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NH SUPREME COURT

**THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH**

SUPREME COURT

ROCHESTER CITY COUNCIL

-v-

ROCHESTER ZBA & DONALD & BONNIE TOY

SUPREME COURT CASE NO.: 2017-0501

DONALD AND BONNIE TOY'S MEMORANDUM OF LAW IN LIEU OF BRIEF

FACTUAL BACKGROUND

Donald and Bonnie Toy are owners of a twenty-five unit Manufactured Housing Park on Old Dover Road in Rochester, New Hampshire known as Addison Estates. The park is in the Agricultural Zone and was originally approved in 2006. In 2015 the Toys acquired an abutting lot containing approximately 22 acres with the intention of expanding Addison Estates. A variance was necessary because the ordinance had been revised in 2014 and manufactured housing parks had been eliminated as a permitted use in the Agricultural Zone. The Toys applied for a variance which was granted on September 14, 2016, allowing them to create an additional 14 lots on the parcel. The Rochester City Council appealed the granting of the variance and the Superior Court, after hearing, upheld the Zoning Board of Adjustment's decision on July 18, 2017.

The sole issue raised by the City in its request for rehearing before the ZBA (which was denied) and in its request for reconsideration before the court was the failure of the Board to articulate in writing a finding of hardship relating to the proposed use of the property. A half-hearted effort was also made to discredit the Chairman of the Board for possible conflict of

interest, which the Court dispelled by noting that no objection was raised at either the variance hearing or the hearing on the Motion to Reconsider.

SUMMARY OF ARGUMENTS

- I. THERE IS NO REQUIREMENT IN THE STATUTES THAT THE ZONING BOARD'S FINDINGS OF FACT BE REDUCED TO WRITING.
- II. THE TRIAL COURT'S DECISION DENYING THE CITY'S REQUEST TO EXPAND THE RECORD WAS PROPER.
- III. THE COURT COULD REASONBLY FIND BY THE BALANCE OF PROBABILITIES THAT THE EVIDENCE BEFORE THE BOARD ESTABLISHED A HARDSHIP ARISING FROM THE UNIQUE NATURE OF THE LAND IN ITS RELATION TO SURROUNDING PROPERTIES.

ARGUMENTS

I. THERE IS NO REQUIREMENT IN THE STATUTE THAT THE FINDINGS OF THE ZBA BE REDUCED TO WRITING.

(a) The City seems to assume that the ZBA must articulate in writing each of its findings with respect to the five requirements for obtaining a variance (RSA 674:33). As the court has stated many times “the absence of findings, at least when there is no request therefore is not in and of itself error.” *Pappas v. City of Manchester Zoning Board of Adjustment*, 117 NH 622, 625 (1977). There was no such request in the instant case. The court has also stated that “The ZBA’s decision to grant a variance amounted to an implicit finding by the board that the Simplex factors were met.” *Thomas v. Town of Hooksett*, 153, NH 717, 724 (2006).

The ZBA had before it an application for a variance filed on behalf of the Toys by Chris Berry of Berry Surveying and Engineering (**Exhibit A**). The information provided included a summary of the five requirements for a variance and maps showing the location of the boundaries, wetlands and abutting properties. Each member of the board

had a copy. The same packet was presented to the Court at the time of hearing. The judge could see, as the ZBA members saw, the physical description of the lot including its narrow frontage, (74') pan handle type shape, abutting or nearby manufactured housing parks, wetlands and other challenging topographical features. The ZBA could easily conclude that given the size, shape, topographical features and location of the parcel, the proposed use as an expansion of an existing abutting park is a reasonable use. The physical evidence provided by Berry did not require written affirmation by the board.

II THE TRIAL COURT'S DECISION DENYING THE CITY'S REQUEST TO EXPAND THE RECORD WAS PROPER.

The City sought to expand the record for the purpose of impeaching one or more members of the ZBA. Specifically the City sought to expand the record by allowing testimony from non-board city officials regarding statements made by the ZBA Chairman at City Council meetings (of which he is also a member) prior to the Plaintiffs' hearing. An effort was made to qualify the statements as res gestae exceptions to the hearsay rule.

The City filed a second Motion to Expand the Record to allow evidence of statements made by the ZBA Chairman at a City Council meeting after the ZBA denied the City's request for rehearing. The court dealt with both requests by its order of March 10, 2017 noting that the City council was attempting to introduce into the record a new issue "one that was at no time raised in the proceedings below – and one which does nothing to clarify or explain or augment the record before the ZBA relating to the variance". The court properly ruled that its review is limited to the record before the ZBA and such other evidence as may be reviewed by the court. The ruling was consistent with prior rulings by this Court that "an appeal from a decision of the ZBA may not consider any ground for appeal that was not first presented to the ZBA by a

motion for rehearing” *McDonald v. Town of Effingham Zoning Board of Adjustment*, 152 N.H. 171, 174 (2005).

The court also ruled that the issues raised by the motions were not “core issues” as relates to the variance and that the record as submitted was sufficiently complete to provide a basis for the Board’s consideration and decision. *Pappas*, 117 N.H. at 625. The trial court then goes on to cite various cases which require the disclosure of a potential conflict at the earliest possible time so the local board can address it. *Taylor v. Town of Wakefield*, 158 NH 35, 38 (2008) (affirming superior court’s finding that a disqualification issue raised by motion for rehearing was the earliest possible time); *Fox v. Town of Greenland*, 151 NH 600, 604 (2004) (disqualification in administrative appeal must be made at the earliest possible time). The City Attorney in this case did not address the conflict issue at the original ZBA hearing although he was invited to do so and did not raise it in his rehearing request. The court properly exercised its discretion in refusing to expand the record to include matters never reviewed by the ZBA.

III THE COURT COULD REASONABLY FIND BY THE BALANCE OF PROBABILITIES THAT THE EVIDENCE BEFORE THE BOARD ESTABLISHED A HARDSHIP ARISING FROM THE UNIQUE NATURE OF THE LAND IN ITS RELATION TO SURROUNDING PROPERTIES.

As previously noted, the materials provided to the ZBA by Chris Berry of Berry Surveying and Engineering summarized the 5 points necessary to obtain a variance. Among the points cited by Berry in his discussion of the hardship requirement, he pointed out the parcel’s proximity to two existing parks, and a campground, the narrow (74’) frontage on Old Dover Road, the narrow “panhandle” strip (74+/-) extending from Old Dover Road to the developable area of the lot, the wetlands and topography, all of which was shown on his plans. He opined that the issue of narrow frontage would be

resolved by the proposed access through the existing park. All of the items cited by Berry described and confirmed the “special conditions” of the property which render the use for which the variance is sought reasonable. *Simplex Technologies v. Town of Newington*, 145 N.H. 727, 731-32.

In addition, Berry’s presentation noted that the location of the land was unique in its setting because of the existing manufactured housing park, the abutting campground and proximity to another manufactured housing park located approximately 500’ away in the City of Somersworth. *Vigneault v. Town of Hudson*, 151 N.H. 747 (2005). Berry (and the ZBA) properly concluded that the proposed use of the property meets the three requirements for a use variance hardship established in *Simplex*: **(a)** Berry addressed the question of whether the zoning ordinance as applied interferes with the Toys’ reasonable use of the property. *Simplex*, 145 N.H. 732-3; and *Harrington v. Town of Warner*, 152 N.H. 74 (2005). He described the existing “thriving business model” on the adjoining property and noted that “to develop the property as a single lot format...is incompatible with the abutting land uses **(b)** Berry concluded, as did the ZBA implicitly, that no fair and substantial relationship exists between the general purposes of the ordinance and the specific restriction on the property. This was apparent from the Berry presentation which noted that the area surrounding the Toy property included an abutting manufactured housing park, a campground and another manufactured housing park. The court noted that the proximity to existing manufactured housing parks is also a special condition that renders the property unique for purposes of a variance. The Court additionally noted that the ZBA could properly have concluded that there is no substantial relationship between the deletion of manufactured housing parks as a permitted use citywide and the

application of the ban to this particular property; (c) likewise the ZBA could conclude that the proposed use of the property would have no adverse impact on the public or private rights of others given the similarity of use of the neighboring properties.

The brief filed by the City demonstrates an astonishing lack of understanding of the court's responsibility on appeal of a ZBA decision. It cites the court's misconstruing of the "standard of deference", failure to find hardship and misconstrual of its obligations on appeal as rendering the court's decision erroneous. It totally overlooks the materials provided by Berry to the ZBA which were also reviewed by the Court in making its determination that the findings of the board of adjustment were lawful and reasonable. The brief sounds as though the trial court's decision was made in a vacuum and totally ignores the fact that the trial court's review is not to determine whether it agrees with the ZBA's findings, but to determine whether there is evidence upon which they could have been reasonably based." *Chester Rod & Gun Club v. Town of Chester*, 152 N.H. 577, 383 (2005) The remaining objections to the court's decision cited by the City i.e. substitution of judgment by the court, failure to address all causes of action and lack of evidence to support the court's decision are discussed above and merit no further comment.

CONCLUSION

The trial court reasonably found that the decision of the ZBA in granting the requested variance was reasonable and lawful. The court also found that the ZBA had before it evidence from which it could reasonably find that the zoning provision prohibiting the expansion of the Toys' park interferes with a proposed reasonable use of his property, that no fair and substantial relationship exists between the general purpose

of the zoning ordinance and the specific restriction on the property, and the proposed use would not injure the private rights of others. Therefore, the decision of the trial court should be AFFIRMED.

Respectfully submitted
DONALD TOY & BONNIE TOY
By their attorney

DONALD F. WHITTUM LAW OFFICE PLLC

Date: January 24, 2018

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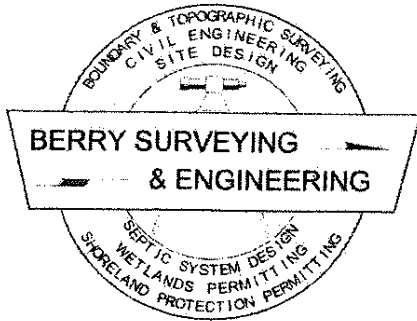
CERTIFICATION PURSUANT TO SUPREME COURT RULE 16(10)

I hereby certify that on January 24, 2018, I sent the foregoing Memorandum of Law in Lieu of Brief by mailing two copies thereof by first class mail, postage prepaid, to:

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City of Rochester
19 Wakefield Street
Rochester, NH 03867
Counsel for the Rochester City Council

Donald F. Whittum
Donald F. Whittum, Esq., Bar No. 2736

EXHIBIT A



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August 24, 2016

City of Rochester Zoning Board of Adjustment
Attention: Chairman Torr
31 Wakefield Street
Rochester, NH 03867

Re: Donald and Bonnie Toy
418 Old Dover Road
Tax Map 256, Lot 54-1
Rochester, NH

Mr. Chair and Members of the City of Rochester Zoning Board of Adjustments,

On behalf of Donald and Bonnie Toy, Berry Surveying & Engineering (BS&E) is filing an application for a variance on Tax Map 256, Lot 54-1, located off Old Dover Road nearly at the Somersworth line, to permit the expansion of a Manufactured Housing Park / Mobile Home Park, known as Addison Estates. The Manufactured Housing Park / Mobile Home Park "use" does not appear on Table 18-A, Residential Uses and therefore the applicant is seeking a Variance to this table of uses to allow the expansion of an existing Manufactured Housing Park / Mobile Home Park onto lot 54-1 using Chapter 43 Mobile Home Park Ordinance where its applicability is limited to parks established prior to April 22, 2014. The applicant would merge the parcels of land, so that the land would all be known as Lot 53, and all part of the current Addison Estates, as part of a Planning Board Review. Due to the fact that this is a non-conforming use within this zone, and the request is for the use to be expanded, the applicant also seeks a variance to Chapter 42-30 c.1, (Change in Nonconforming Property). This section states that a nonconforming condition may not be expanded...."except as specifically provided for in this section...."

Background, General Narrative & Proposal:

The Toys own and operate many Manufactured Housing Parks / Mobile Home Parks within the City of Rochester, and they provide quality and affordable places to live for people in their retirement years. Addison Estates is an age restricted park that is currently under construction. It was permitted a number of years ago, with great investment put into bringing public water to the project site, NHDOT improvements, along with required improvements within the park itself. The Toys have purchased the abutting land shown as lot 54-1, a parcel of land that is approximately 22 acres in size, which has a large amount of developable upland next to the existing Addison Estates. This housing stock and development style was removed from the Table of Uses and now, with increasing demand in this market age group, there is a void in affordable, simplistic age restricted housing.

BS&E has prepared a preliminary set of plans for the proposed project which would permit 14 Manufactured Housing Units, on a private roadway off Addison Estates, with private effluent disposal and public water supply as permitted under the Chapter 43 Mobile Home Park Ordinance. With the exception of the water supply, the entire project is proposed to be private to include trash pickup, road maintenance, and snow removal. The development style as described under the Chapter 43 Ordinance allows for 10,000 SF leasable lots, with smaller frontages. Due to the higher quality of housing stock that is proposed within this Park, the frontages are larger than the minimum required with many of the land areas proposed well over the minimum 10,000 Sq.Ft. The housing stock is proposed to be three

bedroom ranch style structures with two car garages, which mimics the development style in Addison Estates.

It is our assessment that this is a good application for this missing use from the Residential Uses Table 18-A, the primary reason being that it is an expansion of an existing high quality use located in the zone. The closest abutting property is Tax Map 255, Lot 40, which is commonly known as the Amazon Campground. The next parcel to the south is in Somersworth, NH and is an older style mobile home park use. Tax Map 256, Lot 54 is the next closest parcel to the proposed development, which has a structure under demolition much closer to Old Dover Road. Lot 55-1, which isn't an abutting parcel, only a parcel in close proximity, is used as a single family home which is over 300 feet from the proposed park use. Given the buffering off Old Dover Road, the subdivision now located on lot 61 will not be affected by this proposal, whereas the intensity of the proposed use is proposed to be off Old Dover Road by over 300 feet. Lot 60 contains a single manufactured housing unit, which is allowed within the AG zone, but will not be further impacted by this proposal due to the inherent buffering and limited access of the site. Lastly, the density proposed is far less than is purely allowed under the Chapter 43 ordinance, and far less than the density approved for the Athenan Drive subdivision, and fits the demand for a different housing stock.

With regard to Chapter 42-30 c. 1, it was our opinion that this paragraph was intended to describe the need for requests for variances for the specific use if not otherwise allowed for expansion within section 30. Meaning there could be instances within section 30 that would allow for the expansion of this nonconforming use, under a certain set of circumstances. In this case there are no such circumstances and therefore relief from the table, the mobile home park ordinance, and section 30 c. 1 are required.

Specific Variance Request & Criteria for Approval:

As noted on page 1, the request is a Variance to allow Manufactured Housing Park / Mobile Home Park, not found in Table 18-A, to be developed on Tax Map 256, Lot 54-1 utilizing the existing Zoning Ordinance Chapter 43 Mobile Home Park Ordinance. A request for Chapter 42.30 c. 1 is requested due to the sentence "except as specifically provided for in this section....". There are no other provisions under this section, and so relief is required.

1.) *"Granting the variance would not be contrary to the public interest."*

- a. The public interest is in creating higher quality housing developments which meet an increasing demand by our aging population. The proposal includes ranch style homes which contain two and three bedrooms, a one car garage, clean landscaping, in a well maintained development, with no impact on abutting land owners and little impact on municipal services. The expansion only better services the public while maintaining one cohesive management style and group.

2.) *"Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance"*

- a. The spirit of the ordinance allows for this style development, but they are required to be on their own individual lots, and not in a Manufactured Housing Park / Mobile Home Park, as omitted in the ordinance. The ordinance allows for a Conservation Subdivision within this zone which would allow for a larger density using smaller lot development, on which Manufactured Housing would be permitted. In this instance the applicant is looking to develop this as one cohesive park, under one common ownership style and management style, with leasable land, and user owned units. The Purpose and Intent of Chapter 43 is



".....to provide a healthful, safe, pleasant, and attractive residential atmosphere for their occupants, while at the same time being compatible with existing and anticipated future development in the surrounding areas.", however this attractive, pleasant quality of life can only be enjoyed in this format if it was created prior to 2014.

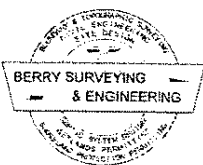
- b.** Under Chapter 42, Agricultural District (AG), where this use is specifically not listed, the objectives of this district are as follows:
- i.** "to preserve the rural character of outlying areas of the city. The district includes many sensitive ecological, agricultural, historic cultural and archaeological resources"
 1. Due to the open space style of design it is our assessment that this objective is met whereas it preserves uplands and wetlands on the property by utilizing the park format.
 - ii.** "maintain the area's natural and scenic qualities embodied in its forests and fields, wetlands, ponds and historic farmlands"
 1. Here again, the development style proposed maintains these characteristics as viewed from Old Dover Road, Whitehouse Road, and other abutting lands. This project is not proposing any direct impacts to wetlands, and preserves a larger track of land towards Whitehouse Road.
 - iii.** "Promote the preservation of open space;"
 1. See above. This project embodies the preservation of open space.
 - iv.** "Preserve existing farms and promote expansion of agricultural activity"
 1. This project is not proposed in an area of historic farmland and therefore is less applicable, however this housing stock and park style development has no less of an expansion of agricultural activity than a standard subdivision.
 - v.** "Permit the establishment of recreational, resort, and tourism facilities based upon natural and cultural recourses."
 1. This section has the same applicability as it would under traditional subdivision layout and design.

The deviation from allowing Manufactured Housing Units on their own individual lots to allowing them within a Manufactured Housing Park / Mobile Home Park, maintains the spirit of the ordinance, whereas it meets the intent of Chapter 43 and meets the intent of Chapter 42, for the AG Zone. The specific design standards found in Chapter 42 & 43 apply and are relevant, whereas the park design creates a sense of community, with the setbacks and buffering requirements being required under Chapter 42 & 43.

Chapter 42-30 c. 1 is written in a way which alludes to certain cases where expansions of nonconforming uses are allowed, however in this case there are no set of circumstances where this is allowed for the expansion of an existing Mobile Home Park. Deviation from this ordinance is consistent with the ordinance because it places the required rules and ordinances back into Chapter 43, the Mobile Home Park Ordinance, where a well-established set of rules exists that have been used equitably by land owners for many years, and is the base ordinance for which the existing park was established.

3.) "Granting the variance would do substantial justice."

- a.** The substantial justice would be to allow a long time business owner and land owner, to expand an existing non-conforming use onto a parcel of land that is well suited for the development, and meets the intent of ordinance. This use is being proposed in an area that already contains similar or compatible uses, and limits the age of the tenancy to a group of people that have an increasing demand for the housing stock. Substantial



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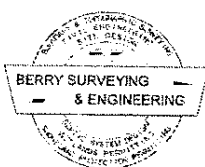
justice would be to grand the variance to Section 30. c. 1 and allow the expansion to take place under the applicable ordinance for the reasons stated above.

4.) *"Granting the variance will not result in diminution of surrounding property values"*

- a. Many of the surrounding properties are either like / equal uses or are vacant parcels of land. The few single family homes in the area are a large distance from the proposed use and have ample buffering. Additionally, age restricted housing is typically benign when discussing noise, or other nuisance factors associated with development. The values recognized in Addison Estates are on par with surrounding existing / used housing stock, with structures along valued between \$150,000 and \$180,000 with the land being assessed to the applicant for additional fee. There is little difference in end value between these homes and standard ranch style homes.

5.) *"Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:*

- a. *"The following special conditions of the property distinguish it from the other properties in the area:"*
- i. A special condition of this property it is that is vacant, adjacent to vacant parcels of land, and adjacent to an existing park. The unnecessary hardship would be to force the applicant to develop the property in a single lot format, which in itself is incompatible with the abutting land uses, and is not compatible with an existing, thriving business model, which generates large revenues for the City of Rochester for little to no impact on services. The special conditions of the developable zone in conjunction with the locations of the wetlands is a special condition which lends itself to the park style layout proposed which generates the open space and preservation discussed above.
 - ii. The condition of this property as it relates to section 30. c. 1., is that it abuts the existing park, and therefore expansion is organic, but not specifically allowed within this section. The hardship is that the ordinance is devoid of the ability to expand this high quality, style of development for which there is market demand.
- b. *" No fair and substantial relationship exists between the general purposes of the ordinance provision and the specific application of that provision to the property because:"*
- i. There is no fair and substantial justice found between the allowed use of a Manufactured Home on its own lot, and a unit being constructed in a park in this instance. If the parcel were larger, or flatter, or had less wetland area, the unit density allowed under Chapter 43 may generate a larger impact than proposed; however, this is a project that proposes an age restricted density that is reasonable to the total tract acreage.
 - ii. Section 30 offers no reasonable exceptions for expansion, and therefore there is no substantial relationship between the ordinance and this parcel of land due to its proximity to an existing Mobile Home Park permitted under the ordinance.
- c. *"The proposed use is a reasonable one because:"*
- i. It allows for the reasonable use of a developable parcel of land which has like uses in the immediate and abutting area, and is, in our opinion, consistent with RSA 674:32, I which says that *"Municipalities permitting manufactured housing parks, shall afford realistic opportunities for the development and expansion of manufactured and expansion of manufactured housing parks. In order to provide such realistic opportunities, lot size and overall density requirement for manufactures housing parks shall be reasonable."* In this case the use was formerly allowed and is an ongoing use in Addison Estates, and so it is



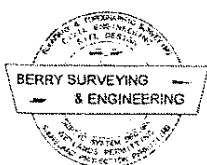
reasonable to expand under the Chapter 43 Ordinance, which provides for the reasonable density requirements.

- ii. It is reasonable to expect the availability of this use expansion under Chapter 42.30 whereas it discusses many other instances where nonconforming properties may be utilized and expanded. In this case no such exceptions is "specifically provided for" and it is therefore reasonable to request a variance to this section, for a reasonable expansion of an existing park, under common ownership, onto a parcel of land which is well suited for the development, causes no harm to any abutting values, abutting way of life, abutting health, and provides a housing stock in a market which will have increasing demand into the years to come.

Thank you for your time and attention to this these matters of allowing the use of a Mobile Home Park within the AG zone, and allowing the applicability of Chapter 43 for the expansion of an existing Mobile Home park and considering the expansion of this nonconforming use under Chapter 42.30 c. 1.

BERRY SURVEYING & ENGINEERING

Christopher R. Berry
Principal, President



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LOT MERGER & SUBDIVISION PLAN FOR DONALD & BONNIE TOY 418 OLD DOVER ROAD ROCHESTER, N.H. TAX MAP 256, LOT 53 & 54-1 ADDISON ESTATES PHASE II

REQUIRED PERMITS:

EPA GENERAL PERMIT NO. - 339P - TO BE ON FILE 3 WEEKS BEFORE CONSTRUCTION AND SHALL BE PROVIDED TO THE CITY OF ROCHESTER PRIOR TO THE PRE-CONSTRUCTION MEETING (CONTRACTOR/OWNER RESPONSIBILITY)

BERRY SURVEYING & ENGINEERING CAN PROVIDE THE PERMITS AND THE PLANS OF THE PROJECT WHICH IS REQUIRED BY THE EPA. A CAPABLE AND RESPONSIBLE PERSON IS TO DO ON-SITE EROSION CONTROL INSPECTIONS FOR THE PERIOD OF WHICH BERRY SURVEYING & ENGINEERING CAN PROVIDE THIS SERVICE IF REQUESTED.

A PRE-CONSTRUCTION MEETING IS REQUIRED BEFORE CONSTRUCTION ACTIVITIES TAKE PLACE. THESE PERMITS SHOULD INCLUDE THE COMPLETION RECORD, RECORD CONSTRUCTION, CONSTRUCTION MANAGER, CITY OF ROCHESTER, AND HEAD OF THE PLANNING DEPARTMENT OF DESIGN.

NOTE:

BERRY SURVEYING & ENGINEERING HAS PREPARED AN INSPECTION & MAINTENANCE MANUAL AS PART OF THIS PROJECT'S DOCUMENTATION. ALL USERS ARE BOUND TO THIS DOCUMENT AS PART OF THE APPROVAL OF THE PLANNING BOARD. COPIES OF THE YEARLY INSPECTIONS ARE TO BE DELIVERED TO THE CEO AS SPECIFIED IN THE MANUAL.

FOR THE DESIGN REVIEW SUBMISSION ONLY SHEETS 1, 6, 7, 12, 14, 15, 18 & 20
WALA PROVIDED ON THE 33 PAGE PLAN SET

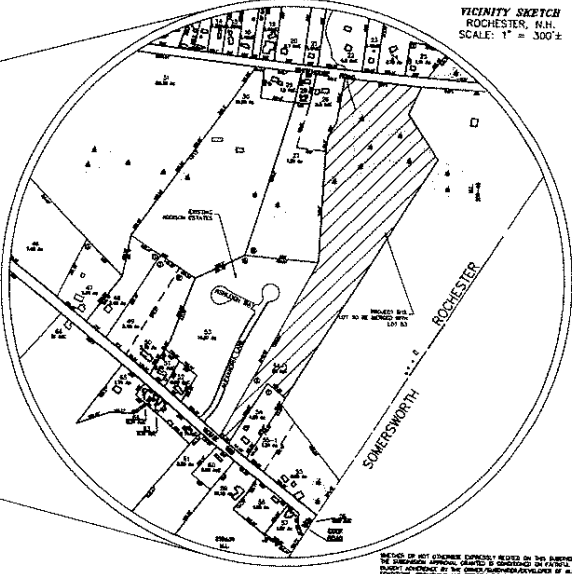
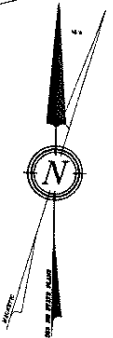
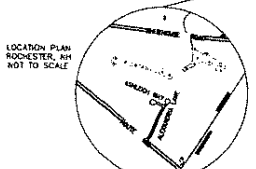
OWNER: DONALD & BONNIE TOY
15 BARNHURST DRIVE
ROCHESTER, NH 03067

DEVELOPER: DONALD & BONNIE TOY
15 BARNHURST DRIVE
ROCHESTER, NH 03067

SURVEYOR OF RECORD: HELENETH A. BERRY, P.E., LL.S.
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WETLAND SCIENTIST: STONEY RIDGE ENVIRONMENTAL
CONSULTING INC. (SRECI), CMAA, CHESIC
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ALTON, NH 03829
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REQUIRED PERMITS:

- 48001 DOWNGRADE PERMIT -
- 48002 SUBDIVISION
- US EPA HQ & SWPPP

PERAL APPROVAL
ROCHESTER PLANNING BOARD
CONVAYED BY: _____
DATE: _____

GENERAL PLAN SET NOTES:

- 1) 1/4" PLANS ARE HALF THE PUBLISHED SCALE.
- 2) ALL PLANS ARE CONSIDERED TO BE NOT FOR CONSTRUCTION UNLESS THEY CONTAIN THE APPROVAL STAMP OF THE CITY OF ROCHESTER.

THIS PLAN SET IS NOT TO BE CONSIDERED AS A BASIS FOR ANY OTHER PLAN. ANY OTHER PLAN THAT IS BASED ON THIS PLAN SET SHALL BE THE RESPONSIBILITY OF THE USER. THE CITY OF ROCHESTER AND BERRY SURVEYING & ENGINEERING ARE NOT RESPONSIBLE FOR ANY OTHER PLAN THAT IS BASED ON THIS PLAN SET. ANY OTHER PLAN THAT IS BASED ON THIS PLAN SET SHALL BE THE RESPONSIBILITY OF THE USER.

DESCRIPTION	DATE	REVISION

BERRY SURVEYING & ENGINEERING 335 CROWN POINT ROAD BARRINGTON, NH 03825 SCALE: 1" = 300' DATE: JUNE 15, 2016 FILE NO.: 15B-2016-123	LOT MERGER & SUBDIVISION ADDISON ESTATES PHASE II 418 OLD DOVER ROAD ROCHESTER, NH TAX MAP 256, LOT 53 & 54-1
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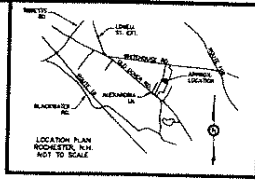


STONE RIDGE ENVIRONMENTAL, LLC
CHADY BALDWIN, CHS (#1)

ADDITIONAL NETWORKS WERE RELIANTLY BY CHADY BALDWIN OF STONE RIDGE ENVIRONMENTAL, LLC IN ACCORDANCE WITH THE FOLLOWING COMMENTS:

- 1) FIELD INDICATORS OF HAZARDOUS WASTE IN THE UNITED STATES, FEDERAL EA, 1981, U.S. NATIONAL LAW CENTER FOR ENVIRONMENTAL JUSTICE, UNITED STATES DEPARTMENT OF ENVIRONMENTAL, HEALTH, AND SAFETY, RESEARCH TRIANGLE PARK, NC, 27709-1219, 919-286-6100, WWW.NLEJ.ORG
- 2) FIELD INDICATORS FOR HAZARDOUS WASTE SITES IN NEW YORK STATE, 1995, NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, ALBANY, NY, 518-474-8200, WWW.DEC.STATE.NY.US
- 3) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 4) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 5) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 6) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 7) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 8) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 9) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
- 10) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV

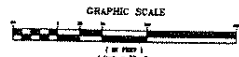
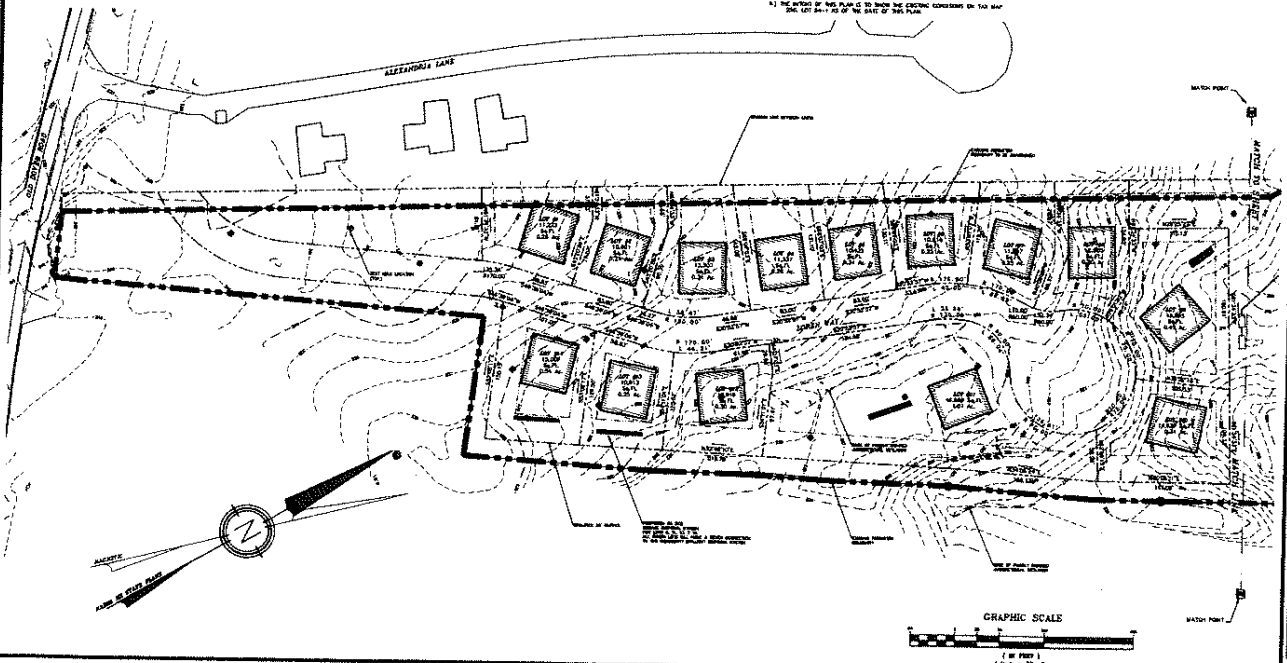
- NOTES:
- 1) OWNER: DONALD & ROSE, INC.
20 WILSON DRIVE
ROCKEFELLER, NY 13827-1345
 - 2) 1/4" MAP SCALE, LOT 104-11
 - 3) 1/4" MAP SCALE, 54 PL, 1000' W.
 - 4) SCALE: 1" = 400' (SEE PAGE 800)
 - 5) ZONING: HAZARDOUS WASTE TREATMENT, STORAGE & DISPOSAL (HWTSD)
 - 6) 1/4" MAP SCALE, 54 PL, 1000' W.
 - 7) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
 - 8) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
 - 9) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV
 - 10) HAZARDOUS WASTE SITES, FEDERAL HAZARDOUS WASTE PLANT LIST, 1998, U.S. ENVIRONMENTAL PROTECTION AGENCY, WASHINGTON, DC, 20460-0001, WWW.EPA.GOV

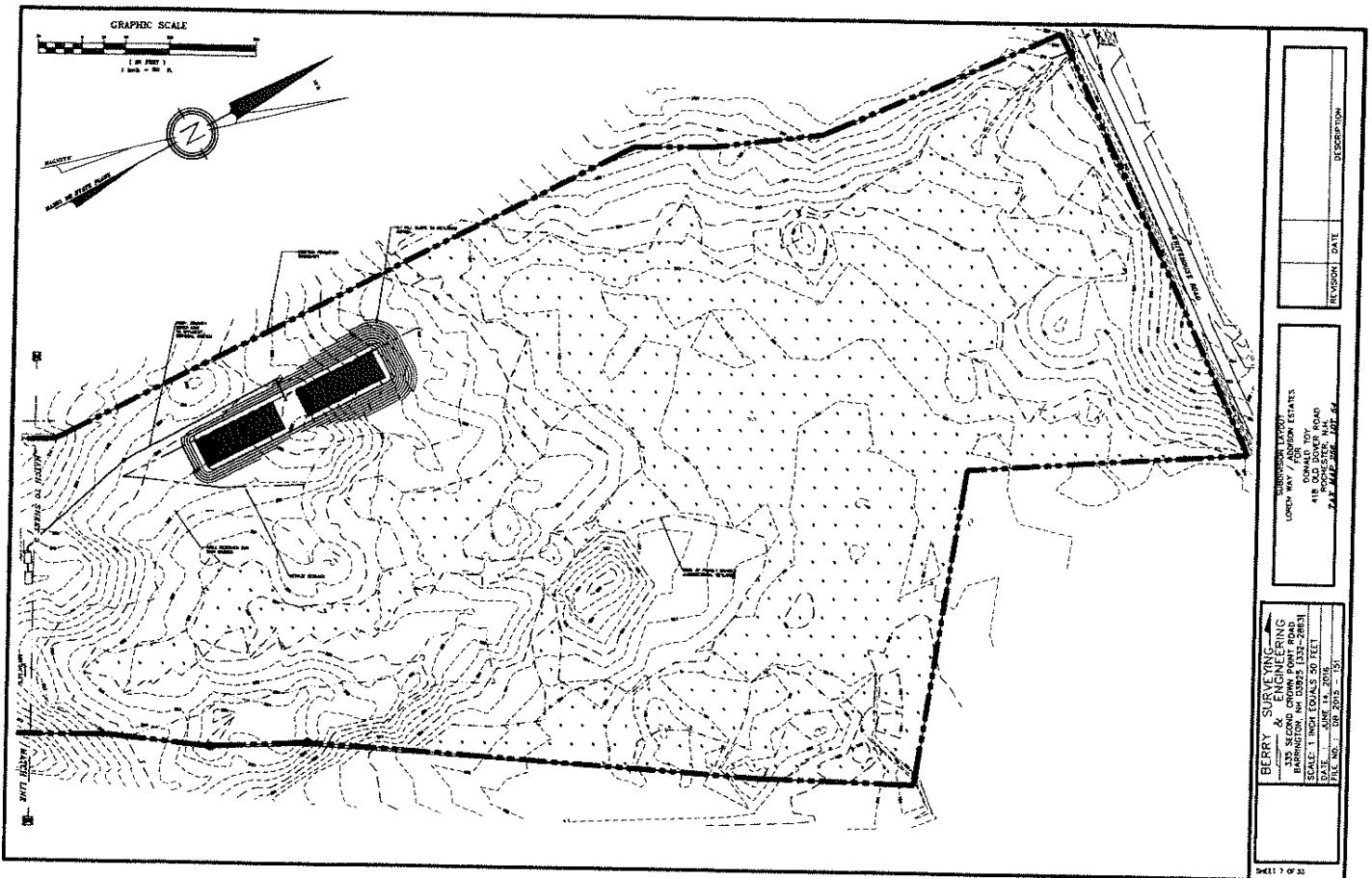


REVISION	DATE	DESCRIPTION

SUBDIVISION LAYOUT
LORCH WAY / ARROWHEAD ESTATES
DONALD & ROSE, INC.
418 ROCKEFELLER ROAD
ROCKEFELLER, NY 13827
P.L. MAP, 100' = 1" SEE P. 800 & 801

BERRY SURVEYING & ENGINEERING
2000 SECOND CROWN POINT ROAD
ROCKEFELLER, NY 13827
SCALE: 1" = 400' SEE P. 800 & 801
DATE: JUNE 15, 2018
FILE NO.: SB 2018 - 15

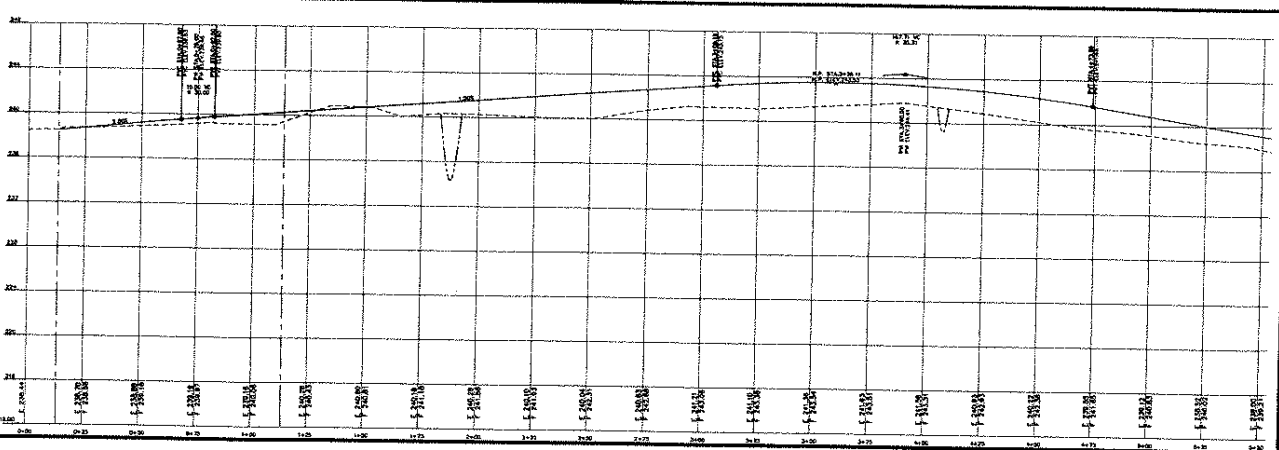
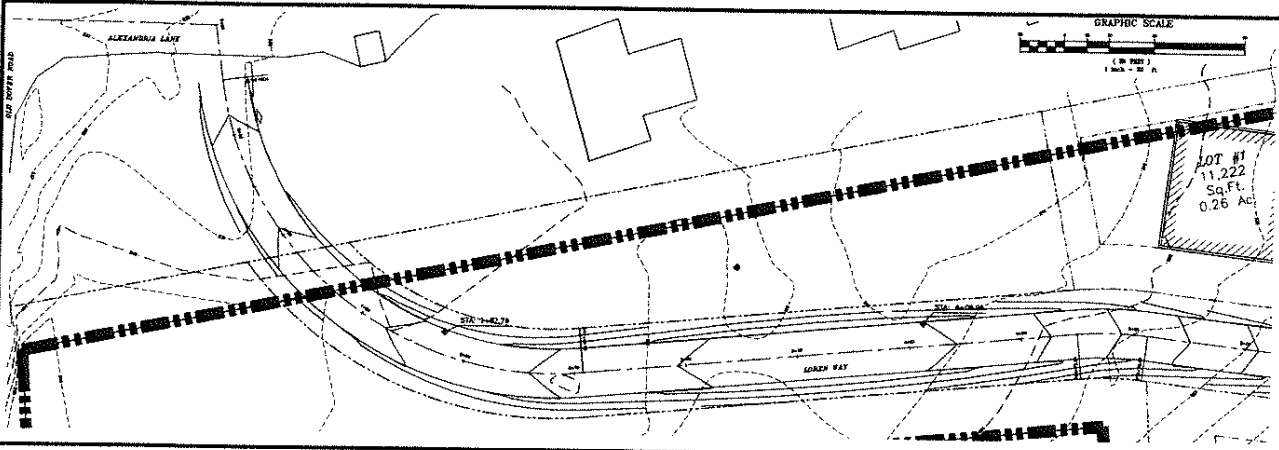




BERRY SURVIVAL & ENGINEERING
 335 SECOND CROSS POINT ROAD
 SUITE 100
 ROCKY HILL, CT 06151
 DATE: APR 14, 2018
 FILE NO.: DR 2018 - 151

SUBOWNER: LLOYD LONEY, WY / ANDSON ESTATES
 DONALD TOY
 418 ROCKY HILL ROAD
 ROCKY HILL, CT 06151
 FILE NO.: DR 2018 - 151

REVISION	DATE	DESCRIPTION



BERRY SURVEYING & ENGINEERING
 335 SECOND OCEAN POINT ROAD
 DARRINGTON, MD 20825 1532-2863
 SCALE: 1 INCH EQUALS 20 FEET
 FILE NO. DB 2013-015

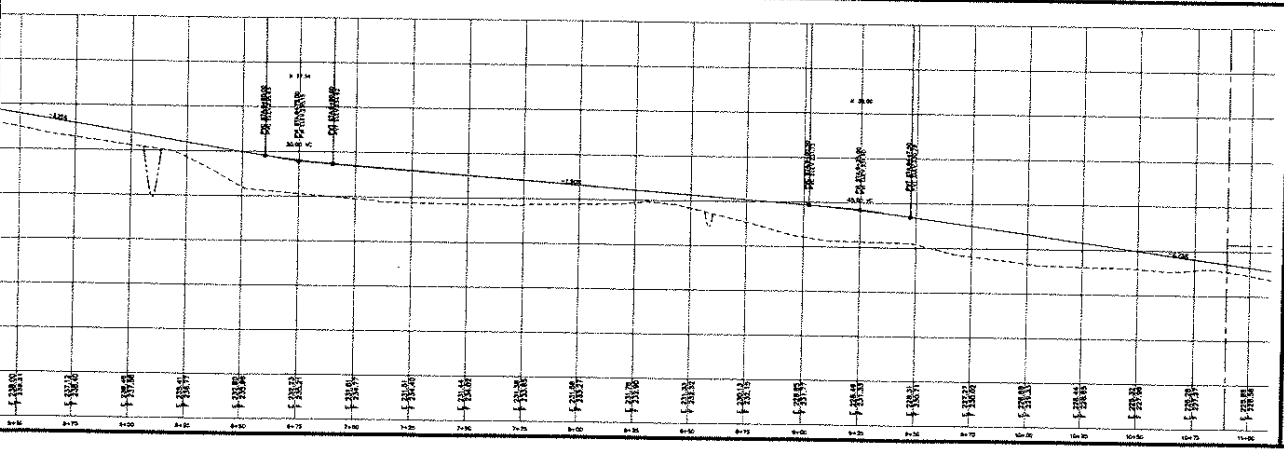
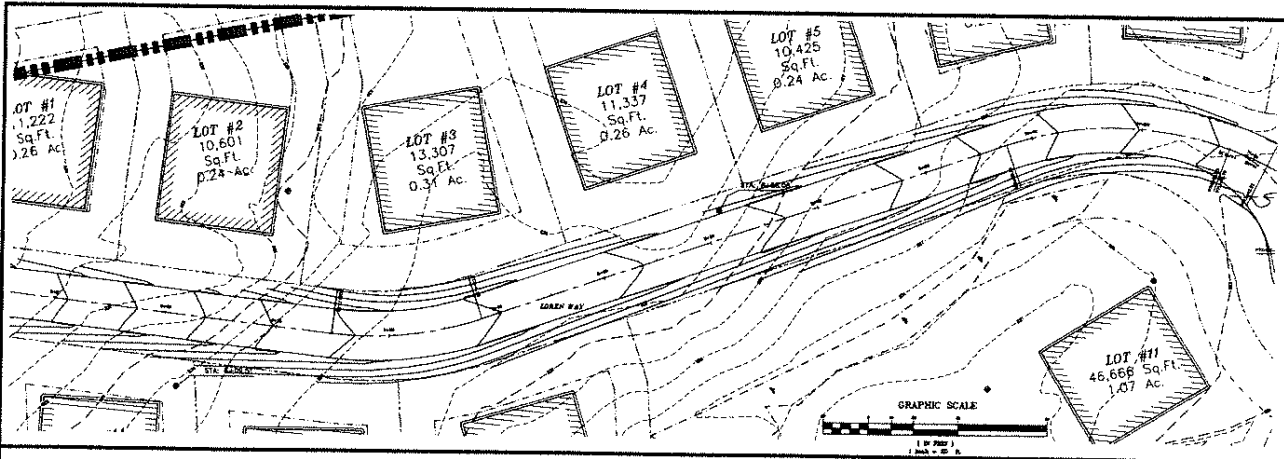
DESIGNED BY: BERRY
 PLAN & PICTALS: D-00-8-20
 DONALD TOY
 418 OLD DODD ROAD
 DARRINGTON, MD 20825
 FILE NO. DB 2013-015

REVISION	DATE	DESCRIPTION

LOT #1
 11,222
 Sq. Ft.
 0.26
 Ac.

GRAPHIC SCALE
 (IN FEET)
 0 10 20 30 40 50 60 70 80 90 100
 (IN METERS)
 0 10 20 30

DEET 13 OF 31



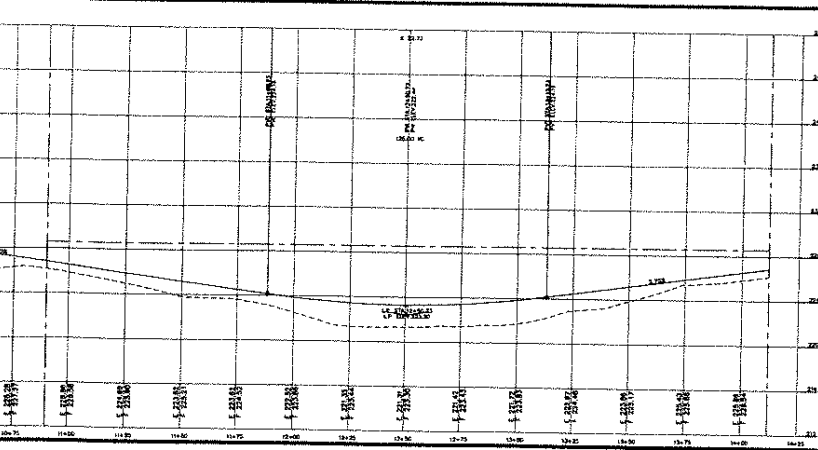
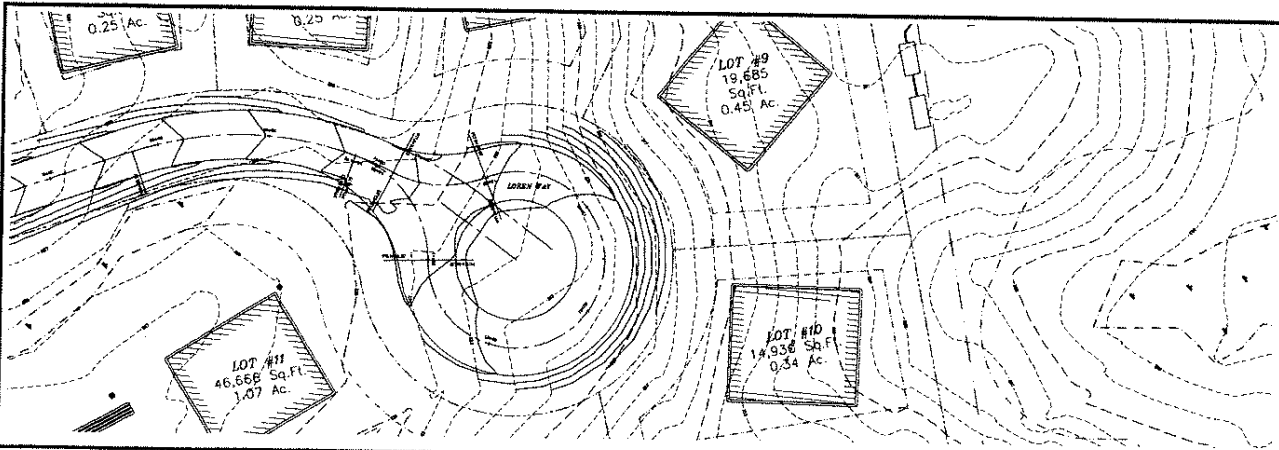
REVISION	DATE	DESCRIPTION

MANAGED BY: WARD
 PLAN & PROFILE: 2450-1480
 DONALD W. WARD
 418 ROCKY HILL ROAD
 ROCKY HILL, CT 06067
 TEL: 860.261.4444
 FAX: 860.261.4444

BERRY SURVEYING & ENGINEERING
 235 SEVEN CROWN POINT ROAD
 ROCKY HILL, CT 06067
 SCALE: 1" = 100' (1" = 30.48 m)
 DATE: APRIL 14, 2015
 FILE NO.: 09 2015 - 31



SCALE: 1" = 100' (1" = 30.48 m)



LOT #9
18,685
Sq. Ft.
0.43 AC.

LOT #10
14,938
Sq. Ft.
0.34 AC.

LOT #11
46,668
Sq. Ft.
1.07 AC.

0.25 AC

0.20 AC

LOBEN WAY

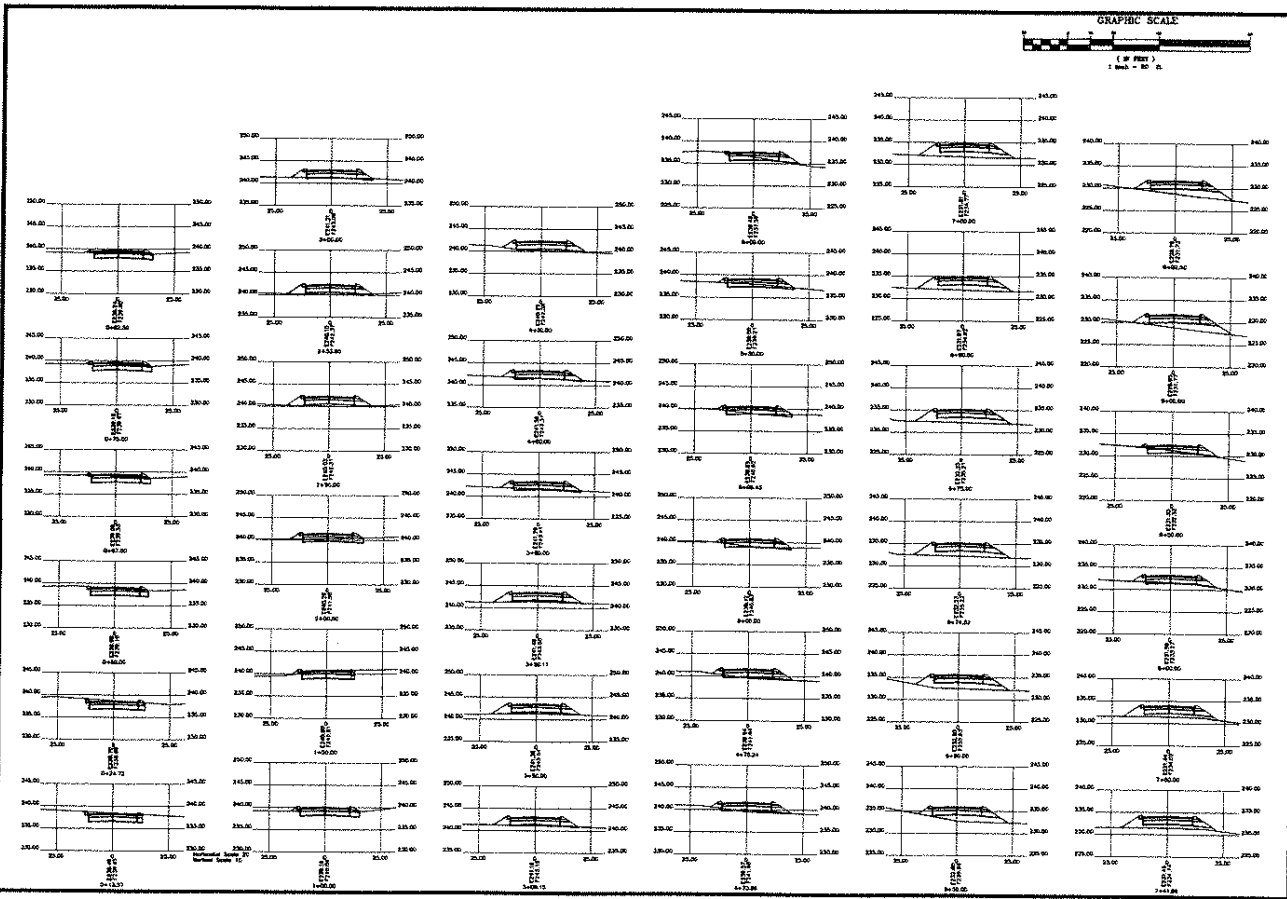
GRAPHIC SCALE
1" = 100'
1" = 200'

BERRY & SURVING INC.
335 SECOND DRIVE, WHITE RIDGE
WASHINGTON, NH 03091 (603) 238-3333
FAX: (603) 238-3333
FILE NO. BR 2015-151

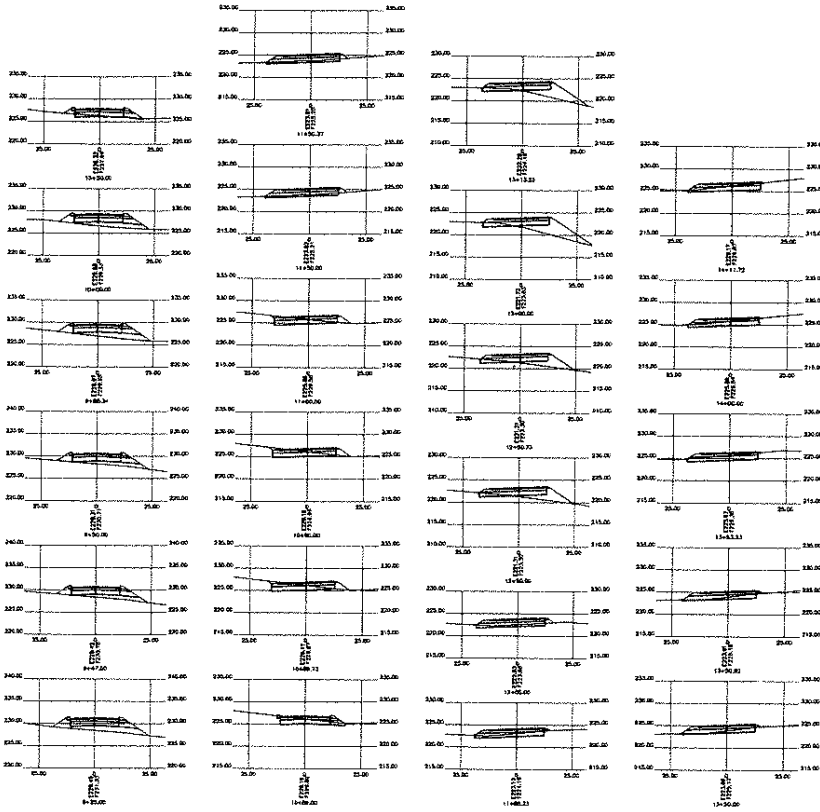
PLAN & PROFILE 15-00-COL-9C-SAC
418 OLD DRIVE ROAD
DOWNS, NH
2015 MAP 208 202 151 & 152

REVISION	DATE	DESCRIPTION

SHEET 15 OF 22



CROSS SECTIONS 0+00-9+00 DONALD TOY 4100 ROUTE 101, FARMINGTON, NH 03035 (330-2983) SCALE: 1"=40' (HORIZ), 2"=1' (VERT) FILE NO. 101-2013-0151		REVISION DATE DESCRIPTION
BERRY SURVEYING & ENGINEERING 335 SECOND GROWN POINT ROAD BARRINGTON, NH 03025 (330-2983) SCALE: 1"=40' (HORIZ), 2"=1' (VERT) FILE NO. 101-2013-0151		



REVISION	DATE	DESCRIPTION

CROSS SECTIONS 14+25'-END
 ROAD NO. 401
 4TH OLD DRIVER ROAD
 1/14/2011
 FILE NO. 2011-001-03

BERRY & SURVEYING
 325 SECOND COUNTRYPARK
 BARRINGTON, NH 03825 (603-265-1000)
 SCALE: 1" = 40' HORIZONTAL
 DATE: 1/14/2011
 FILE NO.: 2011-001-03

1/14/2011