



Town of Brewster
Zoning Board of Appeals
2198 Main St., Brewster, MA 02631
brewplan@brewster-ma.gov
(508) 896-3701

AMENDED ZBA HEARING AGENDA
2198 Main Street Room A
February 13, 2024 at 7:00 PM

Zoning Board

Brian Harrison
Chair

Jeff Carter
Vice Chair

Patricia Eggers

Bruce MacGregor

Trish Metz

David Ayers

Corey Gill

Department Assistant
Ellen Murphy

This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. **As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law.** Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

Members of the public who wish to access the meetings may do so in the following manner:

1. **Phone:** Call (929) 436-2866 or (301) 715-8592. **Zoom Meeting ID:** 880 7666 8068 and **Passcode** 047258
To request to speak: Press *9 and wait to be recognized.
2. **Zoom Webinar:** <https://us02web.zoom.us/j/88076668068?pwd=b3lXWnMwM2tybTk4SzlKMk5vT3NTUT09>
enter Passcode 047258

To request to speak: Tap Zoom "Raise Hand" button, then wait to be recognized.

When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by accessing the meeting remotely, as noted above. **Additionally, the meeting will be broadcast live, in real time via Live broadcast** (Brewster Government TV Channel 8), **Livestream** (livestream.brewster-ma.gov), or **Video recording** (tv.brewster-ma.gov).

Please note that the ZBA may take official action, including votes, on any item on this agenda.

1. Call to Order
2. Declaration of a Quorum
3. Meeting Participation Statement
4. Recording Statement: As required by the Open Meeting Law we are informing you that the Town will be video and audio taping as well as broadcasting this public meeting. In addition, if anyone else intends to either video or audio tape this meeting they are required to inform the chair.
5. Public Announcements and Comments: Members of the public may address the ZBA on matters not on the meeting's agenda for a maximum of 3-5 minutes at the Chair's discretion. The ZBA will not reply to statements made or answer questions raised during public comment but may add items presented to a future agenda
6. Approval of January 9, 2024 Hearing Minutes
7. New Applications
ZBA Case #24-02 Owner/Applicant: Roy and Michelle Proujansky, 156 Rosemary Lane, Map 51, Lot 30, in the RM zoning district. The applicant seeks a special permit pursuant to section 179-25B of the Brewster zoning bylaw to alter and extend the pre-existing, nonconforming single-family dwelling by constructing a screen porch addition which encroaches into the required setback.
8. For your Information
9. Matters Not Reasonably Anticipated by the Chair
10. Next Meeting: March 12, 2024
11. Adjournment

Date Posted:
1/18/2024

Date Revised:
2/1/2024

Received by Town Clerk:

BREWSTER TOWN CLERK
24 FEB 13 10:10AM

TOWN OF BREWSTER ZONING BOARD OF APPEALS
HEARING MINUTES
Town Hall Room B
Tuesday, January 9, 2024, at 7 PM

Brian Harrison, Chair, convened the Brewster Zoning Board of Appeals with members: Jeff Carter, Patricia Eggers, David Ayers and Corey Gill. Bruce MacGregor and Trish Metz were absent.

Also present: Attorney Peter Freeman, Christina Carlson (Union Studio Architecture & Community Design), Joe Henderson (Horsley Witten Group), Vida Shklovsky, (POAH), Attorney Benjamin Zehnder, Alex and Kristen Wentworth, Jon Idman (Town Planner), and Ellen Murphy (Department Assistant)

The Chair read the Recording or Taping Notification: This meeting will be conducted in person at the time and location identified above. This means that at least a quorum of the members of the public body will attend the meeting in person and members of the public are welcome to attend in person as well. As a courtesy only, access to the meeting is also being provided via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast or affect remote attendance or participation, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda, which includes an applicant and its representatives, should make plans for in-person vs. virtual attendance accordingly.

To submit public comment or questions to the Zoning Board of Appeals, please email: zbameeting@brewster-ma.gov.

Review and Approval of November 14th hearing minutes:

Brian asked the Board if there were any changes to the minutes. There being none, a motion was made by Pat to approve the November 14th hearing minutes, Jeff seconded the motion, a vote was taken, and the minutes were approved by a majority vote.

Brian welcomed the newest member of the Board, Corey Gill, who will be joining as an alternate.

Notice of Project Change:

- **ZBA Case #23-04 Applicants: Preservation of Affordable Housing, Inc., and Housing Assistance Corporation, (represented by Peter L. Freeman, Esq.), Spring Rock Village 0 Millstone Road**

Members present and voting: Brian Harrison, Jeff Carter, Pat Eggers, David Ayers and Corey Gill

Attorney Freeman informed the Board pursuant to 760 CMR 56.05 (11)(a) and (b) and 760 CMR 56.07(4) regulations when there are changes which are insubstantial a notice is submitted to allow the project to proceed as modified without further Board review. Attorney Freeman provided an overview explaining the changes and need for the changes. He indicated the cost of the project since the permit was approved has increased, which is the driving force for the project change. He informed the Board that design changes have been suggested that will save money. Attorney Freeman referred to the letter included in the packet from the Affordable Housing Trust indicating they reviewed and supported the changes and determined the changes were insubstantial. He then summarized the cover letter highlighting the changes. The buildings have been reduced from 12 to 7, there are 80 approved parking spaces with a reserve area for additional parking if needed and open space has been slightly increased.

Christina Carlson walked through the slides to provide an understanding of the approved vs. the proposed changes. Attorney Freeman stated the changes are necessary, however they are positive changes. He noted the memo written by Jon Idman, Town Planner that was included in the packet. The Board discussed the fact that the requested changes were insubstantial.

Pat made a motion to except the proposed changes to the previously approved Comprehensive Permit Project and determined they are insubstantial, Jeff second the motion, a vote was taken and unanimously approved.

Public Hearing

New Applications:

- **ZBA case #24-01 Owner/Applicant: MOG Real Estate Holdings, LLC (represented by Benjamin E. Zehnder, Esq.), 94 Thad Ellis Road**

Members present and voting: Brian Harrison, Jeff Carter, Pat Eggers, David Ayers, and Corey Gill.

Attorney Benjamin Zehnder addressed the Board providing background information. He confirmed the lot is conforming in the CH zoning district. Currently the lot contains an auto repair building, a residence and two sheds. It is non-conforming from a use standpoint because it has two principal structures on one lot and has a residential dwelling. The applicants are proposing to remove all of the structures and build a single structure to serve their business. The use they are proposing is by right in the CH zoning district.

Attorney Zehnder informed the Board that earlier in the evening they received approval from the Conservation Committee. The applicants are requesting a special permit because the proposed building is non-conforming on the north side of the property. It is 14 feet from the property line where the requirement is 15 feet. They propose to build the structure 4 feet closer due to the feasibility of building the new structure around the current structure to allow their business to continue during the construction. Once the new structure is completed the old structure can be removed from the inside and continue to operate. The request is to alter a preexisting non-conforming structure in order to increase the non-conformity on the north side setback.

Attorney Zehnder referred to the memo from the Building Commissioner suggesting zoning relief. He indicated the use of the property will remain the same and the residential dwelling will be removed. The design is an improvement and not detrimental to the neighborhood. Pat asked a question in reference to the Fire Department comment regarding whether the fire truck had sufficient access to the driveway. Attorney Zehnder stated they have updated the plans to allow for sufficient access based on the comments. Applicant Alex Wentworth informed the Board he reached out to all of the direct abutters and shared the plans of the proposed building. He indicated they were all in support. The Board confirmed they received the letters of support from the abutters. Pat made a motion to open to public input, Corey seconded the motion, a vote was taken and the Board unanimously approved. There being no public input Pat made a motion to close to public input, Jeff seconded the motion a vote was taken and the Board unanimously approved to close to public input. Pat, Jeff, and David expressed their support.

Jeff made a motion to grant the special permit for ZBA case #24-01, 94 Thad Ellis Road as shown in the plans and for the reasons documented in the application, Pat seconded the motion, a vote was taken, and the Board unanimously voted to grant the special permit.

For Your Information:

- None at this time

Matters Not Reasonably Anticipated by the Chair:

- None at this time

The next Board of Appeals hearing is scheduled for February 13th, 2024.

Pat made a motion to adjourn the meeting, David seconded the motion, the vote was taken, and the Board unanimously voted to adjourn. Vote: 5-0-0. The hearing adjourned at 7:26 pm.



Brewster Zoning Board of Appeals

2198 Main Street
Brewster, Massachusetts 02631-1898
(508) 896-3701 x 1168
FAX (508) 896-8089
www.brewster-ma.gov

Date + Time Stamped
By Town Clerk

23 DEC 28 11:42 AM

BREWSTER TOWN CLERK

ZBA CASE FILE # 24-02

APPLICATION FOR BREWSTER ZONING BOARD OF APPEALS SPECIAL PERMIT/ VARIANCE/ ZBA APPEAL APPLICATION (\$300 Filing Fee)

NAME OF APPLICANT Roy and Michelle Proujansky

REPRESENTATIVE Aleks Mazzeo PHONE NUMBER 774-360-3835

MAILING ADDRESS PO Box 1771 Orleans MA 02653

PROPERTY ADDRESS 156 Rosemary Lane, Brewster MA 02631

CURRENT PROPERTY OWNER(S) Roy and Michell Proujansky

REGISTRY OF DEEDS TITLE REFERENCE BOOK 201367 PAGE _____ OR

CERT. OF TITLE # _____ LAND COURT # _____

PLAN # _____

TOWN MAP # 51 LOT # _____

ZONING DISTRICT RM YEAR BUILT 1988

STATEMENT OF PROJECT

Building screened in porch

[Signature] 12.27.2023
SIGNATURE OF OWNER OR AGENT FOR OWNER DATE

NOTE: This petition is NOT COMPLETE until all information is provided. Accuracy of this information is the responsibility of the petitioner.

DATA SHEET

Complete this form for **every structure** on the site that is in some way **nonconforming**.

Identify structure: primary house, garage, tool shed, other _____

STREET ADDRESS _____ **YEAR BUILT** _____

MAP # _____ **LOT #** _____

ZONING DISTRICT _____

List only the nonconformities below: **Identify all nonconforming setbacks.**

| LOCATION | EXISTING | REQUIRED | PROPOSED |
|----------|----------|----------|----------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

- **Location** is used to identify the setback: I.E. front, back, left side, right side, N-north, S-south, E-east, W-west,
- **Existing** is the setback that currently exists on the ground
- **Required** is the applicable setback required currently in the Brewster zoning bylaw
- **Proposed** is the setback being requested

FRONTAGE: EXISTING _____ **REQUIRED** _____

LOT SIZE: _____

LOT COVERAGE EXISTING % _____ **PROPOSED %** _____ **ALLOWED %** _____

SIZE OF PARCEL _____ sq. ft. **BUILDABLE UPLAND** _____ sq. ft.

BUILDING COVERAGE/PRIMARY STRUCTURE _____ sq. ft.

BUILDING COVERAGE ALL OTHER STRUCTURES _____ sq. ft.

BUILDING HEIGHT: EXISTING _____ **PROPOSED** _____

SPECIAL PERMITS:

- ☐ **APPLICATION FOR SPECIAL PERMIT AS SET FORTH IN M.G.L. 40A, § 6, or § 9 and SECTION 179-25, BREWSTER BYLAW UPON WHICH THE BOARD IS EMPOWERED TO ACT.**

SECTION(S) PARAGRAPH(S) OF BREWSTER BYLAW UNDER WHICH THE SPECIAL PERMIT IS SOUGHT AND A BRIEF DESCRIPTION OF THE PROPOSAL.

VARIANCES:

- ☐ **APPLICATION FOR VARIANCE AS SET FORTH IN M.G.L. 40A, § 10**

SECTION(S) PARAGRAPH(S) OF BREWSTER BYLAW UNDER WHICH THE VARIANCE IS SOUGHT AND A BRIEF DESCRIPTION OF THE PROPOSAL. In order to grant a Variance, the ZBA must find all three of the following to be true:

- ☐ Owing to 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, and
- ☐ A literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and
- ☐ That desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law

- ☐ **APPEAL IN ACCORDANCE WITH M.G.L. 40 A, § 8, 14**

CITE ORDER OR DECISION OF ZONING AGENT OR OTHER ADMINISTRATIVE OFFICIAL OR ATTACH LETTER FROM ZONING AGENT/ADMINISTRATIVE OFFICIAL.

ZONING BOARD OF APPEALS FILING PROCEDURES

Completed application packages are required to be submitted and time stamped by the Town Clerk at least thirty-five (35) days prior to the requested hearing date. Town Hall hours are 8:30 am – 4:00 pm Monday- Friday.

Complete application (**12 copies**) checklist:

- ☐ Application
- ☐ Professionally engineered site plan
- ☐ Assessor's map showing the applicant's lot
- ☐ Building plans, including floor layout, elevations and dimensions
- ☐ Decision letter from the zoning agent, if applicable
- ☐ \$300 Filing Fee (made payable by check)

Photographs are recommended.

Please also provide one (1) pdf or electronic copy of the completed application package.

An Abutter's List will be requested by the Zoning Board Clerk when the application is filed.

In accordance with Massachusetts General Laws, Chapter 40A, Section 11, the Appeal will be advertised in the local newspaper for two (2) consecutive weeks prior to the public hearing. The agenda will also be posted of the Meeting Board on the main floor of the Town Offices.

A copy of the Zoning-By-Law, Chapter 179, is available at the Brewster Ladies' Library. It may also be purchased at the Town Offices for \$25.00 or downloaded without charge from The Town of Brewster e-code website: <http://www.ecode360.com/BR1068>

Any Decision of the Board of Appeals may be appealed to Superior Court, Land Court or District Court within twenty (20) days from the time that the decision is filed with the Town Clerk.



TOWN OF BREWSTER

BUILDING DEPARTMENT

2198 MAIN STREET
BREWSTER MA 02631

Phone: 508-896-3701 ext 1125
Email: Building@brewster-ma.gov

RECEIVED

Zoning Determination

JAN - 5 2024

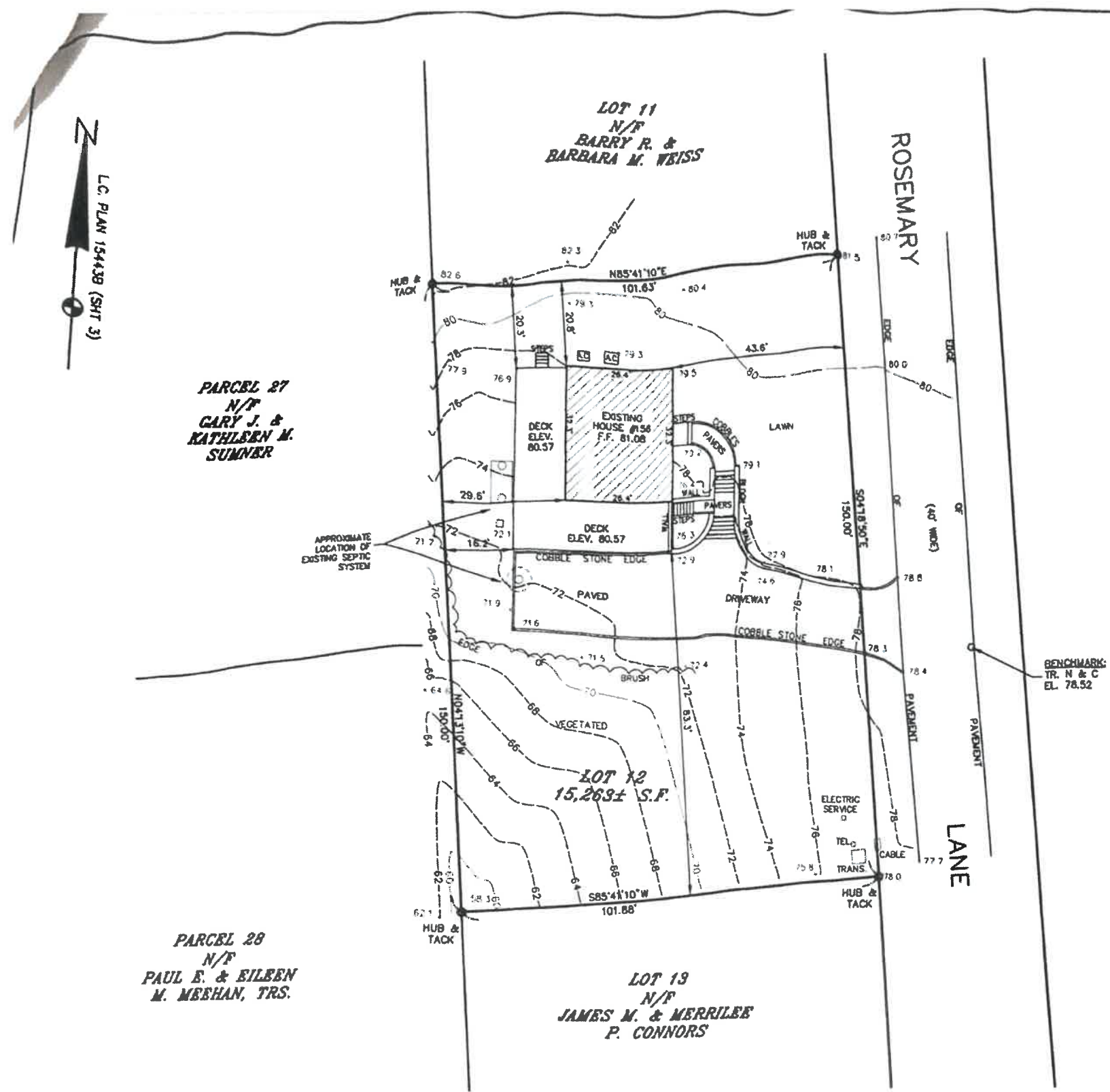
Re; 156 Rosemary Lane identified on Assessors Map 51 Lot 30

BREWSTER PLANNING BOARD
ZONING BOARD OF APPEALS

Babbitt design drawings dated October 5, 2023
Site Plan dated October 29, 2021

Proposed screen porch would be 16.2 feet from lot line with a pre-existing nonconforming condition. The screen porch will need a special permit in accordance with 179-25 "B" to be eligible for a building permit.

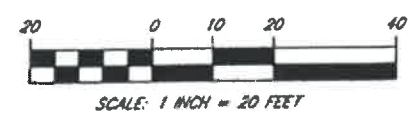
Richard Leibowitz CBO
Building Commissioner



PARCEL 27
N/F
GARY J. &
KATHLEEN M.
SUMNER

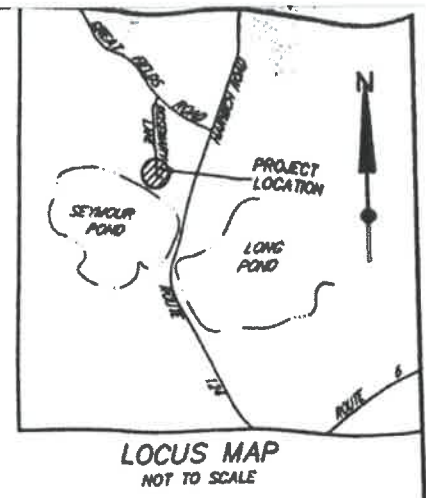
PARCEL 28
N/F
PAUL E. & EILEEN
M. MEEHAN, TRS.

- LEGEND**
- 78 --- EXISTING 2' CONTOUR
 - 80 --- EXISTING 10' CONTOUR
 - * 78.5 * EXISTING SPOT ELEVATION



GENERAL NOTES:

1. HOUSE NUMBER: 156
2. ASSESSOR'S INFORMATION: MAP 51, PARCEL 30, LOT 12
3. FLOOD ZONE: X (FEMA PANEL 250003 0602 J, DATED JULY 16, 2014)
4. ZONING DISTRICT: R MID DENSITY
5. LOT COVERAGE BY:
 - A. EXISTING STRUCTURES: 1,720 S.F. / 15,263 S.F. = 11.3%
6. TOPOGRAPHIC INFORMATION COMPILED FROM AN ON THE GROUND SURVEY
7. ELEVATIONS SHOWN ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988.
8. SITE IS WITHIN ZONE II DISTRICT



SITE PLAN
FOR
ROY & MICHELLE PROUJANSKY
#156 ROSEMARY LANE
BREWSTER, MA

Scale: 1"=20' Date: OCTOBER 29, 2021

Warwick & Associates Inc.
69 County Road Box 801
North Falmouth, Mass 02556
(508) 563 - 7777

| | |
|---|----------------|
| DRAWN BY: L.M. R.J.W. | DATE: 10/29/21 |
| CHECKED BY: GSL | SHEET 1 OF 1 |
| P:\Land Projects 2004\SS21036\dwg\ss21036ap.dwg | |



Scanned by TapScanner

LEGEND

- EXISTING WALL
NEW WALL

REVISIONS

NO. DATE

PROJECT:

RESIDENCE
156 ROSEMARY LN
BREWSTER, MA

SHEET TITLE:

PROPOSED FIRST
FLOOR PLAN

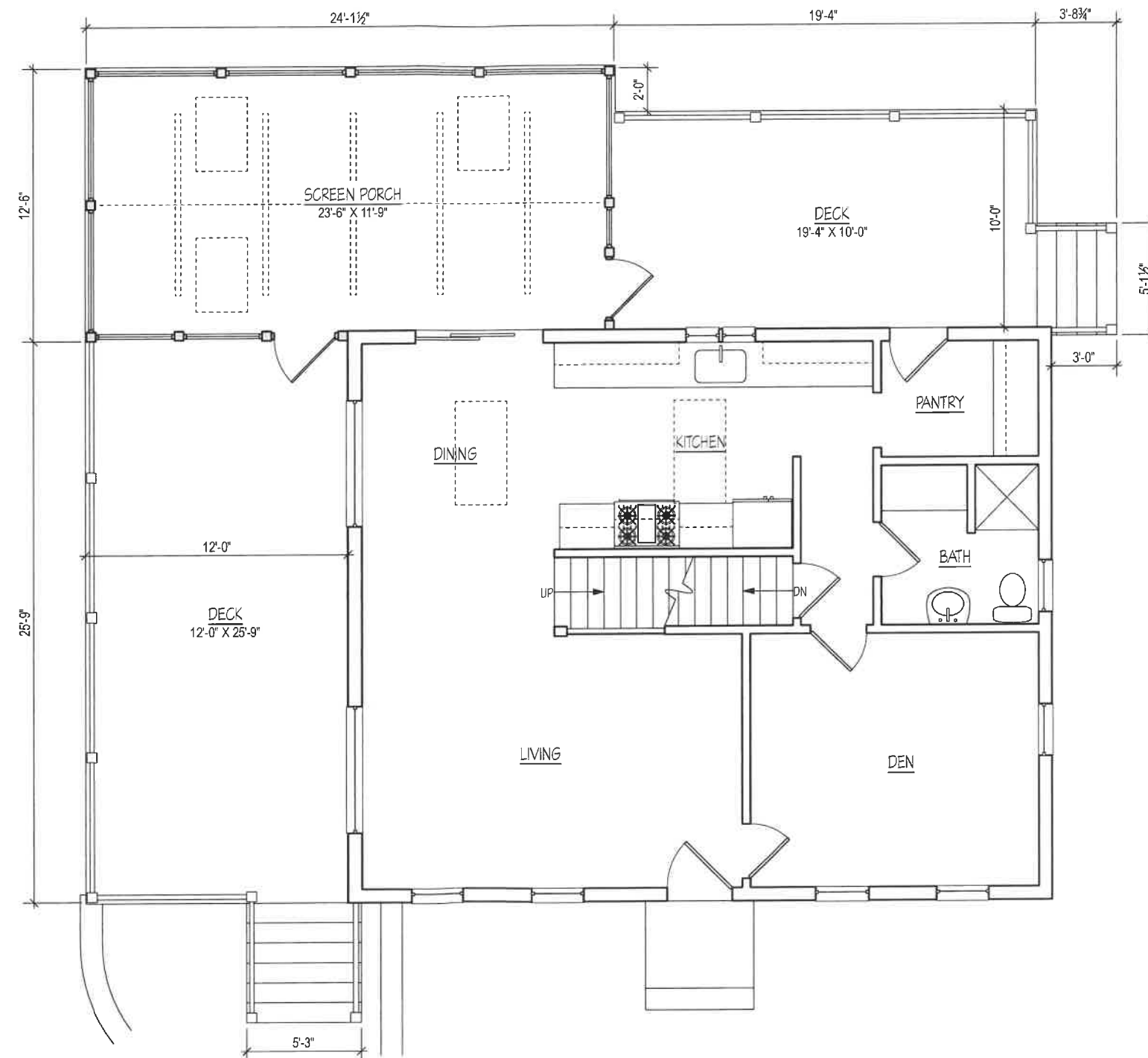
SCALE: 1/4" = 1'-0"

PROJECT #: 223596

DATE: OCTOBER 5, 2023

DRAWING #:

A-1



LEGEND

EXISTING WALL
NEW WALL

REVISIONS

NO. DATE

PROJECT:

RESIDENCE
156 ROSEMARY LN
BREWSTER, MA

SHEET TITLE:

FRONT & LEFT SIDE
ELEVATIONS

SCALE: 1/4" = 1'-0"

PROJECT #: 223596

DATE: OCTOBER 5, 2023

DRAWING #:

A - 2



LEFT SIDE ELEVATION



FRONT ELEVATION

LEGEND

EXISTING WALL
NEW WALL

REVISIONS

| NO. | DATE |
|-----|------|
| | |
| | |
| | |
| | |
| | |

PROJECT:

RESIDENCE
156 ROSEMARY LN
BREWSTER, MA

SHEET TITLE:

REAR & RIGHT SIDE
ELEVATIONS

SCALE: 1/4" = 1'-0"

PROJECT #: 223596

DATE: OCTOBER 5, 2023

DRAWING #:

A - 3



RIGHT SIDE ELEVATION



REAR ELEVATION

LEGEND

EXISTING WALL
NEW WALL

REVISIONS

| NO. | DATE |
|-----|------|
| | |
| | |
| | |
| | |
| | |

PROJECT:

RESIDENCE
156 ROSEMARY LN
BREWSTER, MA

SHEET TITLE:

EXISTING FIRST
FLOOR PLAN

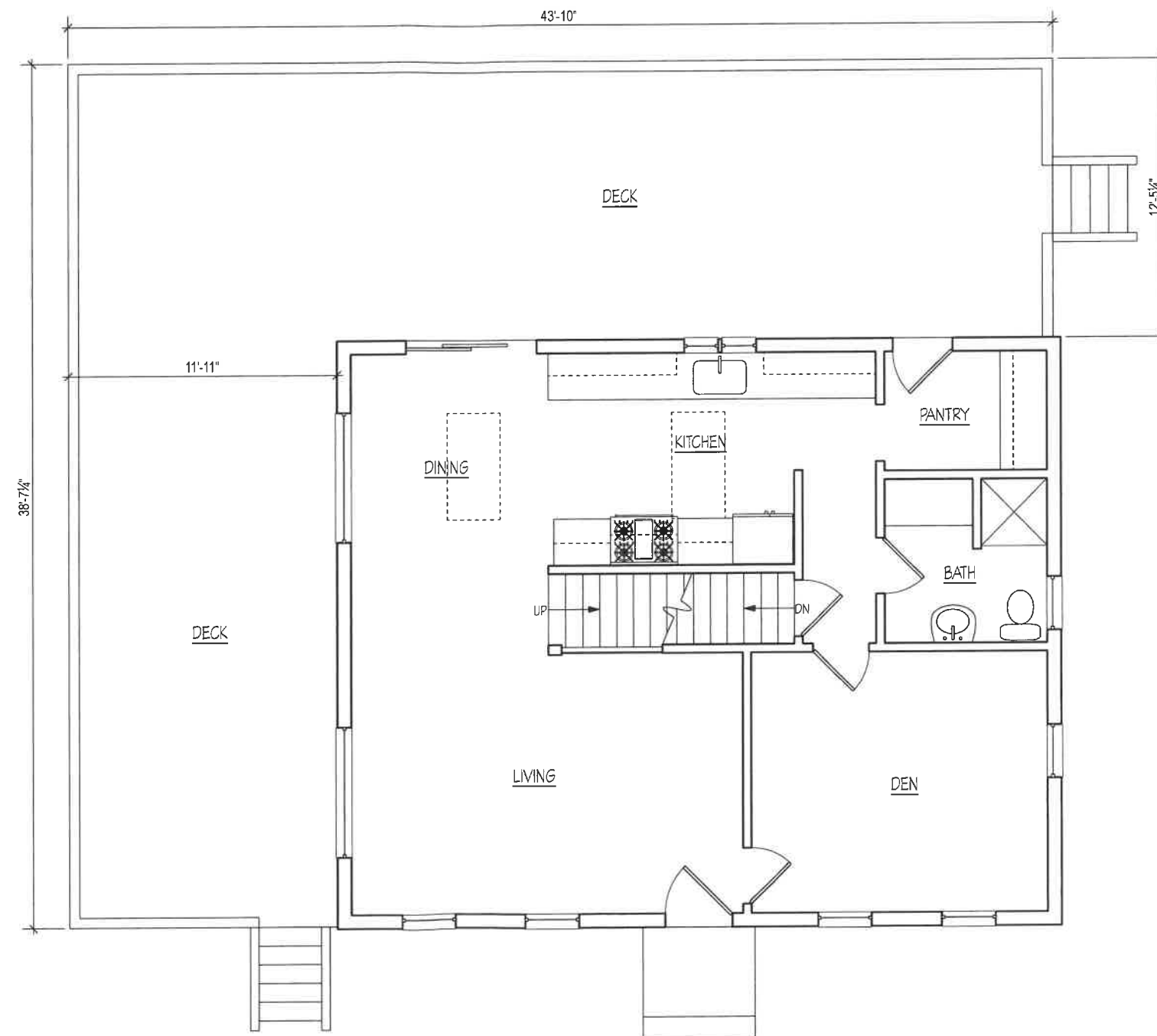
SCALE: 1/4" = 1'-0"

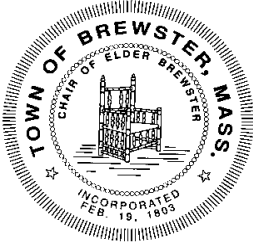
PROJECT #: 223596

DATE: AUGUST 16, 2023

DRAWING #:

A - 4





Brewster Zoning Board of Appeals

2198 Main Street
Brewster, MA 02631-1898
(508) 896-3701 x1168
brewplan@brewster-ma.gov

DEPARTMENT REVIEWS

Application #24-02

APPLICANT: Roy and Michelle Proujansky
REPRESENTATIVE:
MAP/LOT: Map 51, Lot 30
PROPERTY ADDRESS: 156 Rosemary Lane

Received from:

| | |
|--------------------------------|--|
| Natural Resources Dept. | Comments received from Chris Miller |
|--------------------------------|--|

- Natural Resources Department has no comment on this application.

| | |
|------------------------------------|---|
| Historic District Committee | Comments received from Erika Glidden |
|------------------------------------|---|

- The property listed is not in the Historic District.

| | |
|---------------------|--|
| Police Dept. | Comments received from Lt. Charles Mawn |
|---------------------|--|

- Police Department has no comment on this application.

| | |
|---------------------|--|
| Health Dept. | Comments received from Sherrie McCullough |
|---------------------|--|

- The Health Department file indicates an existing 1989 Title 5 compliant septic system designed for a daily flow of 330 gallons per day (gpd), servicing an existing three-bedroom dwelling.
- The existing dwelling is located on a 15,269 SF lot and is serviced by town water.
- The lot lies within the Zone of Contribution (Zone II), the District of Critical Planning Concern (DCPC) and lies within the Herring River Embayment.
- The last Title 5 Septic Inspection Report on file dated August 2, 2013. The Health Department will need a current Title 5 Septic Inspection Report and a Building Waiver Application must be submitted for full review prior to final approval.

| | |
|-------------------|---|
| Fire Dept. | Comments received from Chief Moran |
|-------------------|---|

- The Fire Department has no comment on this application.

| | |
|-----------------------|---|
| Assessor Dept. | Comments received from Jim Gallagher |
|-----------------------|---|

- Assessor Department has no comment on this application.

| | |
|---------------------------|---|
| Conservation Dept. | Comments received from William Grafton |
|---------------------------|---|

- For this review, I accessed State and Town GIS websites, referenced Conservation digital and physical files finding none for the subject site and I did a site visit to review the area depicted on the aerial below as Elevation 60. See screen shot below. The vegetation in the depression is primarily upland plant species and does not meet the criteria for an Isolated Vegetated Wetlands based on vegetation and it does not appear to have characteristics of an Isolated Land Subject to Flooding as there are no discernible signs of standing water.
- **Based on this review, there is no Conservation jurisdictional boundary associated with the subject site.**

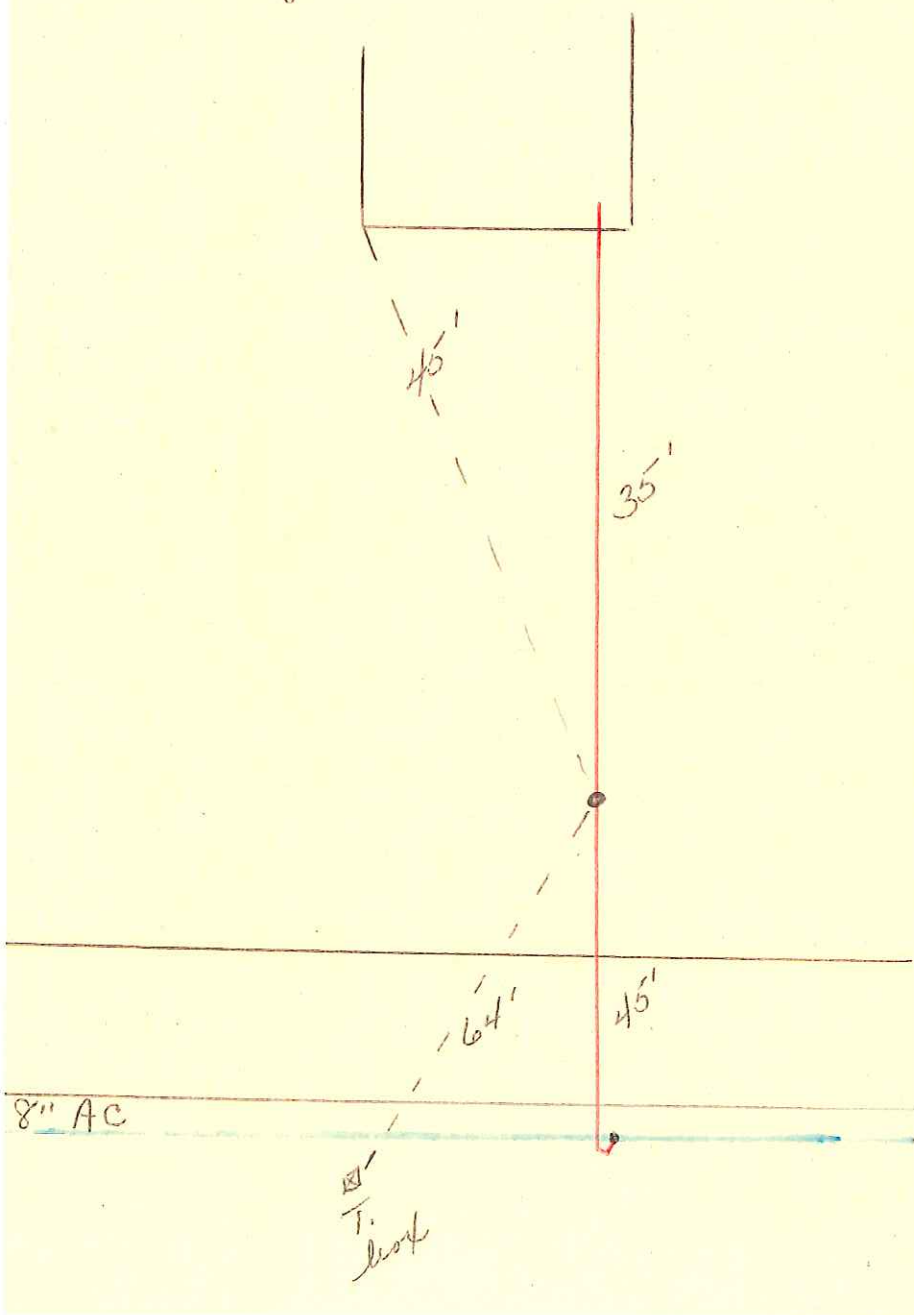
Water Dept.**Comments received from Paul Anderson**

- The service line looks like it comes into the right corner of the house (see attached). They should request a mark out if they are concerned it may be hit while excavating.

8-21-87

5290 Charles McInally

Rosemary Lane Lot 12



Archived: Tuesday, January 30, 2024 1:46:19 PM

From: [Barbara Weiss](#)

Sent: Fri, 26 Jan 2024 17:57:36

To: Ellen Murphy

Subject: Letter of Support ZBA Case 24-02

Sensitivity: Normal

January 26, 2024

To: Brewster Board of Appeals

From: Barry and Barbara Weiss (Abutters)

Re: ZBA Case 24-02 (156 Rosemary Lane)

Please be advised that as abutters to the property at 156 Rosemary Lane (Roy and Michelle Proujansky), we have no concerns or objections to the proposed screen porch addition which "may encroach into the required setback." As is the case with any good neighbors, the Proujanskis shared their intended project with us over the summer, well before requesting permission from the town, in order to make sure we were supportive. Their project does not affect our property in any negative way.

If you have any concerns or questions, please feel free to contact us at any time.

Barry and Barbara Weiss

138 Rosemary Lane

32817 Scenic Hills Drive

Mount Dora, FL 32757 (November - May)

352-729-2064

bmsw2524@gmail.com

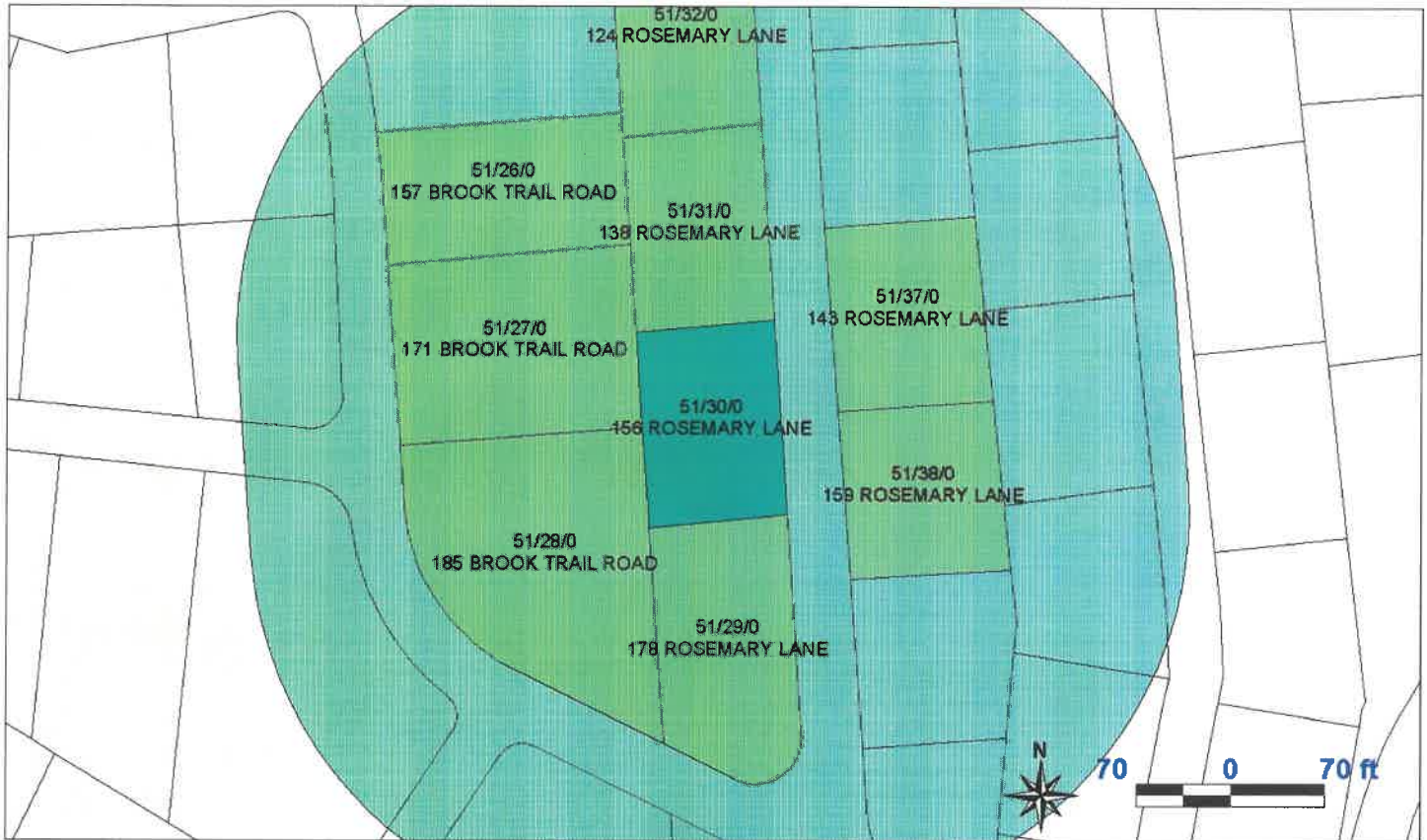


TOWN OF BREWSTER, MA
BOARD OF ASSESSORS
2198 Main Street Brewster, MA 02631

Certified by:

James M. Gallagher, MAA
Deputy Assessor

Abutters List Within 300 feet of Parcel 51/30/0



Key Parcel ID Owner