page. Soil type.
 - Parcel is located within the Crystal Lake Watershed.
 - No underground fuel storage allowed.
 - Shoreline is the approximate Wetlands.

- Construction Schedule/Erosion & Sedimentation Control Notes
- Place silt fence adjacent to disturbed areas to protect against possible sedimentation (see plan).
 - Strip and stockpile topsoil from area of proposed addition and garage area, keep disturbance at a minimum (see temporary stockpile detail).
 - Excavate for and install footings and foundation for addition.
 - Backfill foundations, loam and seed disturbed area as soon as possible. Protect area, as necessary, with hay, mulch, etc., until area is stabilized.
 - Install utilities as require or needed.
 - Loam and seed all remaining disturbed areas as soon as possible. Protect area, as necessary, with hay, mulch, etc., until area is stabilized.
 - All erosion and sedimentation control devices are to be maintained until disturbed areas are stabilized. Responsible party is Keith 1-860-798-1230.

- Construction Schedule/Narrative
- This parcel contains 0.194 acres, and will to be serviced by public sewer and private well.
 - Construction will commence on or about the summer 2020 and be substantially completed by the spring of 2021.
 - Contractor will be assigned the responsibility for implementing this Erosion and Sediment Control Plan. This responsibility includes the installation and maintenance of erosion control measures, informing all parties engaged on the construction site of the requirements and objectives of the plan and notifying the Town of Ellington or the proper Town Agency of any transfer of this responsibility. The contractor shall be responsible for conveying a copy of the Erosion and Sediment Control Plan if the title to the land is transferred.
 - A preconstruction meeting with town staff, contractor, and developer to be held on site.





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**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
MONDAY, FEBRUARY 3, 2019, 7:00 PM
TOWN HALL ANNEX, 57 MAIN STREET, ELLINGTON, CT**

PRESENT: Vice Chairman Arthur Aube, Regular Members Ken Braga, Mort Heidari, Erin Stavens, and Alternates Ron Brown, and Ron Stomberg

ABSENT: Regular Member Sulakshana Thanvanthri, and Alternate Roger Hosig

STAFF

PRESENT: John Colonese, Assistant Town Planner/Zoning Enforcement Officer

I. CALL TO ORDER:

Vice Chairman Aube called the Zoning Board of Appeals (ZBA) meeting to order at 7:00 PM at the Ellington Town Hall Annex, 57 Main Street, Ellington, CT.

II. PUBLIC COMMENTS (ON NON-AGENDA ITEMS): None

III. PUBLIC HEARINGS:

1. V202001 – Stephanie Dias & Douglas Miller owner/applicant, request for variances of the Ellington Zoning Regulations Section 4.1-Permitted Uses and Uses Requiring Special Permit & Section 3.1.2-Residential Uses: to permit an existing first floor unit used for retail business to be changed to an apartment creating a three-family dwelling at 11 West Road, APN 012-012-0000.

TIME: 7:01PM

SEATED: Aube, Braga, Heidari, Stavens, and Brown

Kari Olsen, Murtha Cullina, Attorneys at Law, 185 Asylum Street, Hartford, CT, was present to represent the application.

Attorney Olsen stated the applicants are seeking a variance from Sections 4.1 and 3.1.2 of the Town of Ellington Zoning Regulations. In particular, they are requesting to use the first floor of a pre-existing, multi-dwelling building as an apartment, due to a unique hardship and the desire to make reasonable use of this pre-existing structure. Attorney Olsen said the applicants have a unique hardship that justifies the requested variances. She proceeded to explain 11 West Road is a lot of record, which uniquely lies within both the Commercial and Residential Zones. The line between these zones runs through a portion of the building as shown in Exhibit C, which was provided as part of the application. The building was built in 1920 and is 3,252 square feet in size with 2,940 square feet of living area: 1,470 square feet on each of its two floors. The second floor is already improved with two pre-existing dwelling

units, which is shown in Exhibit B. The first floor is currently vacant. Attorney Olsen noted the current Zoning Regulations state that in a commercial zone, residential uses are not allowed and within a residential zone, commercial uses are not allowed.

Attorney Olsen proceeded to review Section 2.2.3 of the Regulations, which allows a non-conforming use to be changed to another non-conforming use of substantially the same character, or to a use permitted in "any zone in which it is located." This provision arguably allows the applicants to proceed without a variance considering that the building is located partially in a residential zone and already has two dwellings in it. The building sits more than 170 feet from the road and is accessed by a private driveway and parking area. The building's driveway and parking areas are sandwiched between two residential uses.

Attorney Olsen stated since the building sits so far back from the road, it lacks the visibility necessary to attract commercial businesses. While the first floor of the building was at one time a day care center, it ceased operating years ago. More recently, in 2017, the applicants rented the first floor to an appliance dealer/repairer. However, there were so many complaints to the Town Zoning Enforcement Officer about this commercial use of the property and its impact on the abutting neighbors, that the tenant's lease was not renewed. She explained efforts to rent the property for any permitted commercial use have been unsuccessful and the building has remained vacant for more than a year. Commissioner Braga stated that the hardship cannot be financial.

Attorney Olsen introduced Alison Malkin, the Head Broker with Re/Max Essentia, 51 East Main Street, Unit #15, Avon, CT was also present to represent the application. Ms. Malkin said she has been trying to rent the property for over 14 months. She explained the lack of visibility from the street and the layout do not attract commercial uses, and she feels the only reasonable use for this building is for it to be wholly residential.

Attorney Olsen reviewed the surrounding properties and passed out a map showing all of them having residential uses. For example, 15 West Street, has a non-conforming apartment on the second floor and a hair salon occupying the first floor, 9 West Street is a two-family dwelling, and the property abutting to the rear is a single family home. The three properties immediately across the street also contain multiple and single family homes. She referred to the Zoning Board of Appeals granting a variance for a residential use at 12 West Shore Road and noted the hardship stated with the approval as the "keeping of character with residential uses in a neighborhood".

Commissioner Brown requested Attorney Olsen explain the parking situation. Attorney Olsen showed where the parking would be located for the proposed apartment. She explained there is sufficient parking on the parcel.

Attorney Olsen explained that the hardship was not created by the applicants and would be problematic for anyone who owned the property. The variance would allow a viable and practical use as an apartment and would not negatively impact the Town's Comprehensive Plan. The requested variances also will not undermine the Town's Comprehensive Plan for the following reasons:

1. The Building is pre-existing. No new construction is proposed and there will be no change in the existing appearance of the property or the structures located thereon.
2. It is more compatible with the neighborhood in that all of the abutting properties have dwelling units in them and, as noted above, the impact on these residential uses from a commercial use located literally in their back yard, has been problematic.

3. A new apartment better serves the Town's recognized need for affordable housing options.
4. The conversion of the pre-existing first floor space to an apartment will not substantially increase or otherwise overcrowd the property. There is ample pre-existing off street parking.

Attorney Olsen submitted letters of support for this application from abutting land owners. She noted the only residential regulation this parcel cannot meet is the amount of lot area needed for a three-family dwelling.

John Colonese noted his memorandum to the Board dated January 27, 2020. He reviewed the Zoning Regulations and sees the building as entirely within the commercial zone according to the Ellington zoning map, and therefore it is only allowed for commercial use. He read Section 2.1.1-Zoning Compliance of the Zoning Regulations, and noted the two existing apartments on the second floor of the building are non-conforming uses. He also disagrees with the applicant's interpretation of Section 2.2.3 of the Zoning Regulations as the existing commercial retail use conforms to the regulations and the zone within which it lies.

Stephanie Diaz, 18 Private Grounds. Ellington, CT, said the first floor was vacant for many years prior to their purchase of the property. They renovated the first floor and leased it to an appliance dealer/repair business and received many calls from the Zoning Enforcement Officer pertaining to the property. Ms. Diaz explained that she did not renew the lease due to the amount of complaints created by the tenant. She tried to rent the space for a long time. Tenants on the second floor have been there for over 17 years.

Ken Braga asked if the owner of the property should to apply to the Planning and Zoning Commission for a zone change. Mr. Colonese stated they have that option, however the property would also need a variance on lot area. He then reviewed Section 2.1.2-Lots of Record of the Zoning Regulations and noted that the commercial zone appears to be the more restrictive zoning district and would therefore be applied over the entire lot.

Commissioner Stavens asked how many individuals looked at the building to lease. Ms. Malkin said she has shown the unit to at least 15 or 16 individuals. She said they tried all avenues to get someone to rent the unit. Mr. Colonese stated commercial uses apply to the property, therefore the retail use approved on the first floor can be continued and he feels it is a reasonable use of the unit.

Commissioner Brown asked if the Board could approve the request due to two thirds of the units being currently approved and used as residential. Commissioner Heidari stated it seems like a financial hardship, but he understands the request.

Attorney Olsen explained the applicants are not claiming an economic hardship. The hardship is the property is pre-existing, non-conforming and the current regulations for either zone do not allow for the reasonable use of the building. For these reasons, the applicants' hardship is unique, is not self-created and justifies the variances requested.

MOVED (AUBE), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202001.

MOVED (BROWN), SECONDED (BRAGA) AND PASSED UNANIMOUSLY TO APPROVE V202001 – Stephanie Dias & Douglas Miller owner/applicant, request for variances of the Ellington Zoning Regulations Section 4.1-Permitted Uses and Uses Requiring Special Permit & Section 3.1.2-Residential Uses: to permit an existing first floor unit used for retail business

to be changed to an apartment creating a three-family dwelling at 11 West Road, APN 012-012-0000.

HARDSHIP: Existing lot falls within two zones; existing building currently approved for two residential units on the second floor.

IV. ADMINISTRATIVE BUSINESS:

1. Approval of the October 7, 2019 Regular Meeting Minutes.

MOVED (BRAGA), SECONDED (BROWN) AND PASSED UNANIMOUSLY TO APPROVE THE OCTOBER 7, 2019 MEETING MINUTES AS WRITTEN.

2. Election of Officers.

MOVED (BRAGA) TO NOMINATE COMMISSIONER AUBE FOR CHAIRMAN OF THE ZONING BOARD OF APPEALS FOR 2020.

COMMISSIONER AUBE ACCEPTED THE NOMINATION. HEARING NO FURTHER NOMINATIONS, NOMINATIONS CLOSED.

MOVED (HEIDARI) TO NOMINATE COMMISSIONER BRAGA FOR VICE CHAIRMAN OF THE ZONING BOARD OF APPEALS FOR 2020.

COMMISSIONER BRAGA ACCEPTED THE NOMINATION. HEARING NO FURTHER NOMINATIONS, NOMINATIONS CLOSED.

MOVED (BROWN), SECONDED (STAVENS) AND PASSED UNANIMOUSLY TO ELECT COMMISSIONER AUBE FOR CHAIRMAN AND COMMISSIONER BRAGA FOR VICE CHAIRMAN OF THE ZONING BOARD OF APPEALS FOR 2020.

3. Correspondence/Discussion:

- a. 406 Somers Road – Foreclose on the Judgement Lien

Mr. Colonese explained the property is located next to TSI Harley Davidson. He reviewed the history of enforcement action which led to fines and a lien against the property. He noted that the Town Attorney stated the Town can foreclose on the judgement lien in order to gain compliance with the zoning regulations. Mr. Colonese said he contacted the owner in the fall of 2019 to bring the property into compliance, and to date the property does not comply. Mr. Colonese felt the next step was to foreclose on the lien and the Board agreed.

V. ADJOURNMENT:

MOVED (BROWN), SECONDED (AUBE) AND PASSED UNANIMOUSLY TO ADJOURN THE ZBA MEETING AT 8:09 PM.

Respectfully submitted,

John Colonese
Acting Recording Clerk