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APR 06 2005

STATE OF NEW HAMPSHIRE
WATER COUNCIL

IN RE: WETLANDS FILE #2004-02265 05-06 WC
RALPH D. BOOTH AND BETSY J. BOOTH

NOTICE OF APPEAL

NOW COME, Petitioners, Ralph D. Booth and Betsy J. Booth, of 294 Sewall Road, Wolfeboro, NH 03894, by and through their attorney, Attorney Regina A. Nadeau, of Normandin, Cheney & O'Neil, PLLC, and appeal the March 15, 2005 Decision of the N.H. Department of Environmental Services ("NHDES") to deny Petitioners' Request for a Shoreland Protection Act Waiver, and in support thereof, state as follows:

I.
JURISDICTION

N.H. RSA 483-B:14 provides that where requirements of this Chapter are new and do not amend existing statutory authority relative to any established regulatory programs, the procedure set forth in N.H. RSA 541-A:31 for contested cases shall apply. The New Hampshire Department of Environmental Services has interpreted this language to indicate that because the Department's decision solely pertains to the Shoreland Protection Act and no other issues within the jurisdiction of the Wetlands Bureau, the proper venue for appeals is the Water Council.

II.
LOCATION OF PROPERTY

The Petitioners' property is situated at Sewall Road on Lake Winnipesaukee in the Town of Wolfeboro, County of Carroll and State of New Hampshire.

III.
DECISION APPEALED

The Petitioners appeal the March 15, 2005 Decision of the Department to deny their request to grant

a waiver in accordance with the provisions of N.H. RSA 483-B:11, II, which authorizes the Commissioner to grant waivers for the replacement of non-conforming structures within the shoreland setback, under certain conditions.

IV.
DESCRIPTION OF PROPOSAL

The Petitioners proposed removing an existing non-conforming structure and replacing it with a larger structure, a portion of which would be located in the shoreland setback area. The Petitioners' overall proposal would result in pushing the primary dwelling back 3 feet further from the Lake and reducing the amount of footprint within the setback area by 173 square feet.

V.
ARGUMENT

A. The Decision of DES Was Inconsistent with the Express Language of the Relevant Statute, and Thus Illegal as a Matter of Course:

1. N.H. RSA 483-B expressly distinguishes between "in-kind replacement" versus replacement of non-conforming structures with modified designs.

   (a) N.H. RSA 483-B:11, I provides that non-conforming structures "located within the protected shoreland may be repaired, renovated or replaced in-kind...such repair or replacement may alter the interior design or existing foundation but no expansion of the existing footprint or outside dimensions shall be permitted.

   (b) With regard to modification of non-conforming structures, N.H. RSA 483-B:11, II allows for waiver of the primary building setback when the proposed structures are "more nearly conforming than the existing structures". That provision of the statute also allows the Commissioner to look into other environmental improvements to the property when making such decision.

   (c) The clear language of the statute confirms that the Legislature intended to only allow the replacement of non-conforming structures within the shoreland setback if they are built in-kind (identical to the existing exterior dimensions of the structure being replaced). It also makes clear that so long as a

proposed replacement structure is more nearly conforming that the Commissioner may grant a waiver. Had the Legislature intended that where a landowner physically can relocate the same structure outside the setback area a waiver should be denied, there would be no point of having enacted either Paragraph I or Paragraph II which provide in both situations for the replacement of structures within the setback area.

(d) Had the Legislature intended to exclude from the waiver provisions those projects where structures could be relocated completely out of the setback, it could have used express language to evidence such an exclusion. Rather, the Legislature referenced structures which were "more nearly conforming", without any caveat as to the ability to make them completely conforming.

(e) Because the DES interpretation of the statute contradicts the unambiguous language contained therein, the DES decision to deny the Petitioners' request for waiver was unlawful.

B. The Department's Determination Was Unreasonable:

1. The Department ruled that a "new, conforming, 3,450 square foot primary structure could be constructed on the property without encroaching within the primary building setback on the property". The Petitioners however proposed a 5,490 square foot house which cannot be situated behind the 50 foot setback.

2. The Petitioners' proposal does in fact relocate the structure 3 feet further from the water, and reduces the square footage within the setback area. Accordingly, the proposal is more compliant with N.H. RSA 483-B:9, II (a), and therefore more nearly conforming.

3. The Department failed to either look at physical limiting features on the premises or to consider the ability to site a 5,490 square foot primary structure when rendering its decision. The site consists of a well treed canopy area and also drainage running through about a third of the premises. To the east of the premises the slope rises quite steeply. In designing the Petitioners' property, care was taken to site the garage into the hill with steep slopes for lack of another area. Had the landowner attempted to put living space there, there would have been an elimination of light and windows. In addition, due to the relative lack of depth to the lot in relation to the size of the proposed structure, access is a limiting factor in the form of trying to site a driveway location.

4. Given the foregoing limiting features and the fact that the Department looked to the possibility of siting a a structure with less square footage than proposed by the Petitioners, the Department's decision was unreasonable.

C. Information Not Available to the Department When the Decision Was Made:

1. The Petitioners maintain that N.H. RSA 483-B:11 does not require them to prove they cannot site a structure outside of the setback area. Regardless, the Petitioners could not site their proposed structure outside of the setback.

2. At the time that the Decision was rendered by the Department, the Department did not have for its consideration alternative proposals for the premises. Although the Department did request more information on November 9, 2004, the Department never requested information as to alternate designs for the premises.

3. Enclosed herewith are plans entitled, "Option One" and "Option Two" for the premises which depict in each case a reconfigured house with the same square footage situated behind the 50 foot setback area. Option One indicates that in order to keep the garage as close and into the embankment as possible while maintaining square footage, the Applicant would have to cross a wetlands and bring a driveway into the shoreland setback area. Parking on the shoreline certainly would not further the intent of the statute which presumably aesthetic enhancement or preservation of the shore. Option Two similarly depicts the same square footage home. Again, a wetlands would need to be crossed in order to bring about this request.

4. In light of the foregoing possible alternatives, the Petitioners do not believe they could site a 5,490 square foot structure outside of the setback.

WHEREFORE, the Petitioners respectfully pray that the Council:

A. Grant Petitioners a hearing to present their case for appeal;

B. Upon hearing said Petition, reverse the Decision of the Department; and

C. Grant such further and equitable relief as to the Council appears just.

Respectfully submitted,

RALPH AND BETSY BOOTH
By Their Attorneys,
NORMANDIN, CHENEY & O'NEIL, PLLC

COPY

By: _____
Attorney Regina A. Nadeau

4-4-05
Date

CERTIFICATION OF SERVICE

I hereby certify that copies of the foregoing Notice of Appeal have been sent on April 4, 2005, to:

Michael P. Nolin, Commissioner
N.H. Department of Environmental Services
P.O. Box 95
Concord, NH 03302-0095

Brian K. Fowler, Chairman
N.H. Wetlands Council
P.O. Box 95
Concord, NH 03302-0095

Harry T. Stewart, Director
Water Division
N.H. Dept. of Environmental Services
P.O. Box 95
Concord, NH 03302-0095

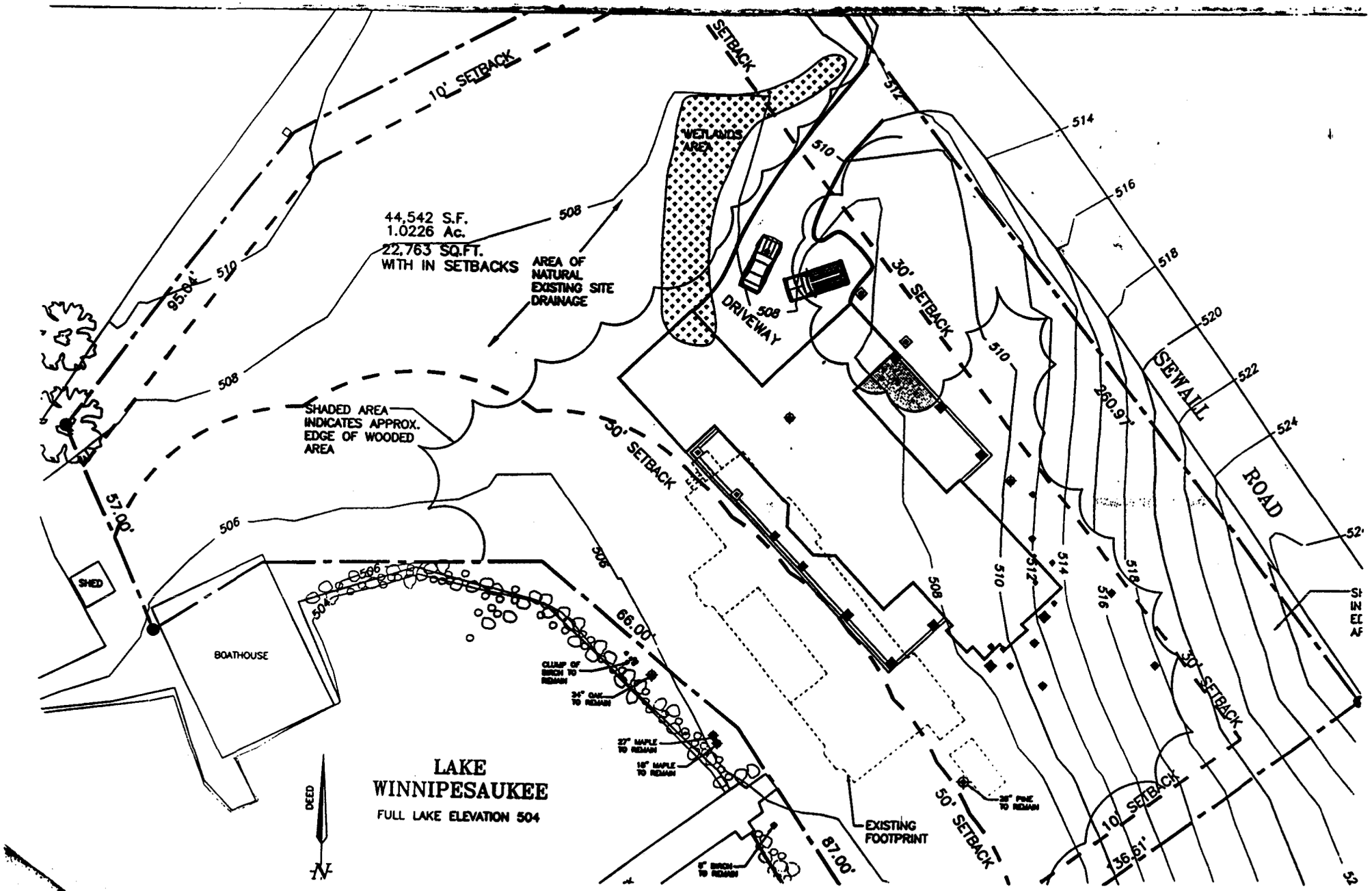
Collis Adams, Administrator
N.H. Wetlands Bureau
P.O. Box 95
Concord, NH 03302-0095

Attorney Jennifer J. Patterson
N.H. Attorney General's Office
33 Capitol Street
Concord, NH 03301-6397

Ralph and Betsy Booth
294 Sewall Road
Wolfeboro, NH 03894

COPY

Regina A. Nadeau, Esquire


10' SETBACK
SETBACK
WETLANDS AREA
44,542 S.F.
1.0226 Ac.
22,763 SQ.FT.
WITH IN SETBACKS
AREA OF NATURAL EXISTING SITE DRAINAGE
DRIVEWAY
30' SETBACK
SEWALL ROAD
SHADED AREA INDICATES APPROX. EDGE OF WOODED AREA
50' SETBACK
95.04'
57.00'
260.97'
66.00'
87.00'
36.61'
SHED
BOATHOUSE
CLUMP OF BIRCH TO REMAIN
34" OAK TO REMAIN
27" MAPLE TO REMAIN
18" MAPLE TO REMAIN
6" BIRCH TO REMAIN
36" PINE TO REMAIN
EXISTING FOOTPRINT
LAKE WINNIPESAUKEE
FULL LAKE ELEVATION 504
DEED
N
504
506
508
510
512
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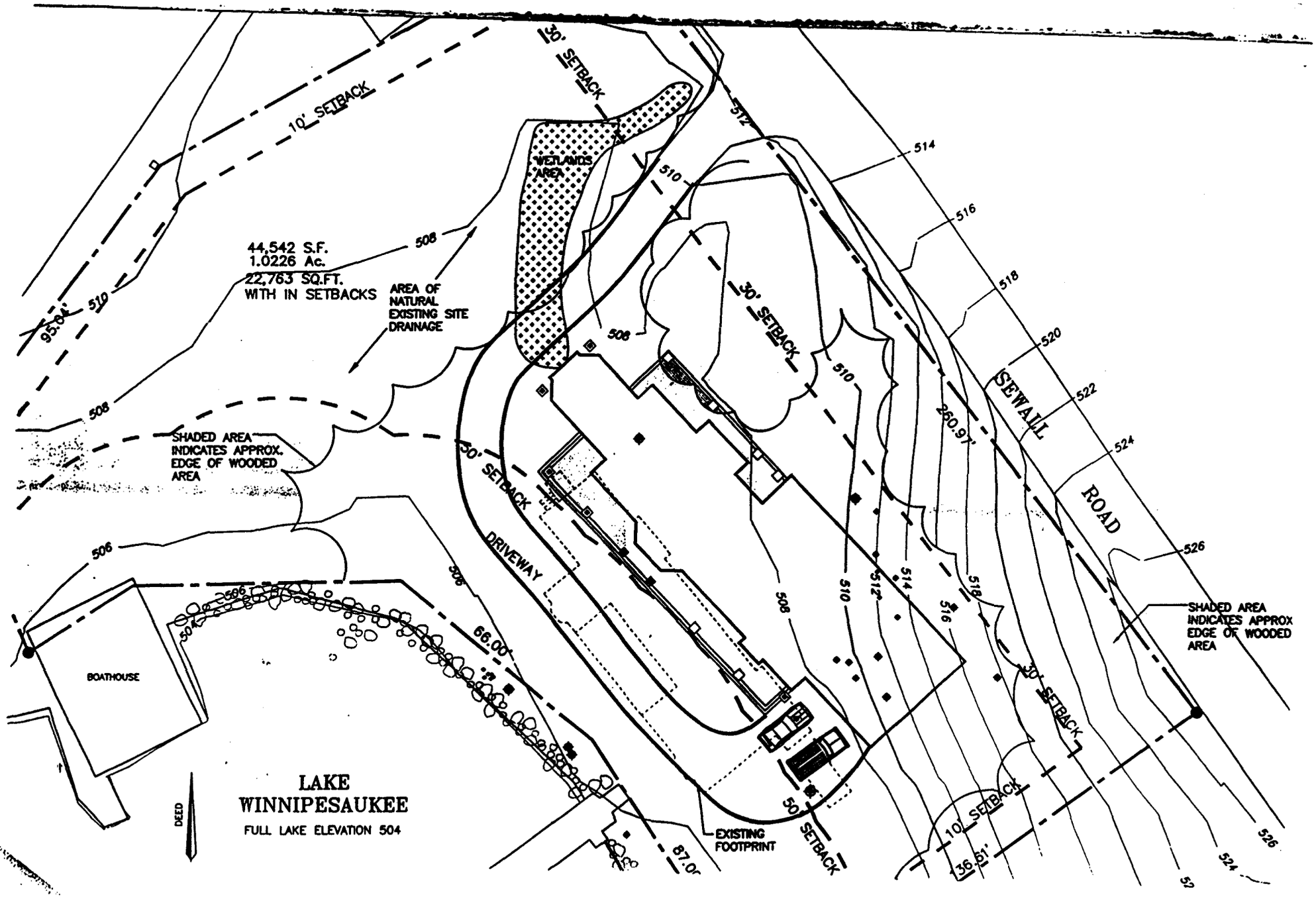
524

OPTION 2



30' SETBACK
10' SETBACK
WETLANDS AREA
44,542 S.F.
1.0226 Ac.
22,763 SQ.FT.
WITH IN SETBACKS
AREA OF NATURAL EXISTING SITE DRAINAGE
95.04'
508
510
512
514
516
518
520
522
524
526
SEWALL ROAD
260.97'
SHADED AREA INDICATES APPROX. EDGE OF WOODED AREA
50' SETBACK
DRIVEWAY
506
504
66.00'
BOATHOUSE
DEED
LAKE WINNIPESAUKEE
FULL LAKE ELEVATION 504
EXISTING FOOTPRINT
87.0
136.61'

OPTION ONE

WETLANDS FILE #2004-02265
RALPH & BETSY BOOTH

PORTION OF FILE CONTENTS

The State of New Hampshire
Department of Environmental Services

Michael P. Nolin
Commissioner

March 15, 2005

Ralph & Betsy Booth
294 Sewall Rd
Wolfeboro, NH 03894

RECEIVED MAR 25 2005

RE: File #2004-02265 - Wolfeboro Tax Map 241, Lot 23

Dear Mr. and Ms. Booth:

The Department of Environmental Services (DES) Wetlands Bureau has completed its review of your request for a waiver of RSA 438-B:9, II to allow the replacement of an existing 2116 sq ft residence with a new 3450 sq ft residence partially within the primary building setback on a 1.02 acre lot within the protected shoreland of Lake Winnipesaukee, in Wolfeboro and has determined that the proposed project does not comply with the criteria established for the granting of waivers. The request has therefore been denied.

This decision was determined based on the following findings:

Findings of Fact:

1. The Applicant is the owner of a 1.02 acre lot within the protected shoreland of Lake Winnipesaukee in Wolfeboro more particularly identified as Wolfeboro tax map 241, lot 23 (the "Property")
2. The existing 2,116 sq ft structure is located 18 ft from the reference line and is, therefore, a non-conforming structure.
3. On October 14, 2004 the Department of Environmental Services received a request for a Waiver of RSA 483-B:9, II, to replace the existing non-conforming structure with a larger non-conforming structure.
4. The proposed 3,450 sq ft, non-conforming structure would be located 24 ft from the reference line.
5. A new, conforming, 3,450 sq ft primary structure could be constructed on the Property without encroaching within the primary building setback on the Property.

Standards for Approval:

6. In accordance with RSA 483-B:9, Minimum Shoreland Protecion Standards, II, "Primary structures shall be set back behind the primary building line which is 50 feet from the reference line."
7. In accordance with RSA 483-B:3, Consistency Required, "State and local permits shall be issued only when consistent with the policies of this chapter."
8. In accordance with RSA 483-B:11, II, "When reviewing requests for the redevelopment of sites...the commissioner shall review proposals which are more nearly conforming than the existing structures, and may waive some of the standards specified in RSA 483-B:9, so long as there is at least the same degree of protection provided to public waters."
9. In accordance with RSA 483-B:11, II, "More nearly conforming means a proposal for significant changes to the location or size of existing structures that bring the structures into greater conformity, or a proposal for changes to other aspects of the property, including but not limited to stormwater management, wastewater treatment or traffic volume or flow, or both types of proposal which significantly improve wildlife habitat or resource protection."

P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Telephone: (603) 271-3503 • Fax: (603) 271-2982 • TDD Access: Relay NH 1-800-735-2964
DES Web site: **www.des.nh.gov**

Ruling in Support of the Decision:

10. The issuance of a waiver of the primary building line on a site that could support conforming structures would not be consistent with the intent of RSA 483-B.
11. In accordance with RSA 483-B:3, the request for a waiver of RSA 483-B:9 is denied.

You are hereby informed that the appeal of this decision is to the New Hampshire Water Council. Appeal must be made within 30 days of the date of this letter, in accordance with RSA 149-M, RSA 21-O:9 and RSA-O:14. Filing of the appeal shall be made by certified mail to the chairperson of the council, with a copy to the Department, and shall set forth fully every ground upon which it is claimed that the Department's decision is unlawful or unreasonable.

Sincerely,

COPY

Michael P. Nolin
Commissioner
Dept. of Environmental Services

cc: Wolfeboro Conservation Commission
Wolfeboro Board of Selectmen
Wolfeboro Municipal Clerk
Regina Nadeau

Request for Shoreland ~~VARIANCE~~ WAIVER ~~REQUEST~~

RSA 483-B:11 II

Wetlands Bureau
P.O. Box 95, 29 Hazen Drive
Concord, NH 03302-0095

GENERAL INSTRUCTIONS: Type or print clearly; missing information may delay your request. Use a separate form for each variance requested.

1. NAME OF OWNER: Booth (Last) Ralph D. and Betsy J. (First, Middle)

MAILING ADDRESS: 294 Sewall Road (Street/Box #) Wolfeboro (Town/City) NH (State) 03894 (Zip)

TELEPHONE FAX EMAIL

2. LOCATION OF PROPERTY FOR WHICH A VARIANCE IS BEING REQUESTED: 294 Sewall Road (Street/Box #) Wolfeboro (Town/City)

TAX MAP #s: 241 LOT #s: 23 BLOCK #s:

3. NAME OF WATERBODY: Lake Winnipesaukee

4. NAME OF APPLICANT: **AGENT:** (If different than owner) Nadeau, (Last) Regina (First) A. (Middle)

MAILING ADDRESS: Normandin, Cheney & O'Neil
213 Union Ave., PO Box 575 (Street/Box #) Laconia (Town/City) NH (State) 03247-0575 (Zip)

(603) 524-4380 (TELEPHONE) (603) 528-6831 (FAX) rnadeau@nco-law.com (EMAIL)

5. DESCRIPTION OF ~~VARIANCE~~ WAIVER REQUESTED:

STANDARD: RSA 483-B:9, V (e.g. RSA 483-B:9,V(b)(2)(A)(i) says the leachfield must be 125 feet from the reference line.)	RSA 483-B:9 II (b) Primary Setback RSA 483-B:11 I Modification of structures within setback
HOW DO YOU WISH TO VARY FROM THIS STANDARD? Briefly describe the relief requested. (e.g. "Setback of less than 125 feet from reference line for septic system," RSA 483-B:9, V (b)(2)(A)(i).")	Reconfigure dwelling for net reduction of 173 sq. ft. within setback.

 Please print single sided REV 4-8-04

6. JUSTIFICATION FOR THE VARIANCE: On separate pages, provide documentation of the reasons for the necessity of the requested variance. Plans and photographs should be attached as part of your explanation. Describe what reasonable use of your property you would be denied if you had to comply with the literal meaning of the standard. An example would be a lot-of-record in which the only reasonable location for constructing a septic system is closer to the reference line because of the physical features of the property. Your narrative must address each of the following points:

- ***The literal enforcement of the standard would result in an unnecessary hardship.*** To establish unnecessary hardship you must prove that the standard for which you are requesting the variance:
  1. Would interfere with the reasonable use of the property, considering the unique setting of the property in its environment.
  2. Has no fair and specific relationship between the general purposes of RSA 483-B and the restrictions on your property.
  3. Does not injure the public or private rights of others when applied to your property.

- ***Granting a variance will not result in the diminution in value of surrounding properties.*** You must demonstrate that granting the variance would not cause diminution of surrounding property values. To do this, you must show that the variance is consistent with the existing neighborhood and adjoining shoreline, will not result in a nuisance, and will not diminish the reasonable use of neighboring properties.

- ***The variance would not be contrary to the spirit of RSA 483-B.*** RSA 483-B:2 declares that the standards are necessary to protect the public waters of the State of New Hampshire, and lists 16 specific purposes for those standards. You must show that a variance, as applied to your specific property, would not be contrary to any of those purposes.

- ***Granting variance would not be contrary to the public interest.*** The public waters of New Hampshire are valuable resources held in trust by the State, and the public has an interest in protecting those waters and shorelines from degradation. You must show that a variance would not interfere with the greater public benefit.

- ***Granting variance would do substantial justice.*** You must show that granting the variance would be a fair and reasonable decision. One way to do this is to show that, in combination with mitigating measures, the net result will have the same or greater protection for the public water as meeting the standard itself. Mitigating measures include providing additional protections above and beyond the minimum standards. For example: Re-establishing a natural woodland buffer along a section of shoreline that was cleared prior to the enactment of RSA 483-B could be used to balance the impact of a septic system being built closer to the public water. Merely meeting the requirements of another standard or jurisdiction would not be considered a mitigating measure.

7. SIGNATURES: The signature(s) below certifies that a copy of this application, with all attachments, has been provided to the municipal conservation commission in the city or town where the property is located (or selectmen if there is no conservation commission), and that the information provided is true and accurate.

OWNER _____ Date _____

APPLICANT _____ Date 9-16-04
If different than owner

COPY

 Please print single sided REV 4-8-04

Normandin, Cheney & O'Neil
Attorneys at Law
213 Union Avenue - Normandin Square
P.O. Box 575
Laconia, NH 03247-0575

Tel: 603-524-4380 Fax: 603-528-6831
E-Mail: rnadeau@nco-law.com
www.ncolaw.com

Paul L. Normandin
John D. O'Shea, Jr.
A. Gerard O'Neil, Jr.
Robert A. Dietz
James F. Lafrance
*Susanne M. Weldon-Francke**
Philip P. Bonafide
Regina A. Nadeau
Anne M. Rice
Jason J. Oster
William D. Woodbury

F.E. Normandin, 1890-1967
F.A. Normandin, 1909-1967
Thomas P. Cheney, 1918-1970
A. Gerard O'Neil, 1923-2000

** also licensed in CT*

September 16, 2004

Sarah Y. Kirn, Shoreland Specialist
N.H. Wetlands Bureau
Shoreland Division
P.O. Box 95
Concord, NH 03302-0095

RE: Ralph D. and Betsy J. Booth, 294 Sewall Road, Wolfeboro, NH
Request for Waiver, Pursuant to NH RSA 483-B:11, II

Dear Sarah:

On behalf of Mr. and Mrs. Ralph Booth, I hereby request a waiver of the provisions of RSA 483-B:9 II (b) (pertaining to primary structures within the 50 foot setback) and RSA 483-B:11-I (pertaining to modification of non-conforming structures). This waiver is being requested under the Site Redevelopment criteria referenced in RSA 483-B:11, II. The Applicants' proposal is as follows:

1. Plan References: For your reference to the project at issue, I enclose herewith the following plans:

   A. Overview Site Plan entitled "Booth Residence, Sewall Rd., Wolfeboro, NH", prepared by TMS Architects, dated August 31, 2004

   B. Architectural Plans entitled "Booth Residence", prepared by TMS Architects, dated July 16, 2004, Sheets 1 through 2.

2. Existing Conditions: The Applicants propose to raze a pre-existing, non- conforming dwelling which was situated at its closest point, 28 feet from the primary setback reference line. The ridge line will be modified from 19 feet to 23 feet 8 inches. Otherwise, the structure will continue to have only 1-1/2 stories.

3. Proposed Conditions: The Applicants' proposal for a new structure will result in reducing primary dwelling space within the 50 foot set back by 648 square feet with a net reduction in overall area within the setback (porches and living space) of 173 square feet.

4. Applicable Standard of Review: In reviewing requests for the redevelopment of sites that currently contain non-conforming structures, the State shall "review proposals which are more nearly conforming than the existing structures, and may waive some of the existing standards, so long as there is a least the same degree of protection provided to the public waters".

5. Details of Redevelopment:

   A. Increase in Distance in Building and Lake Reference Line: The proposed redevelopment will result in pushing the entire structure back another three feet from the reference line.

   B. Footprint: Within the primary structure setback, the footprint of the dwelling space will be reduced from 1,254 square feet to 606 square feet, resulting in a net decrease of 648 square feet of living space in that setback area. The footprint of the other non-permeable, non-living space (i.e., deck, patio, etc.) will be increased from 340 square feet to 810 square feet.

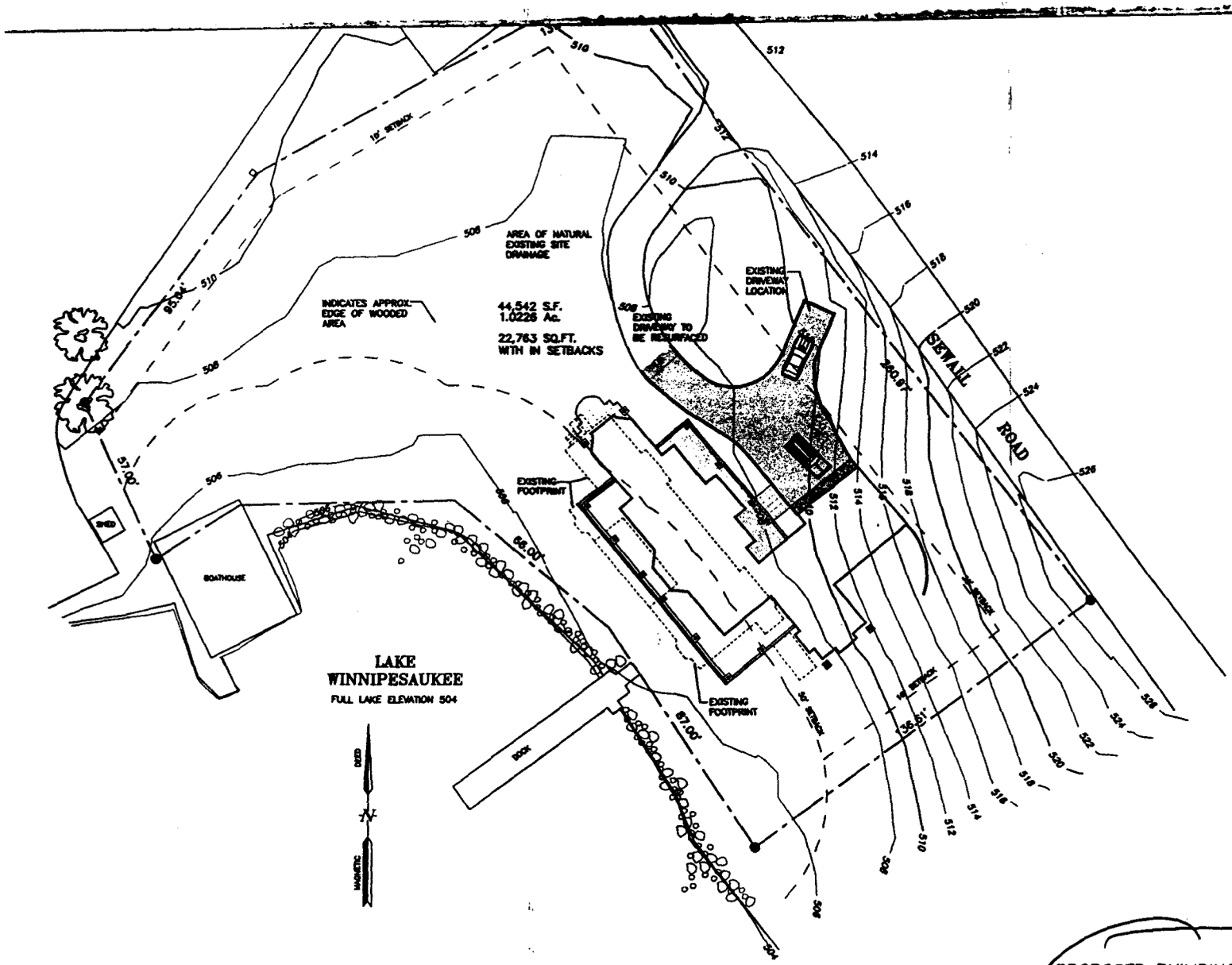
Sarah, the redevelopment described herein will result in pushing the overall structure further back from the reference line, will substantially reduce the square footage of living space, and will reduce the impervious area within that setback. This plan therefore provides a greater degree of protection to the public waters than previously existed, and therefore meets the requirements of RSA 483-B:11, II.

Very truly yours,

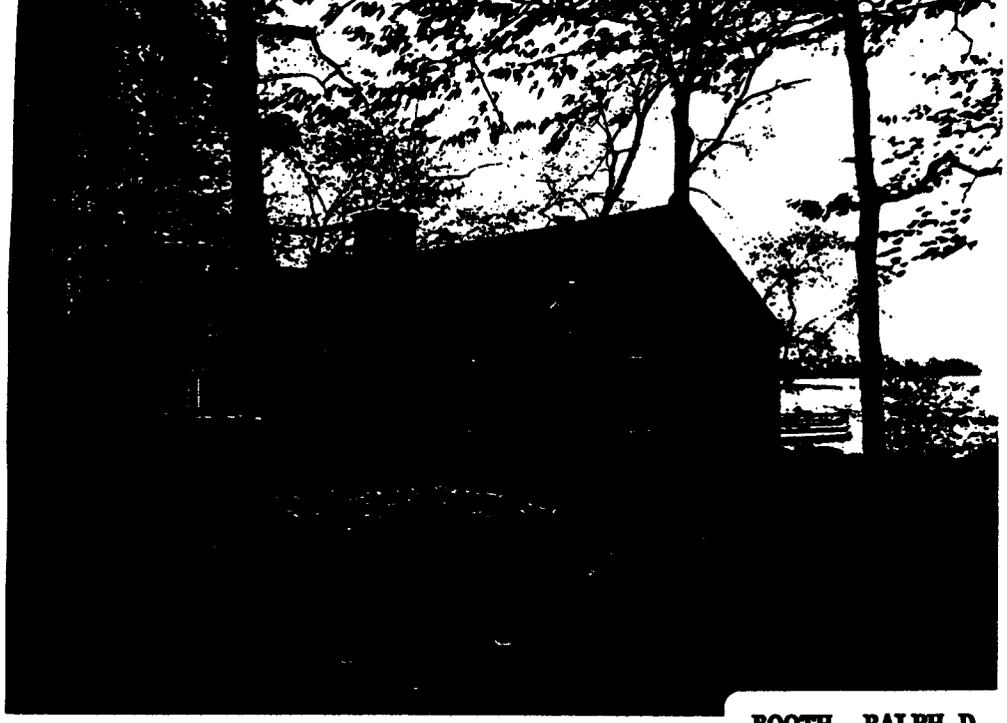
COPY

Regina A. Nadeau

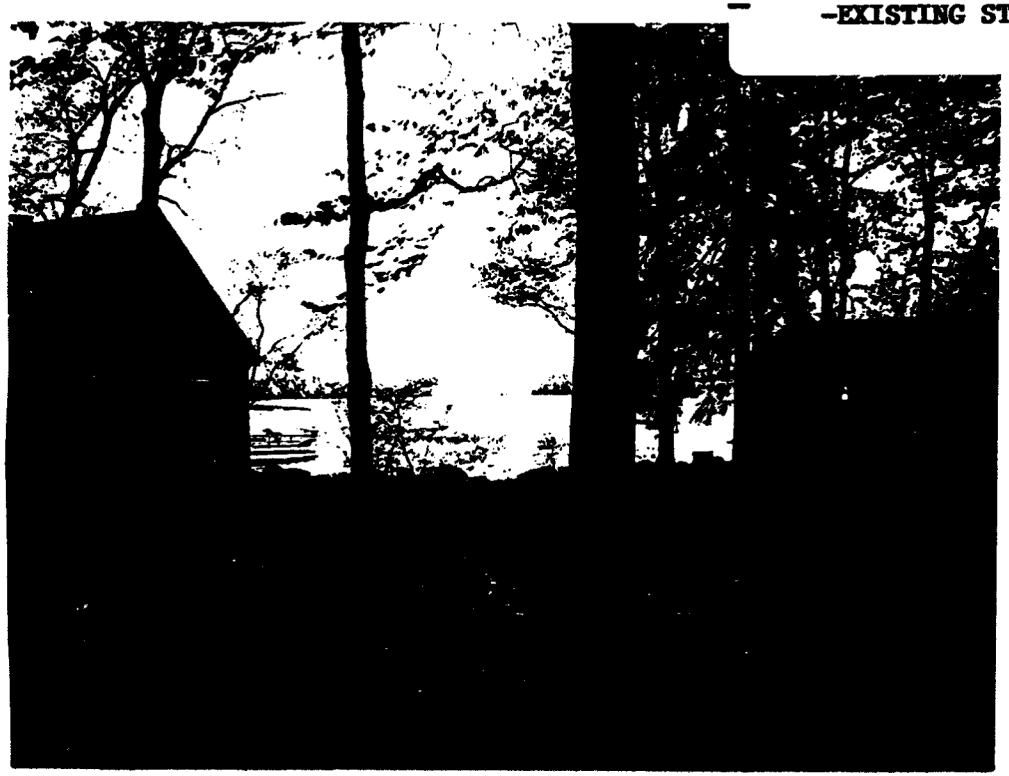
RAN/cgp
Enclosures:
cc: Mr. & Mrs. Ralph Booth
TMS Architects
Wolfeboro Conservation Commission
file



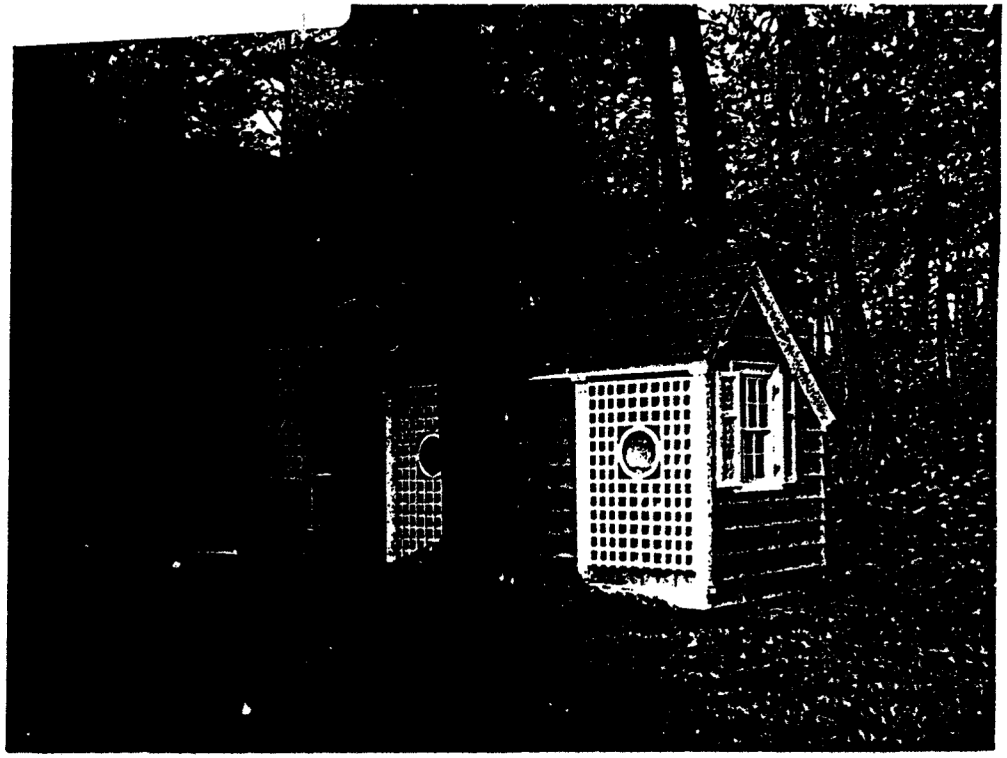
PROPOSED BUILIDING FOOTPRINT TOTAL: 5,490 S.F.



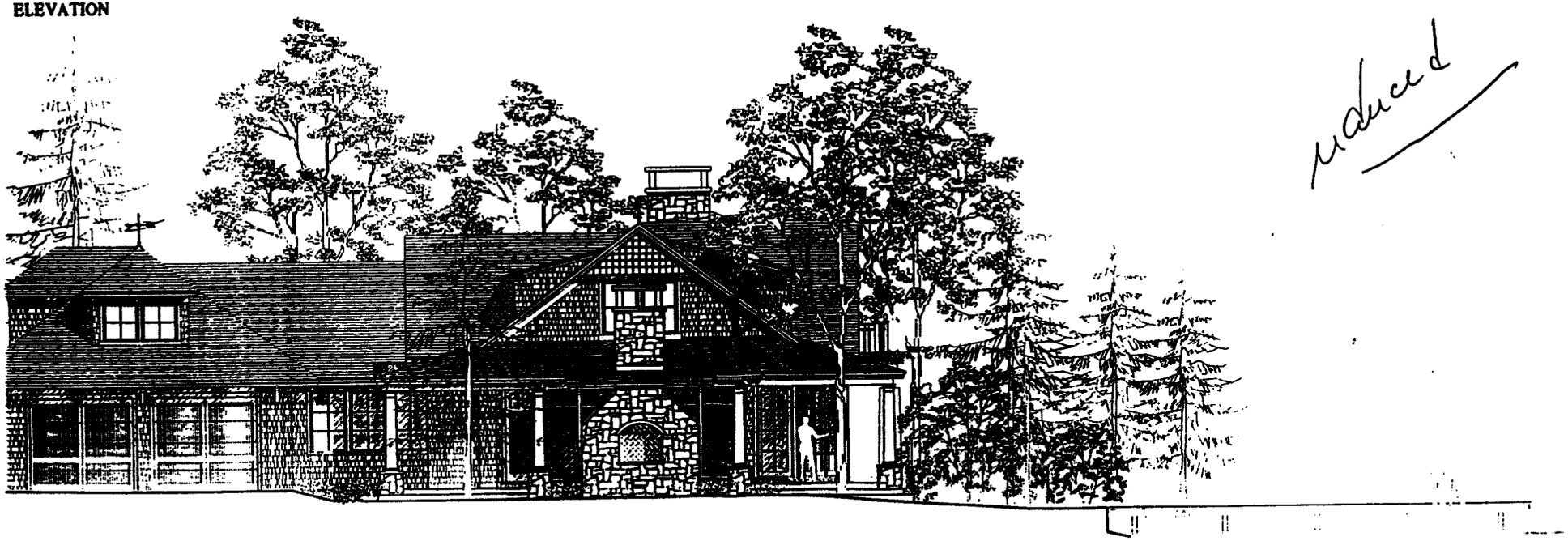
BOOTH, RALPH D. & BETSY J.
-EXISTING STRUCTURES-



BOOTH, RALPH D. & BETSY J.
-EXISTING STRUCTURES-



ELEVATION



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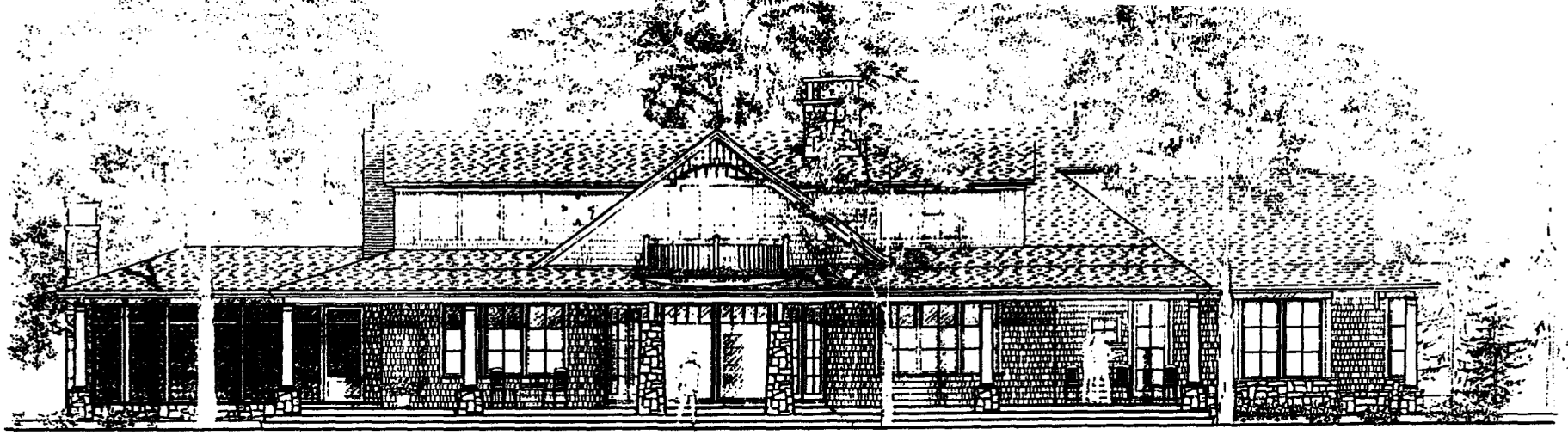
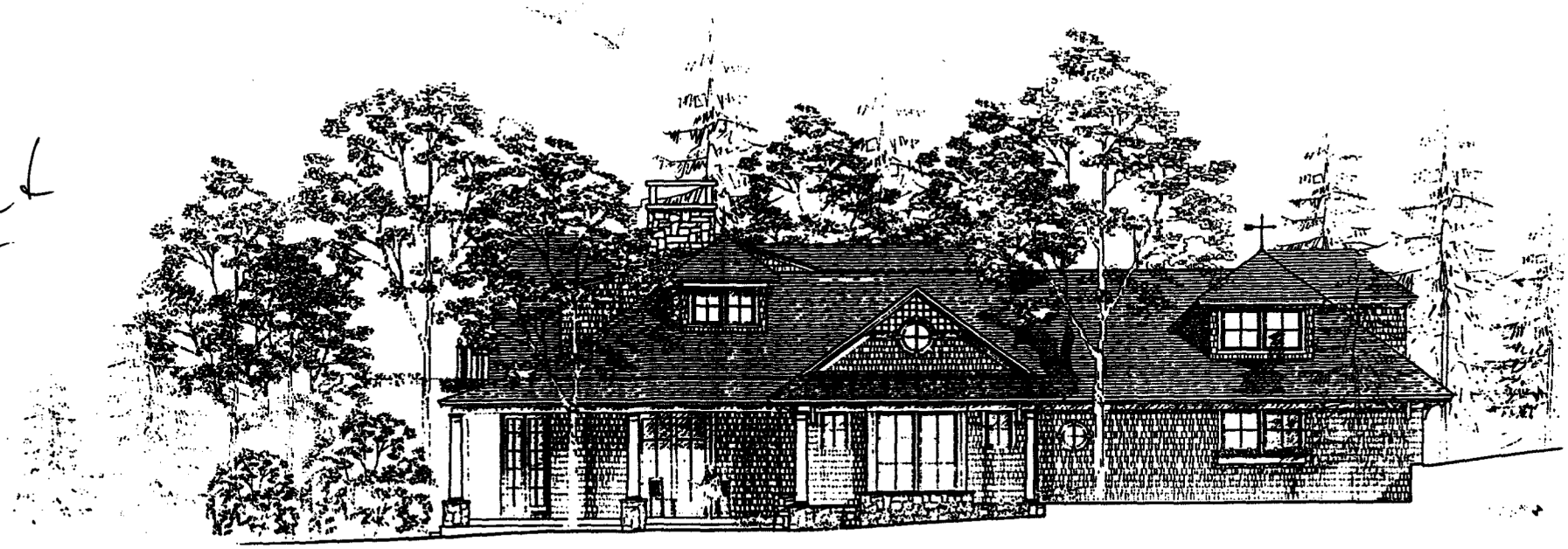


THWEST ELEVATION (WATERSIDE)

reduced



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F.E. Normandin, 1890-1967
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Thomas P. Cheney, 1918-1970
A. Gerard O'Neil, 1923-2000

** also licensed in CT*

November 19, 2004

Stacey P. Herbold, Shoreland Specialist
NH Department of Environmental Services
Wetlands Bureau
P.O. Box 95
Concord, NH 03301-0095

RE: Ralph and Betsy Booth
File #: 2004-02265

Dear Stacey:

Pursuant to your request of October 14, 2004, I enclose herewith the following:

1. Plan entitled, "Booth Residence", prepared by TMS Architects, dated August 31, 2004, last revised November 9, 2004;

2. A perimeter survey of the premises prepared by John R. Chagnon, a licensed land surveyor, with modifications representing existing and proposed driveway; and

3. Sheet specifications for silt fencing to be used on the premises as located on the Booth Residence site plan.

4. Memorandum of wetlands delineation from Gary Flaherty & Associates to TMS Architects dated November 9, 2004.

Stacey, our specific responses to your six inquiries made in October are as follow:

1. The Booth Residence site plan, together with the perimeter boundary excerpt show both existing and proposed conditions for both the house relocation and driveway reconfiguration.

2. Surface Water Runoff: The runoff will remain as it currently does, which is not a problem. There is no intended regrading which would exacerbate any situations.

The runoff from the roof will be directly onto the ground and be allowed to percolate off as it has in the past.

3. The erosion controls are depicted in the form of silt fencing on the site plan and as specified on the silt fence data sheet.

4. There is no septic system on the property. The premises is served by town sewer.

5. All trees within 50 feet of the anticipated construction impacts have been included on the plan. There will be no trees removed on the shoreline side of the premises. Only 11 trees will be removed on the back portion. The balance of the property which already consists of wooded area will remain intact.

6. Both the wetland boundaries and natural drainage areas have been shown on the plan. For further information, refer to the memorandum of Gary Flaherty, NHCWS, to TMS Architects.

Stacey, I trust that this information will complete your file review of our request for a Shoreland Waiver. As previously explained, we have made a proposal which will result in removing 178 square feet of structure from within the 50 foot shoreline setback and which will also result in pushing the entire structure back another three feet from the reference line. We believe this proposal will provide at least the same degree of protection to the public waters as the prior plan and that it will also make the primary structure more conforming to the provisions of the Shoreland Protection Act.

I thank you in advance for your thoughtful consideration of the application. I also urge you to contact me with any questions you may have.

Very truly yours,

COPY

Regina A. Nadeau

RAN/cgp

Enclosures:

cc: Mr. & Mrs. Ralph Booth
Robert Carty-TMS Architects
Wolfeboro Conservation Commission
file

294 SEWALL ROAD
WOLFEBORO, N.H. 03894
1727/638

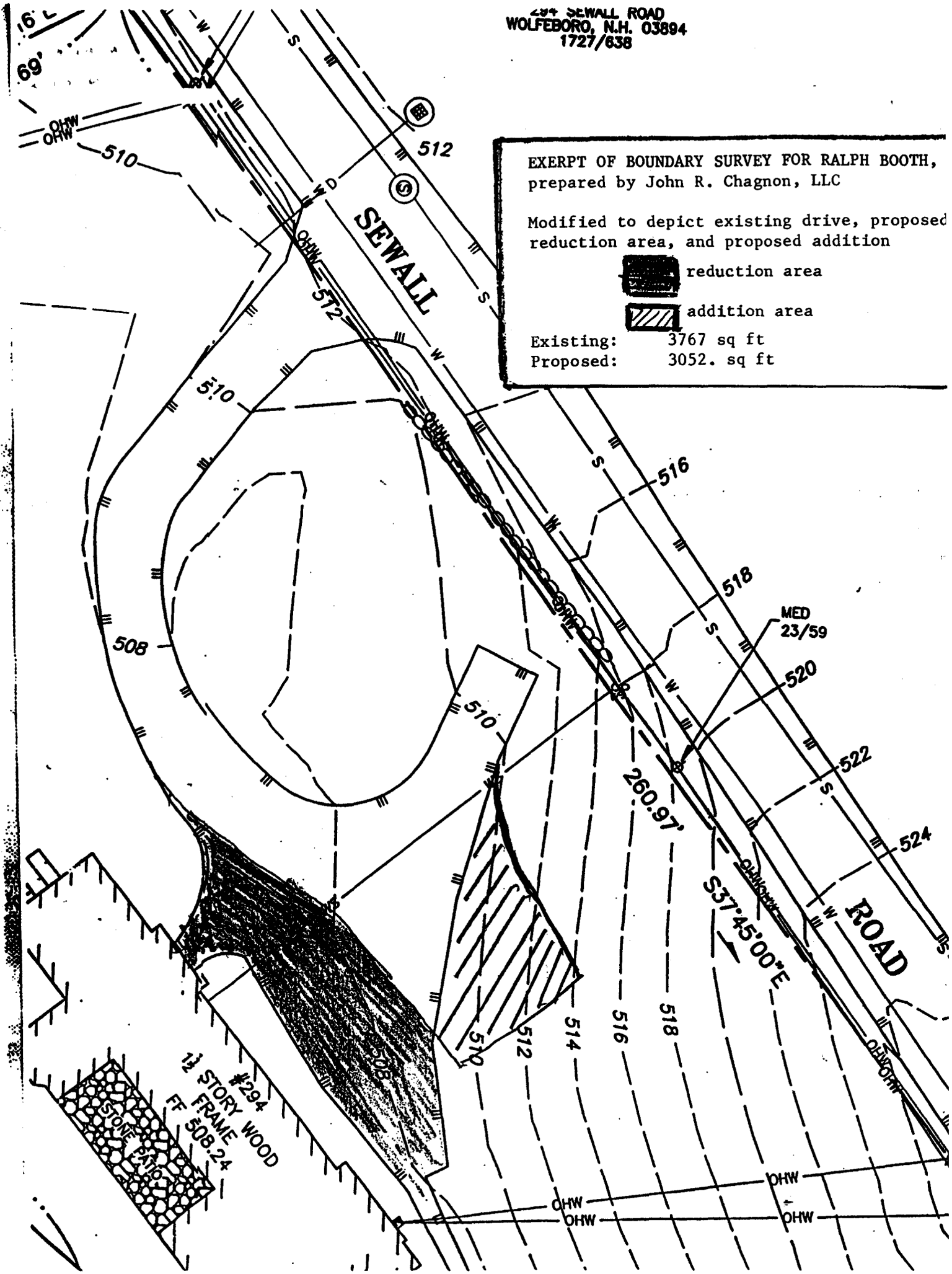
EXERPT OF BOUNDARY SURVEY FOR RALPH BOOTH, prepared by John R. Chagnon, LLC

Modified to depict existing drive, proposed reduction area, and proposed addition

reduction area

addition area

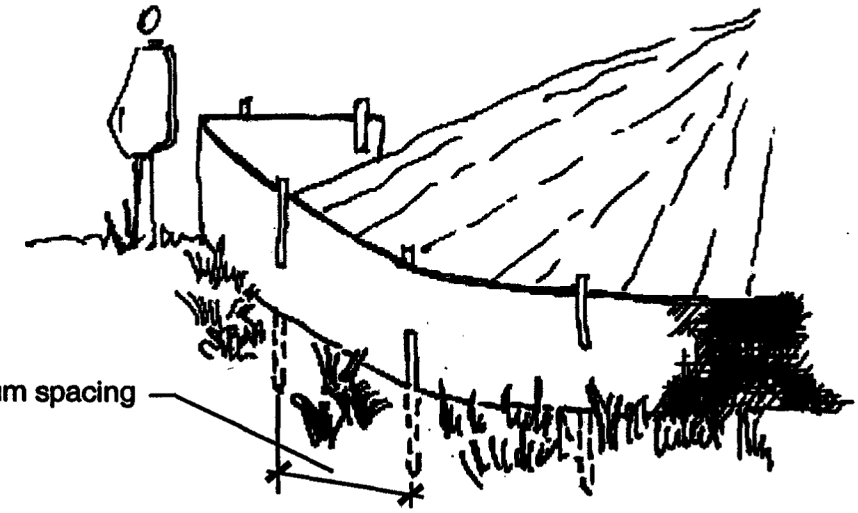
Existing: 3767 sq ft
Proposed: 3052. sq ft

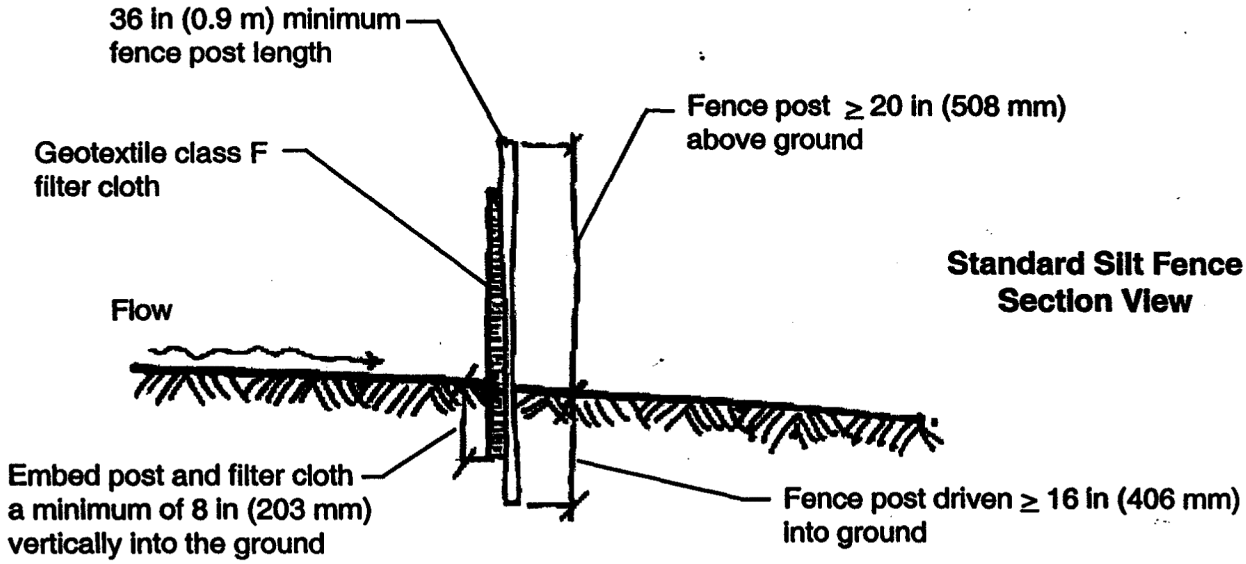


SILT FENCE

Additional Drawings:

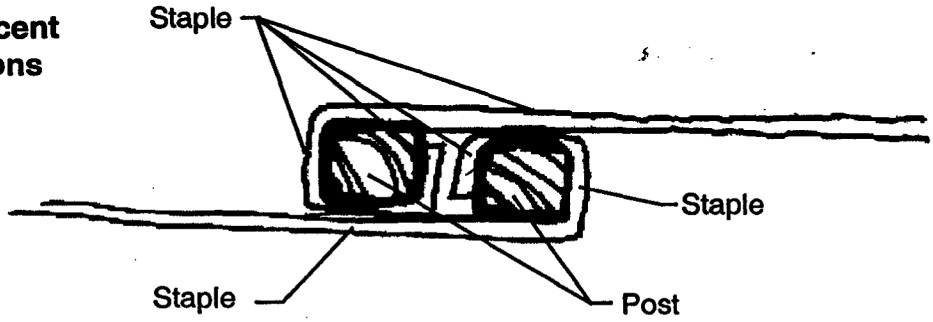
Standard Silt Fence Perspective View





Standard Silt Fence Section View

Joining Two Adjacent Silt Fence Sections Plan View



Gary Flaherty & Associates 336 Broad Street Hollis, New Hampshire 03049
(603) 878.9366

MEMORANDUM

To: TMS Architects
One Cate Street
Portsmouth, NH 03801

From: Gary Flaherty NHCWS

November 09, 2004 JN TMS01

Dear Rob Carty;

Re: Property (subject site) at 294 Sewall Road in Wolfeboro, NH. Also known as Town of Wolfeboro Tax Map 241, Lot 23.

Jurisdictional wetlands delineation performed on the subject site per your request using the following criteria:

1.) The Jurisdictional Wetlands were delineated by Gary Flaherty NHCWS #002 of GFA on November 05. 2004. The Wetlands were delineated according to the 1987 USACOE publication titled, "Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1".

2.) The vegetative and hydrological characteristics were classified using the publication by the US Fish and Wildlife Service methodology therein. titled, "Classification of Wetlands and Deepwater Habitats of the United States", dated December 1979. The 1988 US Fish and Wildlife Service Wetland Plant List was used to classify wetland indicator plants.

3) The hydric soils component of the delineation was determined per the publication titled, "Field Indicators for Identifying Hydric Soils in New England, Version 2", dated July 1998.

The requested jurisdictional delineation of the subject site had two wetland areas The obvious one borders Lake Winnipesaukee. The other is a relatively small wetland area that is described below in more detail, since the lake scenario is. again, an obvious one having an open water fetch year round. Again, this office delineated both on November 05, 2004. The latter wetland delineated by this office is located westerly of the existing driveway, see the plot plan provided to this office by your office via FedEx. Said wetland is a forested wetland swale. The relief is typical and is generally found in this greater Wolfeboro area. The observed forest and emergent vegetation cover consists mostly of, but not limited to species typical to northern hardwood forest types. The subject site is mostly a lawn with some trees, shrubs and other objects familiar to a single family residence. The area of interest was a portion of the subject site which was comprised mostly of the forest community stated herein. For the most part the soils for the subject site are poorly drained consisting mostly of glacially derived till and sediments from the culvert located under Sewall Road.

Thank you for your consideration. Any questions or comments will be fielded at your convenience.