

COMMONWEALTH OF MASSACHUSETTS  
TOWN OF GRANVILLE ZONING BOARD OF APPEALS

\_\_\_\_\_) )  
AUSTIN AUDET, )  
    Petitioner )  
                  ) )  
v. )  
                  ) )  
ROBERT SULLIVAN, BUILDING )  
COMMISSIONER FOR THE TOWN OF )  
GRANVILLE, )  
    Respondent. )  
\_\_\_\_\_) )

**NOTICE OF APPEAL TO THE GRANVILLE ZONING BOARD OF APPEALS FROM  
THE DECISION BY ROBERT SULLIVAN, BUILDING COMMISSIONER,  
REGARDING PROPERTY OWNED BY AUSTIN AUDET**

NOW COMES the petitioner, Austin Audet (“Audet”), and serves notice of his appeal from the decision by the Granville Building Commissioner which interpreted the Town of Granville Zoning Bylaws to, inter alia: (1) prohibit common driveways including the one planned for access to Petitioner’s lot from Crest Lane; (2) prohibit primary access to petitioner’s ANR lot via Crest Lane; and (3) require that access to Petitioner’s lot be had via Hartland Hollow Road. In support of his appeal, the Petitioner states as follows:

**I. PARTIES AND BACKGROUND**

1. The Petitioner, Austin Audet, owns land designated as Lot No. 2 on a plan of land entitled “Plan of Land in Granville Massachusetts Surveyed for John T. and Tracy A. Audet” (“Lot 2”) which is recorded at the Hampden County Registry of Deeds in Book 389, Page 69 (“the ANR Plan”). See, ANR Plan, attached hereto as **Exhibit A**; Deed, attached as **Exhibit B**.

2. The Respondent, Robert Sullivan, is the Building Commissioner for the Town of Granville, Massachusetts. See, Zoning Map.

3. Lot 2 is located in an Agricultural-Residential district.
4. On July 6, 2020, the Town of Granville Planning Board (the “Planning Board”) issued an ANR endorsement to a five lot plot plan which includes Lot 2. See July 12, 2020 Memo from Richard Pierce, attached as **Exhibit C**; ANR Plan, attached as **Exhibit A**.
5. The ANR Plan shows access to and from Lot 2 and Crest Lane via a common driveway across Lot 4.
6. On September 24, 2020, John Audet and Tracy Audet executed a Declaration of Restrictive Covenants on Lot 2 and adjacent lots which they owned at the time.
7. John T. Audet and Tracy A. Audet then conveyed Lot 2 to Austin Audet. See, **Exhibit B**.
8. The Declaration of Restrictive Covenants grants access to and from Lot 2 and Crest Lane via an easement across a lot designated as Lot 4 on the ANR plan which has 200 feet or more of frontage on Crest Lane. See, Declaration of Restrictive Covenants, and Plan of Proposed Access Way Easement in Granville, Massachusetts Prepared for John T. & Tracy A. Audet (“Access Way Plan”), attached hereto as **Exhibit “D”**.
9. Austin Audet seeks a building permit to build a single-family home on Lot 2.
10. Pursuant to the Building Commissioner’s requirements, in connection with his efforts to obtain said building permit, Austin Audet obtained a street address for Lot 2 and set about procuring the signatures on a Building Approval Sheet (“BAS”).
11. Austin Audet obtained BAS signatures from the Planning Board and the Superintendent of Public Works. See, Building Approval Sheet (“BAS”), attached hereto as **Exhibit E**.
12. Austin Audet has requested a signature from the Conservation Commission.

13. While preparing to file an application for a building permit, Austin Audet was informed by multiple Granville officials that shared/common driveways were not allowed in Granville and that if the only access to Lot 2 was via a common driveway across Lot 4 his building permit application would be denied.

14. The Respondent is the Granville official charged under M.G.L. c. 40A, §7 with responsibility for enforcing and interpreting zoning bylaws in Granville.

15. Pursuant to Mass. Gen. L. ch. 40A, §7, on or about June 18, 2021, Austin Audet, through his attorney, submitted a Request for Zoning Interpretation relative to the access and the common driveway issues to the Respondent. See Request for Interpretation, attached hereto as **Exhibit F**.

16. Petitioner's Request for Zoning Interpretation sought a binding determination from the Respondent on following:

- (a) Do the Granville Zoning Bylaws prohibit common driveways?
  - If your response to this question is yes, please explain the basis for such response and identify the provision(s) in the zoning bylaws which prohibits common driveways.
- (b) Do the Granville Zoning Bylaws require that access to an ANR lot be provided from a road on which the lot has 200 feet or more of frontage?
  - If your response to this question is yes, please explain the basis for such response and identify the provision(s) in the zoning bylaws which reference(s) such requirement.
- (c) Do the Granville Zoning Bylaws require that a bridge be designed and/or built over water that runs along 200 feet of a lot's frontage road when primary access to such lot will be had via a driveway off of a road on which the lot does not have 200 feet or more of frontage.
  - If your response to this question is yes, please explain the basis for your response and identify the provision(s) in the zoning bylaws which reference(s) such requirement.

17. On or about August 5, 2021, the Respondent issued a formal determination pursuant to his authority under Mass. Gen. L. c. 40A, §7 (“Decision”). See Decision, attached hereto as **Exhibit G**.

18. In his Decision, the Respondent addressed each of the questions asked as follows, in pertinent part:

Question 1:

Do the Granville Zoning Bylaws prohibit common driveways?

Response:

Yes, the Granville Zoning Bylaws do prohibit common driveways.

The Town of Granville Zoning Bylaw (“Zoning Bylaw”), §3.1, Agricultural-Residential District, states:

No structure or land shall hereafter be used or occupied, and no structure shall hereafter be erected, maintained or altered unless in conformity with the regulations for an Agricultural-Residential District.

§§ 3.1 to 3.4 do not allow a common driveway use in the Agricultural-Residential District. It is permissible for a zoning by-law to state what is permitted and then prohibit all other uses that are not enumerated (i.e., a so-called “prohibitory by-law” which is what §3.1 does). [Omitted.] In my opinion and that of legal counsel, the Town has a prohibitory zoning by-law because it states that under Zoning Bylaw §3.1 that “no ... land shall hereafter be used ... unless in conformity with the regulations for an Agricultural-Residential District” and then enumerates, under Zoning Bylaw §§3.2 to 3.4, what uses are allowed (or allowed by special permit) in the Agricultural-Residential District. The uses allowed do not include a common driveway use and so such a use cannot be allowed.

Question 2:

Do the Granville Zoning Bylaws require that access to an ANR lot be provided from a road on which the lot has 200 feet or more of frontage?

Response:

Lot 2 (132 Hartland Hollow Road) has 200’ of frontage on Hartland Hollow Road and has only 20’± of frontage on Crest Lane. Therefore, access off of Crest Lane

is impossible as the Zoning Bylaw, §3.1 requires a 15 foot setback for driveways. Therefore, a driveway coming in off of Crest Lane cannot comply. A dimensional variance would be required.

Question 3:

Do the Granville Zoning Bylaws require that a bridge be designed and/or built over water that runs along 200 feet of a lot's frontage road when primary access to a [sic] such lot will be had via a driveway off of a road on which the lot does not have 200 feet or more of frontage.

Response:

Please see the response to your Question No. 2 above.

19. The Respondent's Decision bars Austin Audet from obtaining a building permit for Lot 2 so long as primary access to Lot 2 is had via a common driveway off of Crest Lane across Lot 4.

20. The Respondent's Decision is not grounded in a reasonable and straightforward interpretation of the Zoning Bylaws and is not supported by other applicable law.

21. The Respondent's Decision contradicts Granville's long-standing allowance of common driveways in Granville.

22. Common Driveways/Private Ways are the primary means of access to the following properties in Granville:

**Common Driveway/Private Road:                      Addresses Utilizing It:**

Common Driveway	321 Granby Road 323 Granby Road
(Un-named)	451 Main Road 449 Main Road
Dickinson Drive	23 Dickinson Drive 24 Dickinson Drive 32 Dickinson Drive 33 Dickinson Drive 42 Dickinson Drive 43 Dickinson Drive 48 Dickinson Drive

	49 Dickinson Drive 57 Dickinson Drive 62 Dickinson Drive 63 Dickinson Drive 73 Dickinson Drive
Common Driveway	384 Water Street 376 Water Street 368 Water Street
Johnson Street	354 South Lane 364 South Lane
Common Driveway	88 Crest Lane 96 Crest Lane
Common Driveway	203 North Lane 205 North Lane
Cooley Lake Road and Jay & Carol Drive	144 Granby Road 148 Granby Road 136 Granby Road 120 Granby Road 124 Granby Road 128 Granby Road 132 Granby Road

23. Austin Audet is aggrieved by the Decision of the Respondent.

24. The Respondent’s Decision is arbitrary and capricious, unreasonable, and not based upon legally tenable grounds.

**II. THE RESPONDENT’S INTERPRETATION OF THE ZONING BYLAWS IS ERRONEOUS**

**A. Respondent’s Ruling that Zoning Bylaws Prohibit Common Driveways**

**(1) The Respondent’s Ruling That Common Driveways Are Prohibited in Granville Because They Are Not Specifically Mentioned in Sections 3.1 through 3.4 of the Zoning By-Laws is Erroneous**

25. Respondent maintains that Sections 3.1 the Zoning By-Laws is “Prohibitory By-Law”.

26. Prohibitory By-Laws bar all uses which they do not specifically identify as allowed uses.

27. Respondent maintains that because Sections 3.1 through 3.4 of the Zoning Bylaws do not specifically allow common driveways common driveways are prohibited.

28. **Section 3.1** of the Zoning Bylaws, “Agricultural-Residential District”, states:

No structure or land shall hereafter be used or occupied and no structure shall hereafter be erected, maintained or altered unless in conformity with the regulations for an Agricultural-Residential District.

29. **Section 3.2** (“Permitted Uses”) states:

- 3.2.1) Farm and nursery, including the display and sale of natural products raised in the Town;
- 3.2.2) detached one-family dwelling;
- 3.2.3) Religious, educational or municipal use; and
- 3.2.4) Renting of rooms or furnishings of board for not more than four (4) persons in a dwelling regularly occupied for residential purposes.

30. **Section 3.3** (“Uses Permitted on Special Authorization”) specifies that the Board of Appeals “may in specific case after a public hearing with due notice given, authorize” the additional uses set forth in that Section “subject to appropriate conditions where such are deemed necessary to protect the neighborhood and Town.”

31. **Section 3.4** (Accessory Uses in Agricultural-Residential District”) “specifically” declares certain uses set forth in that Section “to be customary accessory uses within the meaning of this Bylaw...” These include specifications regarding such things as the use of a room/rooms for a home occupation, of premise or building thereon in connection with a resident’s trade, display of signs, and a limit on the percentage of the single-family dwelling or accessory building for accessory business uses.

32. Section 3.1 is not a “prohibitory by-law” which prohibits all other uses than those specifically enumerated. The Appeals Court has interpreted similar bylaws to Section 3.1 as *permissive*.

33. In Miles- Matthias v. Zoning Board of Appeals of Seekonk, 84 Mass. App. Ct. 778 (2014), the Appeals Court reversed the superior court’s determination that Section 4.1 of Seekonk’s Bylaws was prohibitive. That Bylaw provided, in pertinent part:

No structure or land shall be hereafter used and no structure or part thereof shall be erected, altered, or moved unless in conformity with the regulations herein specified for the district in which it is located, except as otherwise provided.

See Miles-Matthias, at 785. The Appeals Court found that such bylaw was permissive rather than prohibitive because it neither stated nor implied “that those uses not expressly allowed are prohibited”. Miles-Matthias, at 785. The Appeals Court contrasted that language with the Duxbury zoning bylaw in RHB Dev., Inc. v. Zoning Bd. Of Appeals of Duxbury, 5 LCR 166, 167 (1997), which stated, in pertinent part:

“[n]o building shall be erected or altered and no building, premises or land shall be used for any purpose or in any manner other than as permitted as set forth in [s]ection 402 [explicitly listing allowed uses.]”

Miles-Matthias, at 785.

34. Like Seekonk’s Section 4.1, Granville’s Section 3.1 does state “that those uses not expressly allowed are prohibited”.

35. Section 3.4 of the Granville Zoning Bylaws, which addresses accessory uses, is not prohibitory either. It contains no language from which one could conclude that accessory uses that are “not expressly allowed are prohibited”.

36. To the extent that common driveways are considered an accessory use, Section 3.4 does not prohibit them. See, Scotland Yard Ltd. Liability Partnership v. Uxbridge Zoning Board of Appeals, 2010 WL 2690532 (Mass. Land Court, 2010) (holding that common driveway was permissible accessory use under bylaw which did not specifically identify either single driveways or common driveways as permissible).



37. By the Respondents logic, driveways serving a single residence would be prohibited under the Granville Zoning Bylaws since they are not specifically allowed under such bylaws.

**(2) Respondent's Ruling That Common Driveways Are Prohibited in Granville Is Arbitrary and Capricious.**

38. There are numerous common driveways in use in the Agricultural-Residential District of Granville, including some on Crest Lane.

39. The Respondent's ruling places restrictions on Parcel 2 that Respondent and Granville officials have not placed on similar surrounding parcels in Granville. See Andrews v. Town of Amherst, 68 Mass. App. Ct. 365, 369 (2007), citing W.R. Grace & Co. -Conn. v. Boston, 56 Mass. App. Ct. 559, 570 (2002) ("To succeed in a challenge to a zoning enactment on the grounds of spot zoning or, in this case, reverse spot zoning, the plaintiffs must show that the affected parcel has been singled out for more restrictive treatment than surrounding land which is indistinguishable, thereby 'producing, without rational planning objectives, zoning classifications that fail to treat like properties in a uniform manner.'")

40. The Respondent's ruling that is inconsistent with Granville's zoning plan, violates principals of uniformity and is arbitrary and capricious. Compare, Schertzer v. City of Somerville, 345 Mass. 747, 752 (1963) (Condemning zoning amendment that changed the classification of a parcel from business to residential, at the instigation of citizens, as equally arbitrary and capricious and "violative of the principle of uniformity" as spot zoning.)

**B. Respondent's Ruling that Zoning Bylaws Require That Access to Lot 2 Must Be From Hartland Hollow Road Where Lot 2 Has Two Hundred Feet of Frontage and Cannot Be From Crest Lane Where it Does Not is Erroneous.**

41. Petitioner requested Respondent's ruling on the question of whether the "Granville Zoning Bylaws require that access to an ANR lot be provided from a road on which the lot has 200 feet or more of frontage".

42. Respondent did not answer with a “yes” or a “no” but his response makes clear that his ruling is that the driveway to Lot 2 cannot come off of Crest Lane.

43. Lot 2 has 200 feet of frontage on Hartland Hollow Road but does not have 200 feet of frontage on Crest Lane where its driveway access will originate.

44. There is nothing in the Zoning Bylaws which prohibits primary access to ANR lots from being via a driveway that connects to roads that have fewer than 200 feet of frontage.

45. Massachusetts precedent recognizes that ANR lots might be accessed from roads other than those upon which they have frontage required for ANR endorsement. See, Long Pond Estates, Ltd. v. Planning Board of Sturbridge, 406 Mass. 253 (1989) (holding that planning board exceeded its authority when it denied an ANR endorsement in case where lots met ANR frontage requirements but access to the lots might not be across that frontage).

46. Respondent determined that “access off of Crest Lane is impossible as the Zoning Bylaw, § 3.1<sup>1</sup> requires a 15-foot setback for driveways,” and the common driveway contemplated for Lot 2 only has plus or minus twenty feet of frontage on Crest Lane.

47. The driveway set back requirement of § 3.10, which references “Driveway setback-sideyard” is a requirement that driveways be set back 15 feet from lot boundaries including side yards. In the absence of a variance, § 3.10 requires that driveway edges be more than 15 feet from adjacent lots.

48. The driveway in issue meets that requirement.

49. As shown on the Access Way Plan (**Exhibit D**), the common driveway across Lot 4, which would provide access to Lot 2, is more than 15 feet from the adjacent lots which are shown as being owned respectively by the Puccios and the Brunelles.

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<sup>1</sup> Petitioner presumes that Respondent intended to reference Section 10 which addresses driveway set back’s rather than Section 1.

50. That the driveway may only be 20 feet wide at the point where it intersects Crest Lane is irrelevant to determining whether it meets the requirements of § 3.10. So long as its edges are more than 15 feet from adjacent properties, which they will be, it meets those requirements.

51. Further, Lot 4 over which the driveway to Lot 2 traverses has more than the required 200 feet of frontage on Crest Lane. Per the ANR Plan, it has 208.85' of frontage on Crest Lane.

**C. Respondent's Ruling that Zoning Bylaws Require That a Bridge Be Designed And Built to Provide Access to Lot 2 from Hartland Hollow Road is Erroneous**

52. Petitioner requested Respondent's ruling on the question of whether the "Granville Zoning Bylaws require that a bridge be designed and/or built over water that runs along 200 feet of a lot's frontage road when primary access to such lot will be had via a driveway off of a road on which the lot does not have 200 feet or more of frontage.

53. Respondent did not answer with a "yes" or a "no", but his response makes clear that his ruling is that such a bridge is required.

54. Lot 2 has 200 feet of frontage on Hartland Hollow Road and there is water that runs along that frontage, roughly parallel to it.

55. For the reasons stated in Section B, *supra*, the Respondent should have determined that there is no requirement to design or build a bridge.

56. Because the Zoning Bylaws do not prohibit access to ANR lots via roads on which they have less than 200 feet of frontage, neither Respondent nor any other town official can require that Petitioner build a bridge over water along Hartland Hollow Road in order to afford access from that road.

### **III. PRAYER FOR RELIEF**

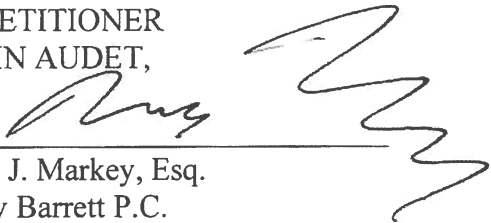
**WHEREFORE**, for the foregoing reasons, the petitioners respectfully request that the Granville Zoning Board of Appeals:

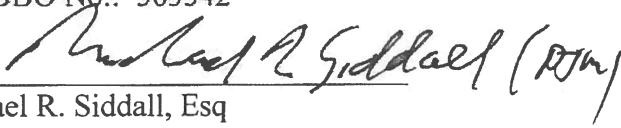
- A. Reverse all aspects of the Decision of the Respondent, Robert Sullivan, Building Commissioner for the Town of Granville;
- B. Vacate Respondent's ruling prohibiting common driveways, including the common driveway planned from Crest Lane for access to Lot 2;
- C. Order that the common driveway planned from Crest Lan for access to Lot 2 be allowed and that construction of the same may proceed;
- D. Vacate Respondent's ruling prohibiting primary access to Lot 2 via Crest Lane due to frontage and driveway setback requirements;
- E. Order that primary access to Lot 2 via Crest Lane be allowed;
- F. Vacate Respondent's ruling requiring that access to Lot 2 be had via Hartland Hollow Road which will require Audet to design and/or build a bridge over water on his lot which runs parallel to Hartland Hollow Road;
- G. Vacate Respondent's ruling to the extent that it requires that a bridge is needed to provide access to Lot 2 from Hartland Hollow Road.
- H. Order that Petitioner is not required to build a bridge from Hartland Hollow Road to Lot 2 for access purposes;
- I. Find that Respondent's rulings were erroneous, arbitrary and capricious;
- J. Find that Respondent exceeded his authority in rendering the said rulings; and

K. Order such other and further relief that the Zoning Board of Appeals deems just and appropriate under the circumstances.

Respectfully submitted,

THE PETITIONER  
AUSTIN AUDET,

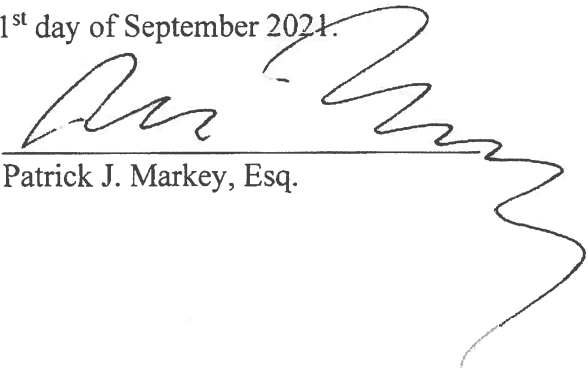
By   
Patrick J. Markey, Esq.  
Markey Barrett P.C.  
1 Monarch Place, Suite 830  
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Phone (413) 273-7362  
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By   
Michael R. Siddall, Esq  
Siddall & Siddall, PC  
1350 Main Street, Suite 210  
Springfield, MA 01103  
Phone: 413 732-3600  
BBO No. 556529

**CERTIFICATE OF SERVICE**

I, Patrick J. Markey, hereby certify that on September 1, 2021, I filed the foregoing original Notice of Appeal specifying the grounds for such appeal and one copy of the same on the Town Clerk for the Town of Granville plus 5 copies for the 5 members of the Zoning Board of Appeals, and one copy for the Town of Granville Building Commissioner.

Signed under the pains and penalties of perjury this 1<sup>st</sup> day of September 2021.

By   
Patrick J. Markey, Esq.

# EXHIBIT A

METROPOLITAN DISTRICT  
HARTFORD COUNTY, CONNECTICUT  
WATER BUREAU  
BOOK 1674 PAGE 178  
(SEE SURVEY BY DANIEL J. SOMES  
DATED JANUARY 1987)

ANTHONY C. NOVIAC  
BOOK 19097 PAGE 39  
PLAN BOOK 313 PAGE 67

DANIEL P. &  
ETRN C. O'BRIEN  
BOOK 19314 PAGE 60  
PLAN BOOK 323 PAGE 34

KELLY E. FITZROY &  
MARIA T. O'BRIEN  
BOOK 19314 PAGE 60  
PLAN BOOK 323 PAGE 113

GARY W. & JOANNE V.  
BOOK 19085 PAGE 242  
PLAN BOOK 253 PAGE 77

THOMAS A. & KAREN M. PUCCIO  
BOOK 17482 PAGE 51  
PLAN BOOK 350 PAGE 124

LOT 1  
579,970±SF  
13.314±AC

LOT 2  
787,888±SF  
18.089±AC

LOT 3  
481,450±SF  
9.671±AC

LOT 4  
800,265±SF  
15.340±AC

LOT 5  
599,708±SF  
9.176±AC

LEGEND  
IRON PIPE FOUND  
BOUND FOUND  
BOUND FOUND  
UP TO BE SET

PLAN OF LAND IN  
**GRANVILLE, MASSACHUSETTS**  
SUBMITTED FOR  
**JOHN T. & TRACY A. AUDET**

SCALE: 1" = 120'  
DATE: JULY 10, 2000

HERITAGE SURVEYS, INC.  
PROFESSIONAL SURVEYORS AND ENGINEERS  
241 COLLEGE HIGHWAY & CLARK STREET  
SOUTHAMPTON, MASSACHUSETTS  
(413) 527-2800

REGISTRY OF DEEDS  
HAMPTDEN COUNTY

PLANNING BOARD  
GRANVILLE, MASSACHUSETTS  
APPROVAL UNDER SUBDIVISION  
CONTROL LAW NOT REQUIRED  
DATE: JULY 10, 2000

TRACY A. AUDET  
JOHN T. AUDET

THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH THE  
RULES AND REGULATIONS OF THE REGISTER OF DEEDS, AND THE  
PROFESSIONAL AND ETHICAL STANDARDS OF THE BOARD OF  
SURVEYORS IN THE COMMONWEALTH OF MASSACHUSETTS.

DATE: REGISTERED LAND SURVEYOR

CAROLINE BONDUS REVOCABLE TRUST  
BOOK 10894 PAGE 200

NOTES:  
1. FOR REFERENCE TO ENCLOSED PERMITTER SEE BOOK 22504 PAGE 97.  
PLAN BOOK 168 PAGE 2

HARTLAND HOLLOW ROAD

CREST LANE

# EXHIBIT B



MASSACHUSETTS STATE EXCISE TAX  
HAMPDEN COUNTY REGISTRY OF DEEDS  
Date: 12-23-2020 @ 12:23pm  
Ct1#: 224 Doc#: 77657  
Fee: \$ .00 Cons: \$100.00

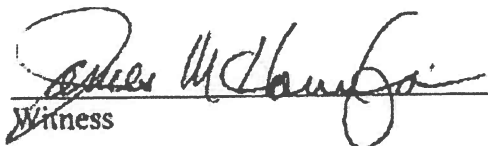
**WARRANTY DEED**

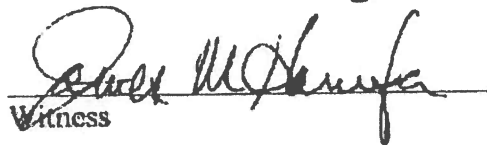
KNOW ALL PERSON BY THESE PRESENTS THAT John T. Audet and Tracy A. Audet of 360 Water Street, Granville, Hampden County, Massachusetts, in consideration of Less than One Hundred and 00/100 Dollars (\$100.00) paid, grant to Austin Audet of 360 Water Street, Granville, Hampden County, Massachusetts, with warranty covenants, the land in Granville, Hampden County, Massachusetts, being more particularly bounded and described as follows:

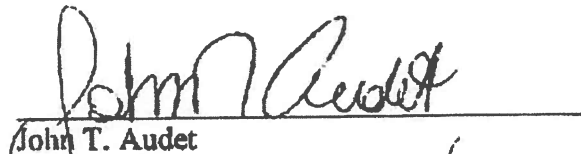
See Exhibit A attached hereto and incorporated herein.

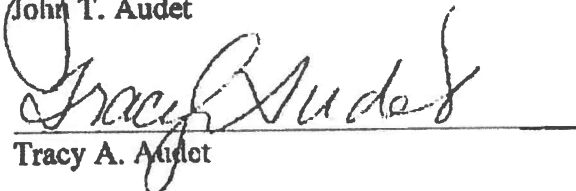
As per M.G.L. Chapter 188, sect. 13, the Grantors, under oath and subject to the pains and penalties of perjury, do hereby depose, state and certify that: (i) we release all rights of Homestead in the subject realty, (ii) that no spouse, non-owner spouse, former spouse, or any other person resides in the home, and (iii) at the time of delivery of this deed, no spouse, former spouse, or any other person is entitled to claim the benefit of an existing estate of homestead.

Witness our hands and seals this 24th day of September, 2020.

  
Witness

  
Witness

  
John T. Audet

  
Tracy A. Audet

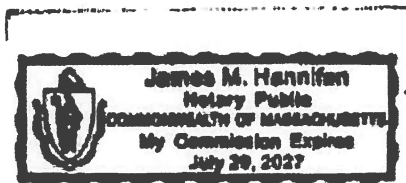
*No title examination was performed in connection with this transfer.*


Property address: Lot 2 Hartland Hollow Road, Granville, MA

Commonwealth of Massachusetts

HAMPDEN, ss.

On this 24th day of September, 2020, before me, the undersigned notary public, personally appeared John T. Audet, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  personal knowledge of the undersigned,  oath or affirmation of a credible witness, to be the person whose name is signed on the preceding or attached document, and who swore, subscribed and affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief and that he signed the document voluntarily for its stated purpose.

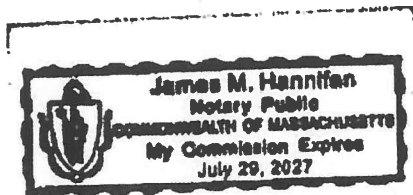


  
James M. Hannifan  
Notary Public  
My Commission Expires: 7/29/27

Commonwealth of Massachusetts

HAMPDEN, ss.

On this 24th day of September, 2020, before me, the undersigned notary public, personally appeared Tracy A. Audet, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  personal knowledge of the undersigned,  oath or affirmation of a credible witness, to be the person whose name is signed on the preceding or attached document, and who swore, subscribed and affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief and that she signed the document voluntarily for its stated purpose.




  
James M. Hannifan  
Notary Public  
My Commission Expires: 7/29/27

EXHIBIT A

The land on Hartland Hollow Road situated in Granville, Hampden County, Massachusetts known and designated as Lot No. 2 as shown on a plan entitled "Plan of Land in Granville, Massachusetts Surveyed for John T. & Tracy A. Audet", drawn by Heritage Surveys, Inc., Professional Surveyors and Engineers, dated July 6, 2020 and recorded in the Hampden County Registry of Deeds in Book of Plans 389, Page 69 to which plan reference is given for a more particular description (referred to herein as the "Premises").

Said Lot No. 2 consists of 18.089 acres, more or less, according to said plan.

Subject to a Declaration of Restrictive Covenants dated September 24, 2020 and recorded in the Hampden County Registry of Deeds in Book 23609, Page 87.

Together with and subject to an easement for all purposes for which roadways are commonly used, in common with the owner(s) of the other lots shown on said plan, over the easement areas shown on a plan entitled "Plan of Proposed Access Way Easement in Granville, Massachusetts Prepared for John T. & Tracy A. Audet", drawn by Heritage Surveys, Inc., Professional Surveyors and Engineers, dated August 6, 2020 and recorded in the Hampden County Registry of Deeds in Book of Plans 390, Page 2, for access and egress to Crest Lane and for the installation of water, sewer, drainage lines, and other utilities servicing said lots.

Being a portion of the premises conveyed to the Grantors by Warranty Deed of Robert E. Crochetiere and Priscilla K. Crochetiere dated December 3, 2018 and recorded in the Hampden County Registry of Deeds in Book 22509, Page 87. See also Corrective Warranty Deed dated March 29, 2019 and recorded in said Registry of Deeds in Book 22607, Page 375.

# EXHIBIT C

TO: John Audet  
360 Water St.  
Granville, MA 01034

From: Richard Pierce, chair  
Granville Planning Board

Date: July 12, 2020

Re: ANR Endorsement of Plot Plan reviewed on July 6, 2020

Reference: Online Assessors Map #12, Lots 56 & 58  
139 Crest Lane (formerly Crochetiere)  
property of John & Tracy Audet

John,

At its' regular Planning Board meeting on July 6, 2020, the Board endorsed the latest plot plan for your property with frontage on Hartland Hollow Rd., dated July 6, 2020

Since the plan shows 5 lots with 200' or more of frontage on Hartland Hollow Rd. and since each lot contains more than 1 acre of land, the plan qualifies for ANR endorsement. The issue of access was a question mentioned in our previous denial. In the interest of expediting a decision on the most recent plan, a site visit was made by a member of the Planning Board to the Hartland Hollow frontage. It is the **inexpert** opinion of this member that the frontage is not "illusory", albeit challenging as access. If a further evaluation of the nature of the access is required, we will need to consult with professional engineers for an expert assessment. This inexpert observation was made harder by the fact that there are no clear markers or flagging to mark the boundaries of the property or the divisions between the 5 lots.

The plan presented at the July 6, 2020 meeting shows a common driveway giving access to all 5 lots from Crest Lane. **The ANR endorsement does NOT signify approval of the common driveway.** In fact, as has been discussed at previous meetings with you and your family, the Zoning Bylaws of the Town Granville do NOT allow common driveways. This statement is based on the opinion of the Town Attorney. This information was conveyed to your attorney, Mr. Siddell, and your 2 sons present at the 7/6/20 meeting. I am taking this opportunity to inform you directly as the owner of the property.

Mr. Siddell implied that he believed that the Planning Board has the right to waive sections of the Zoning Bylaw if the Board decides to. In this case, a waiver of the driveway setback bylaw would be required at a minimum. My personal impression is that the Board may not waive any Bylaws. However, since I am not positive of that, I will send a request for a legal opinion to our Town Attorney. I am quite certain that, if allowed at all, there are significant limitations on that power and I need to be certain of any action that we or other Town Boards may take. I will inform you when we have a reply to that inquiry.

Sincerely,

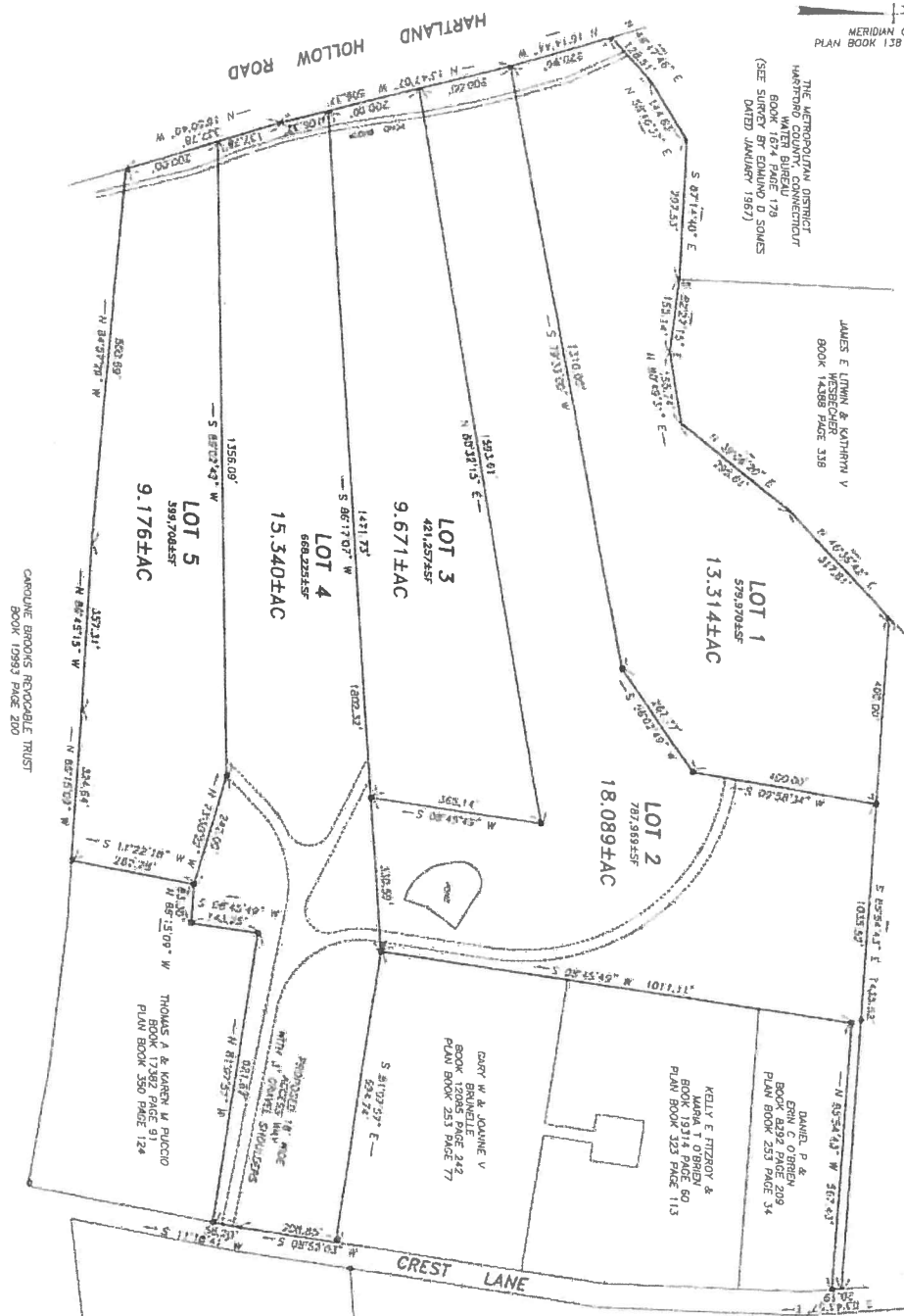
Richard Pierce

Cc: Matt Streeter, Town Administrator; Donna Fillion, Town & Assessors Clerk; Bob Sullivan, Building Inspector; members of the Planning Board.

THE METROPOLITAN DISTRICT  
HARTFORD COUNTY, CONNECTICUT  
BOOK 1674 PAGE 178  
(SEE SURVEY BY EDWARD D. SOWLES  
DATED JANUARY 1967)

JAMES E. LUTINA & DAUGHTERS  
LUTINA & DAUGHTERS  
BOOK 1438B PAGE 318

ANTHONY C. NOJAK  
BOOK 1887 PAGE 384  
PLAN BOOK 31D PAGE 87



**LEGEND**

- IRON PILE FOUND
- IRON BAR FOUND
- BOUND POINT
- IP TO BE SET

THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH THE  
RULES AND REGULATIONS OF THE REGISTERS OF DEEDS, AND THE  
PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND  
SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS

*John T. & Tracy A. Audet*  
REGISTERED LAND SURVEYOR

NOTES:  
1. FOR REFERENCE TO ENCLOSED PERIMETER SEE BOOK 2250B PAGE 87.  
PLAN BOOK 18B PAGE 2.

PLANNING BOARD  
GRAVILLI, MASSACHUSETTS  
APPROVAL, LUMBER SUBDIVISION  
CONTROL LAW NOT REQUIRED  
DATE July 6, 2020  
*John T. Audet*  
*Tracy A. Audet*  
*David P. Audet*

REGISTRY OF DEEDS  
HARTFORD COUNTY  
JULY 6, 2020  
*John T. Audet*  
*Tracy A. Audet*  
John T. & Tracy A. Audet

PLAN OF LAND IN  
GRAVILLI, MASSACHUSETTS  
SURVEYED FOR  
JOHN T. & TRACY A. AUDET

SCALE: 1" = 120'  
DATE: JULY 6, 2020

BERTRAC SURVEYS, INC.  
PROFESSIONAL SURVEYORS AND ENGINEERS  
241 COLLEGE HIGHWAY & CLARK STREET  
SOUTHAMPTON, MASSACHUSETTS  
(413) 527-3500

7811-182123



# EXHIBIT D



**DECLARATION OF RESTRICTIVE COVENANTS**

This Declaration of Restrictive Covenants is made this 24<sup>th</sup> day of September, 2020 by John T. Audet and Tracy A. Audet of 360 Water Street, Granville, Massachusetts 01034 (hereinafter referred to as the "Audets") and concerns certain real estate owned by the Audets known as Lots one (1) through five (5) (hereinafter referred to as the "Subdivision") as shown on a plan of lots entitled "Plan of Land in Granville, Massachusetts Surveyed for John T. & Tracy A. Audet", drawn by Heritage Surveys, Inc., Professional Surveyors and Engineers, dated July 6, 2020 and recorded in the Hampden County Registry of Deeds in Book of Plans 389, Page 69 (hereinafter referred to as the "Plan").

**WITNESSETH:**

WHEREAS, the Audets are the owners of the Subdivision by virtue of a Warranty Deed dated December 3, 2018 and recorded in the Hampden County Registry of Deeds in Book 22509, Page 87; and a Corrective Warranty Deed dated March 29, 2019 and recorded in said Registry of Deeds in Book 22607, Page 375; and

WHEREAS, the Audets intend to impose certain restrictions to provide for the orderly development of the Subdivision and for the benefit of themselves, their successors and assigns, and future owners of said lots.

NOW THEREFORE, the Audets hereby declare, provide and covenant as follows:

1. **Residential Use.** The lots in the Subdivision are for single-family, residential dwelling purposes only, but nothing herein shall be construed to prevent or prohibit the use of a portion of any residence for professional offices, or accessory business permitted under the Zoning Bylaws of the Town of Granville.
2. **Size.** A residential dwelling shall not have less than 1,500 square feet of living area. Basements, garages, breezeways, porches and decks shall not be included in the calculation of square footage to fulfill the above requirements.
3. **Setbacks and Obstructions.** Dwellings shall be set back from the front, side and rear lot lines in conformance with the requirements of the Zoning Bylaws of the Town of Granville.

No shrubbery shall be placed or maintained at any intersection located in the easement area described in Section 6 below so as to obstruct the view in a manner that endangers either motor vehicles or pedestrians.

4. **Temporary Residences.** No structure of a temporary character, trailer, tent, basement, shack, garage, barn or other outbuilding shall be used at any time as a residence, temporarily or permanently.

Re: 139 Crest Lane, Granville, Massachusetts  
Please note: Book 22607, Page 375

5. **Nuisances.** Except for purposes of construction of a permitted dwelling and outbuildings, no lot shall be used in whole or in part for the storage of rubbish or debris of any character whatsoever, nor the storage of any property or thing that will be obnoxious to the eye, nor shall any substance, thing or material be kept upon any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the owners of any other lots in the Subdivision. No obnoxious or offensive activity shall be carried on nor shall anything be done on any lot which may be or become a nuisance to the owners of any of the other lots in the Subdivision.

6. **Access Way Easement.** Each lot owner shall have an easement for all purposes for which roadways are commonly used, in common with the owner(s) of the other lots shown on said plan, over the easement areas shown on a plan entitled "Plan of Proposed Access Way Easement in Granville, Massachusetts Prepared for John T. & Tracy A. Audet", drawn by Heritage Surveys, Inc., Professional Surveyors and Engineers, dated August 6, 2020 and recorded in the Hampden County Registry of Deeds in Book of Plans 390, Page 2, for access and egress to Crest Lane and for the installation of water, sewer, drainage lines, and other utilities servicing said lots. Restoration of the easement area after installation, repair or replacement of such utilities shall be at the sole cost of the benefitting lot owner(s). No lot owner shall block or impede the use of the easement area by the other lot owners.

The owner(s) of each lot in the Subdivision shall pay one-fifth (1/5) of the annual cost of maintenance of and snow removal from the easement area. An account shall be established and maintained at a local financial institution selected by the lot owners for the deposit and disbursement of the funds. The owners of the lots in the Subdivision shall designate one or more of them to sign checks and withdrawals from said account. At the time of purchase of each lot the buyer(s) shall make an initial deposit of Five Hundred Dollars (\$500.00) to said account. Thereafter payments from lot owners of their one-fifth (1/5) share of such costs shall be due on or before March 1 of each year. All decisions concerning maintenance and snow removal shall be made by a majority of the lot owners, with no more than one (1) vote cast per lot.

In the event that any lot owner fails to pay his or her annual payment to the maintenance/snow removal account, the other lot owners, or any of them, shall have the right to institute an action in a court of competent jurisdiction sitting in Hampden County to collect all amounts due, with interest at the rate of twelve percent (12%) per annum from the date of demand of payment, together with court costs and reasonable attorney's fees.

7. **Maintenance.** Each lot, and any dwelling or other structure thereon, shall be maintained in a neat, clean and orderly manner and the lot owner(s) shall not permit any unsightly conditions to exist.

The provisions contained herein shall run with and bind the land and shall inure to the benefit of and be enforceable by any owner of land included within the above-described Subdivision, their respective legal representatives, successors and assigns.

If any lot owner or person in possession of any of said lots shall violate or attempt to violate any of the covenants herein, it shall be lawful for any other person, or persons, owning any real property situated in the Subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant, to either obtain injunctive relief to restrain or cause the removal of the violation, or to recover damages for such violation. The failure of any landowner to enforce any restrictions, conditions, covenants or agreement herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach or as to one occurring prior or subsequent thereto.

These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these Covenants are recorded after which time said Covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by a majority of the then owners of the lots has been recorded, agreeing to change said Covenants in whole or in part.

These Covenants shall be construed under the laws of the Commonwealth of Massachusetts. Invalidation of any one of these Covenants by judgment or court order shall in no manner affect any other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have caused these Covenants to be signed and sealed as of the date first written above.

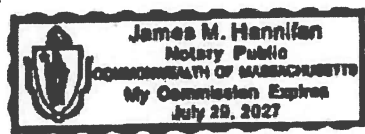
  
John T. Audet

  
Tracy A. Audet

Commonwealth of Massachusetts

HAMPDEN, ss.

On this 24th day of September, 2020, before me, the undersigned notary public, personally appeared John T. Audet, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  personal knowledge of the undersigned,  oath or affirmation of a credible witness, to be the person whose name is signed on the preceding or attached document, and who swore, subscribed and affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief and that he signed the document voluntarily for its stated purpose.

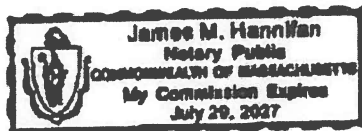


*James M. Hannifan*  
James M. Hannifan  
Notary Public  
My Commission Expires: 7/29/27

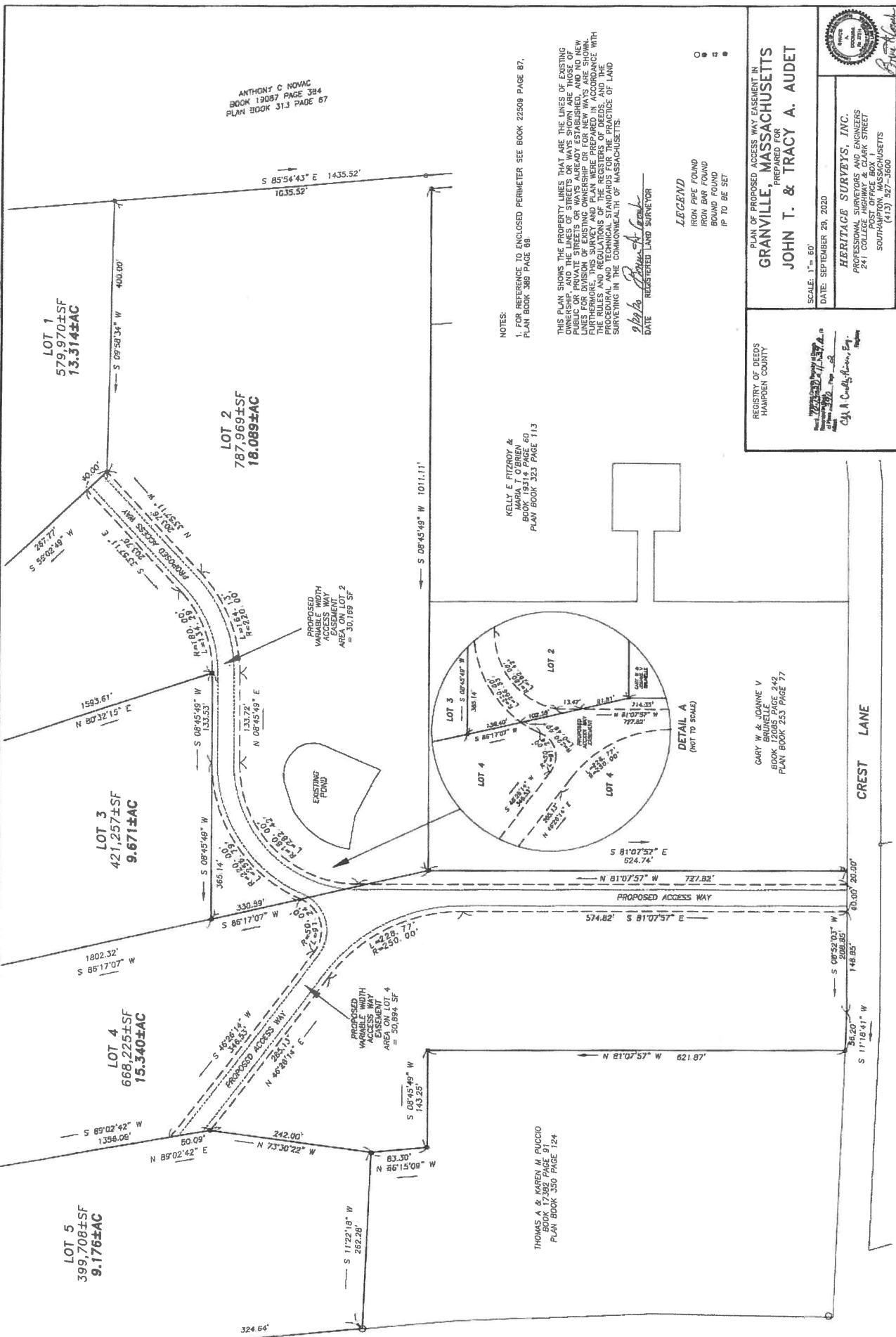
Commonwealth of Massachusetts

HAMPDEN, ss.

On this 24th day of September, 2020, before me, the undersigned notary public, personally appeared Tracy A. Audet, proved to me through satisfactory evidence of identification, which was  photographic identification with signature issued by a federal or state governmental agency,  personal knowledge of the undersigned,  oath or affirmation of a credible witness, to be the person whose name is signed on the preceding or attached document, and who swore, subscribed and affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief and that she signed the document voluntarily for its stated purpose.



*James M. Hannifan*  
James M. Hannifan  
Notary Public  
My Commission Expires: 7/29/27



ANTHONY C NOVAC  
BOOK 19087 PAGE 384  
PLAN BOOK 313 PAGE 67

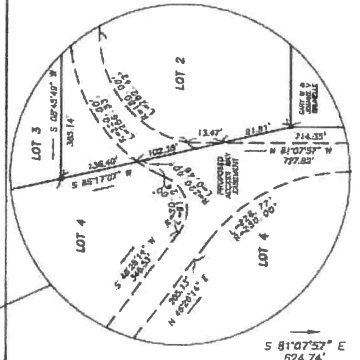
NOTES:  
1. FOR REFERENCE TO ENCLOSED PERIMETER SEE BOOK 22508 PAGE 87,  
PLAN BOOK 380 PAGE 88.

THIS PLAN SHOWS THE PROPERTY LINES THAT ARE THE LINES OF EXISTING  
STREETS OR WAYS SHOWN ARE THOSE OF  
PUBLIC OR PRIVATE RECORDS FOR  
LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.  
FURTHERMORE, THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH  
THE MASSACHUSETTS SURVEYING ACT AND THE MASSACHUSETTS  
PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND  
SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.

*John T. & Tracy A. Audet*  
DATE REGISTERED LAND SURVEYOR

LEGEND  
IRON PIPE FOUND  
IRON BAR FOUND  
BOUND FOUND  
IP TO BE SET

KELLY E FITZROY &  
MARA T O'BRIEN  
BOOK 19314 PAGE 60  
PLAN BOOK 323 PAGE 113



REGISTRY OF DEEDS  
HAMPSHIRE COUNTY

CARY W. & JOANNE V  
BRUNELLE  
BOOK 12085 PAGE 242  
PLAN BOOK 253 PAGE 77

PLAN OF PROPOSED ACCESS WAY EASEMENT IN  
GRANVILLE, MASSACHUSETTS  
PREPARED FOR  
JOHN T. & TRACY A. AUDET

SCALE: 1" = 60'  
DATE: SEPTEMBER 28, 2020

HERRITAGE SURVEYS, INC.  
PROFESSIONAL SURVEYORS AND ENGINEERS  
241 COLLEGE HIGHWAY & CLARK STREET  
SOUTHAMPTON, MASSACHUSETTS  
(413) 827-3600



# EXHIBIT E

BUILDING APPROVAL SHEET (BAS)

Your Name: Austin Audet Owner's Name: Austin Audet

Street Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

(Before you proceed any farther you must go to the Assessor's Office and secure a street address. The number should be visibly posted on the lot as soon as you start the building process. This street address is needed for electrical and phone service and for the Town's 911 service)

2015 Assessor's Map 12 Lot 58 (portion); Deed Book 23609 Page 168  
map 16 Lot 10 (portion)

Lot size 18.089 Liens Cleared: 61, 61A, 61B, CR, APR, Other

Plot Plan Approval from **Planning Board**; one signature needed: Approval good for three years

Richard N. Perry 05/05/2021  
Planning Board Signature Date

**Conservation Commission** Review of lot for Wetlands and Storm Water; two signatures needed; Approval good for three years:

Notice of Intent Required? Yes No  
Storm Water Plan on Site? Yes No

\_\_\_\_\_  
Signature Date Signature Date

**Percolation Test** Performed within last two years, or approved extensions of up to three additional years? Yes No

Percolation rate less than 20 minutes per inch? Yes No

\_\_\_\_\_  
Board of Health Administrator Signature Date

Board of Health Approval of percolation test, **Disposal Works Plan** and issuance of Disposal System Construction Permit; Signature of Board of Health Administrator required; System must be completed and Certificate of Compliance issued within three years:

\_\_\_\_\_  
BOH Adm. Signature Date

**Board of Health** Approval of Water Supply, Signature of BOH Adm. Required; Good for three years

\_\_\_\_\_  
BOH Adm. Signature Date

# EXHIBIT F





**MARKEY | BARRETT PC**  
ATTORNEYS AT LAW

Writer's Email: pmarkey@markeybarrett.com  
Writer's Telephone: (413) 273-7362

June 18, 2021

Robert Sullivan, Building Inspector  
Town of Granville Building Department  
707 Main Road  
P.O. Box 247  
Granville, MA 01034

VIA U.S Mail (regular and certified) and email

Re: Request for Zoning Interpretation/Austin Audet — 132 Hartland Hollow Road

Dear Mr. Sullivan:

We represent Austin Audet in connection with his anticipated application for a building permit to build on Lot 4, which is depicted in the plans attached hereto as Exhibit 1. Thank you for your courteous attention to Austin Audet and for the guidance that you have provided him to date. Working off of the Building Approval Sheet ("BAS"), which you provided to him, Austin Audet is obtaining the signatures which the Granville Building Department requires for building permits. To date, he has obtained the above referenced street address from the Assessor and has obtained signatures of the Planning Board and the Superintendent of Public Works. His request for a signature from a representative of the Conservation Commission is pending.

We write you, as the person charged under M.G.L. c. 40A, § 7 with responsibility for enforcing and interpreting zoning bylaws in Granville, to request your interpretation of the Granville Zoning Bylaws. Specifically, we request your guidance with respect to certain issues that have been raised by Granville officials regarding Austin Audet's anticipated building permit application.

As you know, Austin Audet intends to access lot 4 via a shared driveway off of Crest Lane. We seek your guidance with respect to three assertions that Granville officials have made regarding Austin Audet's building permit application. First, Austin Audet has been advised that the Granville Zoning Bylaws prohibit common driveways. We have reviewed those bylaws and find no provision in them which prohibits common driveways as a means of access to an otherwise buildable lot. Indeed, we see no reference to "common driveways" anywhere in the zoning bylaw. Second, it has been suggested that access to Austin Audet's lot must be had via the road on which it has frontage, namely Hartland Hollow Road. We see nothing in the Granville Zoning Bylaws which suggests that this is in fact the case. Third, it has been asserted that Austin Audet may be required to design and/or build a bridge over water on his lot which runs parallel to Hartland Hollow Road. We see nothing in the zoning bylaws which supports that assertion.

Accordingly, it is Austin Audet's position: (1) that common driveways are permitted under the Granville Zoning Bylaws; (2) that, under the Granville Zoning Bylaws, primary access

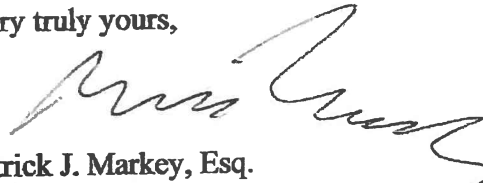
to an ANR lot may be had via a road other than the one on which it has 200 feet or more of frontage; and, (3) that when primary access to an ANR lot is off a road other than one on which it has 200 feet or more of frontage, bridges are not required in order to provide access via the frontage road.

Accordingly, we request your response to three questions involving the Granville Zoning Bylaws:

- (1) Do the Granville Zoning Bylaws prohibit common driveways?
  - If your response to this question is yes, please explain the basis for such response and identify the provision(s) in the zoning bylaws which prohibits common driveways.
- (2) Do the Granville Zoning Bylaws require that access to an ANR lot be provided from a road on which the lot has 200 feet or more of frontage?
  - If your response to this question is yes, please explain the basis for such response and identify the provision(s) in the zoning bylaws which reference(s) such requirement.
- (3) Do the Granville Zoning Bylaws require that a bridge be designed and/or built over water that runs along 200 feet of a lot's frontage road when primary access to a such lot will be had via a driveway off of a road on which the lot does not have 200 feet or more of frontage.
  - If your response to this question is yes, please explain the basis for your response and identify the provision(s) in the zoning bylaws which reference(s) such requirement.

We appreciate your consideration of these issues. Kindly render your decision within the 14 days stipulated by Mass. Gen. L. c. 40A, § 7.

Very truly yours,



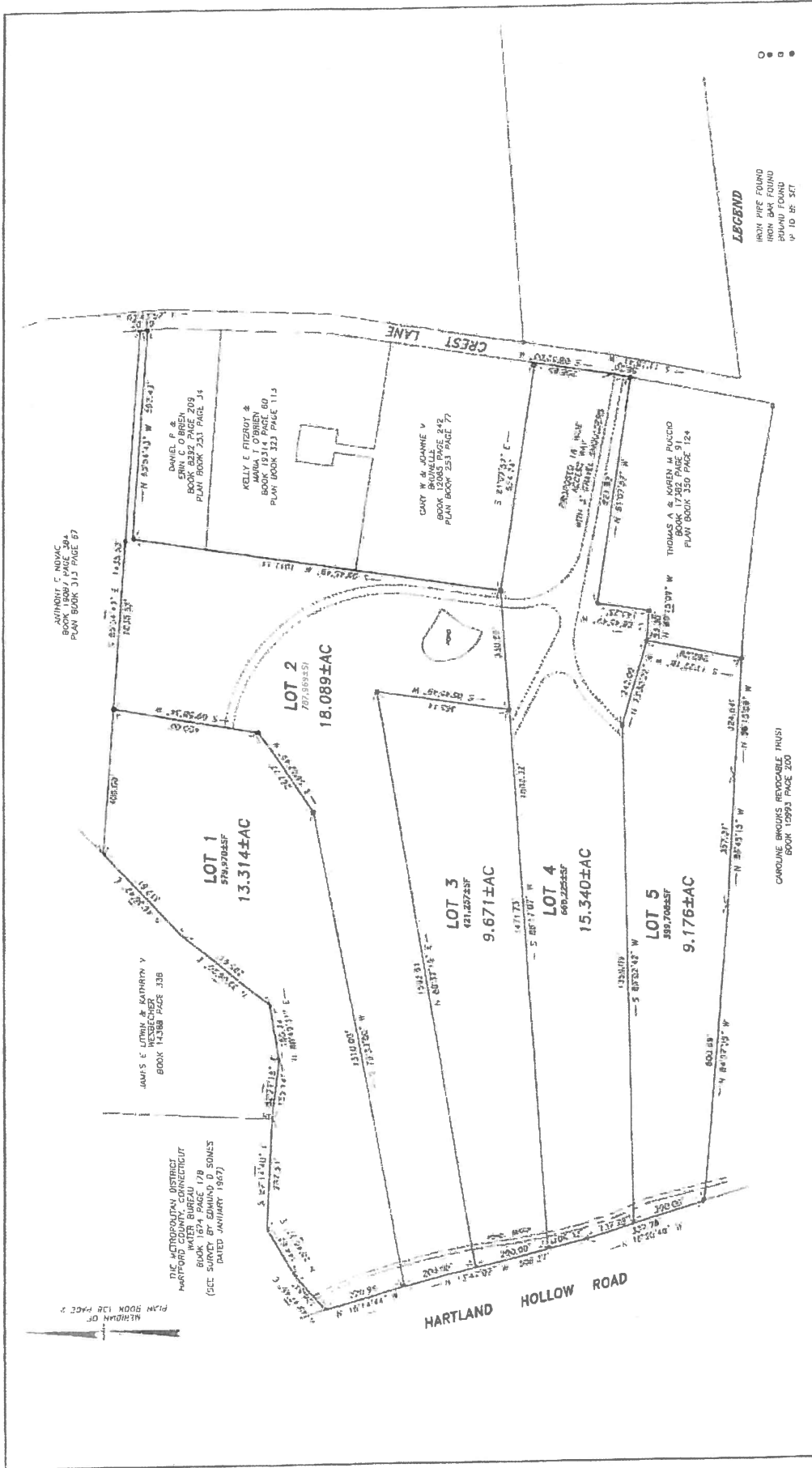
Patrick J. Markey, Esq.



Michael R. Siddall, Esq.

Enclosure

# EXHIBIT 1



PLAN OF LAND IN  
**GRANVILLE, MASSACHUSETTS**  
**JOHN T. & TRACY A. AUDET**

SCALE: 1" = 120'  
 DATE: JULY 6, 2020

HERITAGE SURVEYS, INC.  
 PROFESSIONAL SURVEYORS AND ENGINEERS  
 241 COLLEGE STREET, SUITE 200  
 SOUTHAMPTON, MASSACHUSETTS  
 (413) 327-3800

REGISTRY OF DEEDS  
 HAMPDEN COUNTY

PLANNING BOARD  
 GRANVILLE, MASSACHUSETTS  
 APPROVAL UNDER SUBDIVISION  
 CONTROL LAW NOT REQUIRED  
 DATE: JULY 6, 2020

NOTES:  
 1. FOR REFERENCE TO ENCLOSED PERIMETER SEE BOOK 22509 PAGE 87  
 PLAN BOOK 188 PAGE 2

THIS SURVEY AND PLAN WERE PREPARED IN ACCORDANCE WITH THE  
 RULES AND REGULATIONS OF THE REGISTER OF DEEDS, AND THE  
 PRACTICE OF THE REGISTER OF DEEDS IN GRANVILLE, MASSACHUSETTS.  
 THE SURVEYOR'S OFFICE IS GRANVILLE, MASSACHUSETTS.

REGISTERED LAND SURVEYOR

**LEGEND**

- IRON PIPE FOUND
- IRON BAR FOUND
- IRON FOUND
- ▽ IRON NAIL FOUND

CAROLINE BROOKS REVOCABLE TRUST  
 BOOK 19993 PAGE 220

AVINOHIT C. NOVAC  
 BOOK 15907 PAGE 20  
 PLAN BOOK 312 PAGE 87

JAMES E. LURIE & KATHRYN V.  
 BOOK 14388 PAGE 338

THE METROPOLITAN DISTRICT  
 HARTFORD COUNTY, CONNECTICUT  
 BOOK 1874 PAGE 178  
 (SEE SURVEY BY EDWARD D. BONES  
 DATED JANUARY 1967)

DANIEL F. &  
 ERIN C. O'BRIEN  
 BOOK 19314 PAGE 60  
 PLAN BOOK 233 PAGE 34

KELLY E. FITZROOT &  
 KELLY E. FITZROOT  
 BOOK 19314 PAGE 60  
 PLAN BOOK 323 PAGE 113

CARY W. & JOANNE V.  
 BRUNELLE  
 BOOK 19083 PAGE 49  
 PLAN BOOK 253 PAGE 77

THOMAS A. & KAREN H. PICCIO  
 BOOK 17282 PAGE 91  
 PLAN BOOK 350 PAGE 124



# EXHIBIT G



## TOWN OF GRANVILLE

707 Main Road  
P.O. Box 247  
Granville, MA 01034  
(413) 357-8585 (phone)  
(413) 357-6002 (fax)

### BUILDING DEPARTMENT

August 5, 2021

Patrick Markey Esq.  
Markey Barrett PC  
One Monarch Place, Suite 830  
Springfield, MA 01144  
**VIA EMAIL**

Dear Attorney Markey,

In response to your questions to your letter dated June 18, 2021 regarding a request for zoning interpretation at 132 Hartland Hollow Road:

(1) Do the Granville Zoning Bylaws prohibit common driveways?

- If your response to this question is yes, please explain the basis for such response and identify the provision(s) in the zoning bylaws which prohibits common driveways.

**Answer: Yes, the Granville Zoning Bylaws do prohibit common driveways.**

**The Town of Granville Zoning Bylaw ("Zoning Bylaw"), § 3.1, Agricultural-Residential District, states:**

**No structure or land shall hereafter be used or occupied and no structure shall hereafter be erected, maintained or altered unless in conformity with the regulations for an Agricultural-Residential District.**

**§§ 3.1 to 3.4 do not allow a common driveway use in the Agricultural-Residential District. It is permissible for a zoning by-law to state what is permitted and then prohibit all other uses that are not enumerated (i.e., a so-called "prohibitory by-law" which is what § 3.1 does). Building Inspector of Chelmsford v. Belleville, 342 Mass. 216 (1961). In my opinion and that of legal counsel, the Town has a prohibitory zoning by-law because it states that under Zoning Bylaw § 3.1 that "no ... land shall hereafter be used ... unless in conformity with the regulations for an Agricultural-Residential District" and then enumerates, under Zoning Bylaw §§ 3.2 to 3.4, what uses are allowed (or allowed by special permit) in the Agricultural-Residential District. The uses allowed do not include a common driveway use and so such a use cannot be allowed.**

(2) Do the Granville Zoning Bylaws require that access to an ANR lot be provided from a road on which the lot has 200 feet or more of frontage?

- If your response to this question is yes, please explain the basis for such response and identify the provision(s) in the zoning bylaws which reference(s) such requirement.

**Answer: Lot 2 (132 Hartland Hollow Road) has 200' of frontage on Hartland Hollow Road and has only 20'± of frontage on Crest Lane. Therefore, access off of Crest Lane is impossible as the Zoning Bylaw, §3.1 requires a 15 foot setback for driveways. Therefore, a driveway coming in off of Crest Lane cannot comply. A dimensional variance would be required.**

(3) Do the Granville Zoning Bylaws require that a bridge be designed and/or built over water that runs along 200 feet of a lot's frontage road when primary access to a such lot will be had via a driveway off of a road on which the lot does not have 200 feet or more of frontage.

**Answer: Please the response to your Question No. 2 above.**

Please feel free to contact me if you have any further questions.

Robert Sullivan  
Building Commissioner