

WILTON ZONING BOARD OF APPEALS - RESIDENTIAL VARIANCE APPLICATION - ZBA#

Please consult the Zoning Regulations when applying for a variance, particularly Section 29-13.

Please TYPE or print clearly... (See last 2 pages for brief explanation.)

Robert & Monica Brina	12 Gay Road, East Hampton, NY 11937				
APPLICANT'S NAME	ADDRESS				
Same as above	Same as above				
OWNER'S NAME	ADDRESS				
455 Thayer Pond Road, Wilton, CT	R-2A				
PROPERTY LOCATION	ZONING DISTRICT				
4024 2519 186	128 18 0.99+ \-ac				
WLR MAP#	VOLUME	PAGE	TAX MAP #	LOT #	ACREAGE

VARIANCE DESCRIPTION: In the space below, please state concisely the section(s) of the Zoning Regulations proposed to be varied and the specific variance requested (i.e: Request a variance of Section 29-__ to allow ____ (an addition, a pool, average lot width, or whatever) with ____ in lieu of the required _____. For instance, a variance request for a building addition that encroaches into the required fifty foot rear setback area by 7 feet would read as follows: "Request a variance of Section 29-5.D to allow a building addition with a 43 foot rear yard setback in lieu of the required 50 feet." ATTACH SEPARATE SHEETS AS REQUIRED.

Variance for side yard setbacks (Sec. 29-5D) for adaptive reuse of existing building and construction of addition to create new, single-family dwelling. Required: 40'

Proposed: ranging from 26.9 to 36.8'; Variance of building coverage (29-5D)

Permitted: 7.0%, Proposed: 11.5%

HARDSHIP DESCRIPTION: In the space below, state the specific conditions pertaining to the perceived "exceptional difficulty or unusual hardship" with respect to the parcel of land, not generally encountered within the zoning district, which would make development in full accordance with the existing Zoning Regulations extremely difficult. ATTACH SEPARATE SHEETS AS REQUIRED.

See Schedule A attached hereto and made a part hereof

All submitted plans and documents shall bear the signature, seal and license number, as appropriate, of the professional responsible for preparing each item.

All plans shall be collated into sets (either clipped or stapled), with maps folded (not rolled).

SUBMIT TEN (10) **COLLATED** SETS (INCLUDING 1 ORIGINAL SET) OF THE FOLLOWING DOCUMENTS:

- ☒ APPLICATION FORM
- ☒ LIST OF OWNERS WITHIN 500' of the subject property as shown by Tax Map & Lot #.
- ☒ A-2 SURVEY of the subject property showing all existing building and site conditions.
- ☒ SITE DEVELOPMENT PLAN showing all proposed additions, amendments and/or site improvements, including building elevations, septic systems, wells, and all measurements pertaining to the application, such as location and distance(s) of proposed structures and/or improvements from the subject property lines.
- ☒ LOCATION MAP at a scale of 1"=800' or less. Said map shall identify the site location and shall show the surrounding area and streets.
- ☒ DIRECTIONS to subject property from Town Hall, 238 Danbury Road, Wilton, CT (e.g. hand-written, computer-generated or similar).
- ☒ LIST OF PREVIOUS ZONING VARIANCES describing any variances and the action taken.
- ☒ PHOTOGRAPHS of property showing building and site conditions from all geographic perspectives.

ALSO SUBMIT:

- ☒ ONE COPY OF DEED INCLUDED WITH ORIGINAL SET ONLY (Obtain in Town Clerk's Office)
- ☒ ENVELOPES, addressed to each property owner within 500' (see "Envelopes Instructions" online)
- ☒ ELECTRONIC EMAILED SUBMISSION of all materials (Consolidated into 1-2 PDFs Maximum)
- ☒ TWO #10 (4"x 9.5") PLAIN ENVELOPES addressed to the applicant (No Return Address)
- ☒ \$310 FILING FEE payable to: Town of Wilton

IS THE SUBJECT PROPERTY LOCATED WITHIN 500 FEET OF THE MUNICIPAL BORDER? YES or NO

IS THE SUBJECT PROPERTY LOCATED WITHIN THE PUBLIC WATER SUPPLY WATERSHED BOUNDARY? YES or NO [If YES, contact Planning & Zoning Dept for DPH Addendum Form.]

IS THE SUBJECT PROPERTY LOCATED IN THE FLOOD PLAIN? YES or NO

WHEN WAS THE SUBJECT PROPERTY PURCHASED? October 20, 2020

IN WHAT YEAR WAS THE MAIN STRUCTURE CONSTRUCTED? 1932+/-

SITE COVERAGE PROPOSED: 12.0%
(AS PERCENTAGE OF SITE)

BUILDING COVERAGE PROPOSED:
(AS PERCENTAGE OF SITE) 12.0%

THE APPLICANT understands that this application is to be considered complete only when all information and documents required by the Board have been submitted.

THE UNDERSIGNED WARRANTS the truth of all statements contained herein and in all supporting documents according to the best of his or her knowledge and belief; and hereby grants visitation and inspection of the subject property as described herein.

APPLICANT'S SIGNATURE

11/22/21

DATE

esuchy@carمودylaw.com

EMAIL ADDRESS

203-252-2656

TELEPHONE

See attached letter of consent

OWNER'S SIGNATURE

DATE

EMAIL ADDRESS

TELEPHONE

Robert & Monica Brina
12 Gay Road
East Hampton, NY 11937

November 22, 2021

Michael Wrinn
Director
Department of Planning & Zoning
Town of Wilton
238 Danbury Road
Wilton, CT 06897


Re: Robert & Monica Brina - 455 Thayer Pond Road, Wilton, CT 06897
Application for Variance - letter of consent

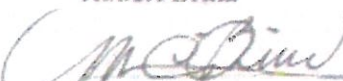
Dear Mr. Wrinn:

Please be advised that we, Robert & Monica Brina, are the owners of the above-referenced property with the improvements thereon. This letter is to advise you that we consent to the preparation, submission and presentation of an application for variances to the Town of Wilton Zoning Board of Appeals by the law firm of *Carmody Torrance Sandak & Hennessey LLP*, in connection with a proposed single-family dwelling at this location.

Should you have any questions, please do not hesitate to contact the undersigned.

Very truly yours,


Robert Brina


Monica Brina

Robert & Monica Brina

455 Thayer Pond Road – Wilton, CT

Application for Variances – Schedule A - Narrative

BACKGROUND

Monica and Robert Brina (hereinafter the “Applicants”) are the owners of real property with the improvements thereon located at 455 Thayer Pond Road in Wilton, Connecticut. Designated as Tax Map 128, Lot 18, the property is 0.99 acres (43,143+- sq.ft.) and zoned R-2A (the “Property”). The lot is legally nonconforming since the R-2A zone required lots of a minimum of two (2) acres in size with 200 feet of frontage. (Refer to “Zoning Information” on “Zoning Location Survey, Proposed 455 Thayer Pond Road Prepared for Monica C. Brina and Robert R. Brina, Wilton, Connecticut Scale 1” =20 November 16, 2021” [“ZLS Proposed”] prepared by Ryan and Faulds, LLC attached hereto and made a part hereof).

The Property is improved with a single-family residence and detached garage constructed around 1932, well before the enactment of zoning regulations in Wilton. A side yard setback variance was granted in 1989 to a predecessor-in-interest for the construction of an addition for a kitchen.¹ Current side yard setbacks for the existing residence are approximately 37.5 and 36.0 feet, and the front yard setback to the porch is approximately 46.0 feet, all of which are legally nonconforming. (See ZLS Proposed).

PROPOSAL

The Applicants propose to adaptively reuse the existing dwelling and convert it from a two-story residence to a three (3) car garage with bedroom on the second floor. Further, the Applicants plan a slightly wider addition to the rear of the existing dwelling to create an entirely new, larger dwelling. As part of this proposal, the Applicants will eliminate the existing nonconforming front yard setback by removing the enclosed porch on the existing dwelling. (Refer to drawings for “Brina Residence 455 Thayer Pond Rd. Wilton, CT 06897” dated November 17, 2021 prepared by Greenwich Design Architects, [architectural plans] attached hereto and made a part hereof). With the exception of sideyard setbacks and building coverage, the proposed dwelling complies with all other requirements of the zoning regulations.

In order to achieve this proposal, the Applicants seek approval from the Town of Wilton Zoning Board of Appeals (“ZBA”) for side yard setback dimensions ranging from 26.9’ to 36.8’ rather than the 40’ required. On the southern side of the property, the setbacks would range from 30.8’ to 36.8’, thereby requiring variances from 3.2’ to 9.2’ (Refer to “Variances Required” on ZLS Proposed). On the north side of the parcel, the Applicants seek approval of setbacks ranging from a 26.9’ to 36.6’, thereby requiring variances of 13.1’ to 3.4’. (Refer to “Variances Required” on ZLS Proposed). In addition, the

¹Variance Application #89-0306 approved March 15, 1989 for side yard setback – 40’ required, 30’ approved. Volume 679 Page 120, Wilton Land Records.

Applicants seek a variance of the maximum building coverage from 7.0% to 11.5%. (Refer to "Zoning Information" on ZLS Proposed, attached hereto and made a part hereof).

STANDARD OF REVIEW

Per the Zoning Regulations of the Town of Wilton ("zoning regulations"), the ZBA has the authority to "vary or adjust the strict application of these Regulations in only those cases where the unusual size, shape or topography of a lot or other unusual physical conditions pertaining to it . . . make it impossible to strictly apply a specific provision of these Regulations to such lot without resulting in an exceptional difficulty or unusual hardship, so that substantial justice shall be done and the public health, safety and welfare secured." (Sec. 29-13(2)).

The ZBA is required to find "that there are special circumstances or conditions . . . applying to the lot . . . which are peculiar to such lot . . . and not apply generally to lots . . . in the neighborhood and which have not resulted from any willful act of the applicant. . . ." (Sec. 29-13(6)(a)). Further, the ZBA is required to find that "circumstances or conditions are such that the particular application of these Regulations would deprive the applicant of the reasonable use of the lot . . . and that the variance as granted by the ZBA is the minimum adjustment necessary to accomplish this purpose." (Sec. 29-13(6)(b)). Moreover, the ZBA must find that "the granting of the variance shall be in harmony with the general provisions and intent of [the] Regulations and the Town's Plan of Development and shall not be injurious to the neighborhood or otherwise detrimental to the public health, safety and welfare" (Sec. 29-13(6)(c) and "[t]hat the granting of the variance is not based upon the nonconformity of neighboring lots, uses, buildings or structures nor upon a financial or economic hardship." (Sec. 29-13(6)(d)).

The Connecticut Supreme Court has consistently held that a variance constitutes permission to act in a manner that is otherwise prohibited under a municipality's zoning laws and it is well established that the granting of a variance must be reserved for unusual or exceptional circumstances. "An applicant for a variance must show that, because of some peculiar characteristic of his property, the strict application of the zoning regulation produces an unusual hardship, as opposed to the general impact which the regulation has on other properties in the zone.... Accordingly, we have [concluded that a zoning board of appeals may] grant a variance only when two basic requirements are satisfied: (1) the variance must be shown not to affect substantially the comprehensive zoning plan, and (2) adherence to the strict letter of the zoning ordinance must be shown to cause unusual hardship unnecessary to the carrying out of the general purpose of the zoning plan...." *Mayer-Wittmann v. Zoning Board of Appeals*, 333 Conn. 624, 640, 218 A.3d 37 (2019).

Taking into consideration comments and concerns raised by adjoining neighbors in connection with a prior application for variance (which was subsequently withdrawn), the Applicants redesigned the proposed dwelling in an attempt to reduce the number and extent of variances that would be required. In the prior application, building coverage was calculated at 12.2%, which exceeded the maximum 7.0% permitted by 5.2%. Overall lot coverage for the prior proposal was calculated at 12.5% which exceeded the maximum 12.0% permitted by 0.5%. Furthermore, the prior layout of the dwelling sought ZBA

approval of sideyard setbacks ranging from 18' to 34.3' instead of 40', which would have required have required the ZBA to grant relief ranging from 5.7' to 22'.

In their revised proposal, the Applicants have carefully considered desired room sizes, flow and dwelling configuration in an effort to design a dwelling that would approximate the allowable building envelope. Proposed setbacks are generally about 30-36' instead of 40' required. Overall lot coverage is now fully compliant (11.9% vs. 12.0% allowed) and building coverage is now calculated at 11.5% (compared to 12.2% originally proposed).

As mentioned above, the Property is nonconforming as to lot area and width. The lot area shortfall by more than fifty (50%) percent, impairs the Applicants' ability to comply with the 7.0% building coverage requirement. Had the Property been two (2) acres in size as required, no variance for building coverage would be required for the proposed dwelling. Furthermore, the nonconforming lot width (100' existing vs. 200' required) hinders compliance with the required setbacks. As noted on the ZLS Proposed, the 40-foot side yard requirement on a 100-foot-wide lot results in a buildable area that would permit a dwelling a maximum of 20-feet in width. This requirement creates a practical difficulty and unnecessary hardship since strict compliance with the 40' side yard setback would inhibit construction a residence that meets needs of today's homeowners.

The Applicants submit that the nonconforming lot dimensions (lot width and area) coupled with the needs and design of contemporary living space, create practical difficulties and unnecessary hardships which impair the Applicants' ability to achieve compliance with the regulations in connection with the proposed new dwelling. By granting the variances requested, substantial justice shall be done, and the public health, safety and welfare will be secured.

115-12
RALEIGH ELLEN J
45 OLD DRIFTWAY
WILTON CT 06897

116-17
WAKEN MATTHEW & MARIA SV
487 THAYER POND RD
WILTON CT 06897

127-5-2
ULLMAN, CHRISTOPHER & KELLY
427 THAYER POND RD
WILTON CT 06897

127-8
CANNELLA LIVING TRUST
41 LEDGEWOOD DR
WILTON CT 06897

128-14
KENNEDY MARTIN C & MARY M
481 THAYER POND RD
WILTON CT 06897

128-17
ELM VENTURES LLC
461 THAYER POND RD
WILTON CT 06897

128-20
BEESON L BRADEN &
5 LEDGEWOOD DR
WILTON CT 06897

128-27
DEPAULIS TRACY G
474 THAYER POND RD
WILTON CT 06897

115-13
SANFILIPPO PETER & KATHERINE A
43 OLD DRIFTWAY
WILTON CT 06897

127-5
DAVATZES GEORGE N & JENNIFER P
445 THAYER POND RD
WILTON CT 06897

127-5-3
COONEY LIAM &
421 THAYER POND RD
WILTON CT 06897

127-9
KAISER CHRISTOPHER K & SARAH J
444 THAYER POND RD
WILTON CT 06897

128-15
SABIA THOMAS E
473 THAYER POND RD
WILTON CT 06897

128-18
BRINA MONICA C &
12 GAY ROAD
EAST HAMPTON NY 11937

128-21
LILLIS JAMES M III & SHEILA M
19 LEDGEWOOD DR
WILTON CT 06897

128-28
BI SEAN ZHENGYU &
7 HOLLOW TREE PL
WILTON CT 06897

115-26
BLICHT GLENN
65 OLD DRIFTWAY
WILTON CT 06897

127-5-1
WILTON LAND CONSERVATION TRUST
P O BOX 77
WILTON CT 06897

127-5-4
NELSON MATTHEW ROBERTS &
447 THAYER POND RD
WILTON CT 06897

127-10
DICKMAN JOHN T & LIANA B
35 LEDGEWOOD DR
WILTON CT 06897

128-16
ELMASRY MICHAEL J & MELISSA M
461 THAYER POND RD
WILTON CT 06897

128-19
HERSCOVITCH HARVEY & STARR M
451 THAYER POND RD
WILTON CT 06897

128-26
MCELROY MICHAEL & ANDREA
16 LEDGEWOOD DR
WILTON CT 06897

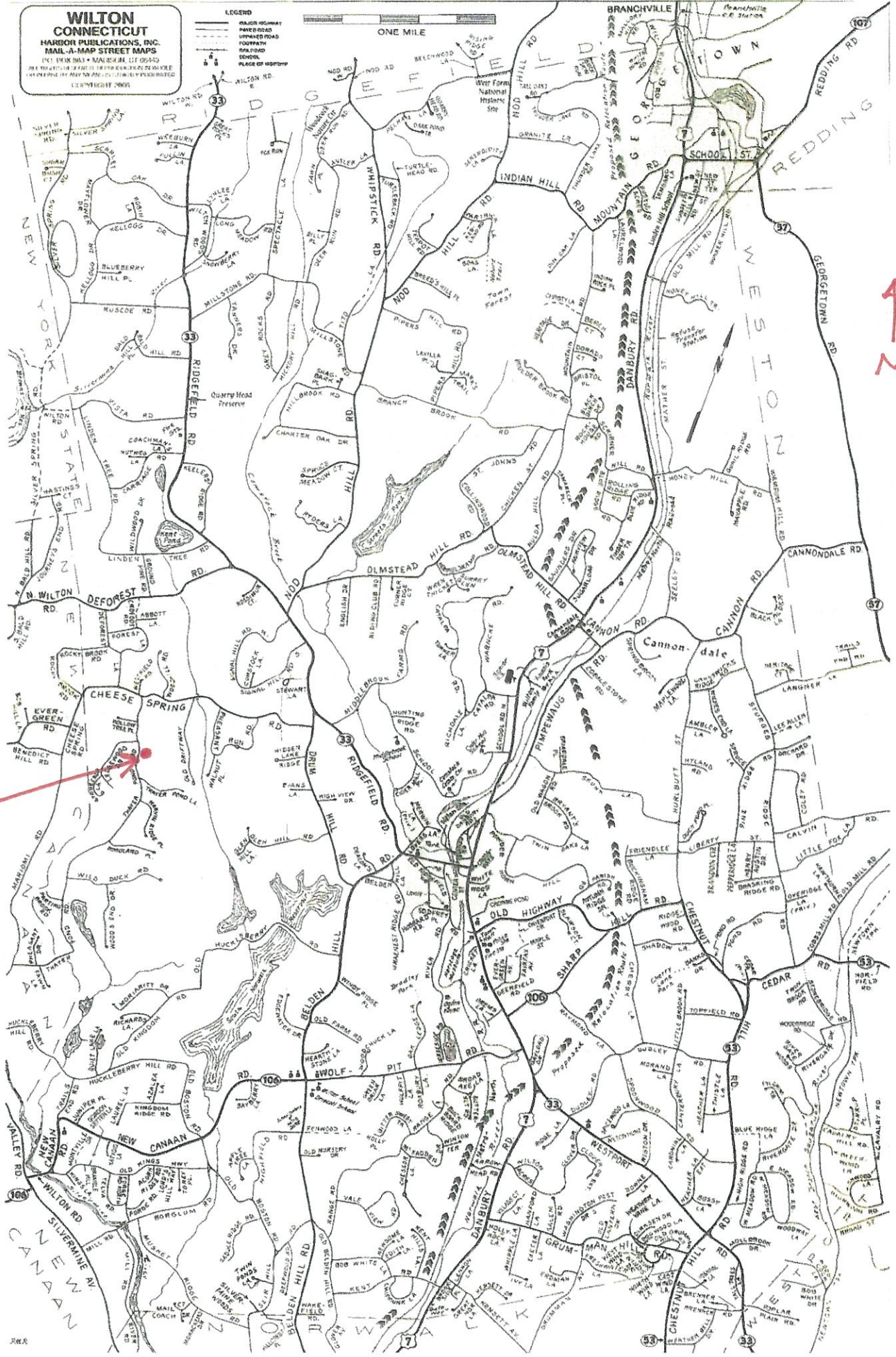
WILTON
CONNECTICUT
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LEGEND
MAJOR HIGHWAY
PAVED ROAD
UNPAVED ROAD
FOOTPATH
RAILROAD
SCHOOL
PLACE OF WORSHIP

ONE MILE

455
Thayer
Road
Rd

↑
N



DIRECTIONS TO 455 THAYER POND ROAD FROM WILTON TOWN HALL ANNEX

From Wilton Town Hall Annex, make a right at the traffic light and drive northwest on Danbury Rd/US-7.

Turn left onto Ridgefield Rd/CT-33.

Turn left onto Drum Hill Rd.

Take the 1st right onto Cheese Spring Rd.

Turn left onto Thayer Pond Rd.

455 THAYER POND RD is on the left.

Your destination is just past Ledgewood Drive. If you reach Marvin Ridge Pl you've gone about 0.2 miles too far

455 Thayer Pond Rd.
Wilton, Conn.

89-03-06

Request variance from Section 29-27 for side yard setback of 36' in lieu of the 40' required for kitchen addition to residence. Said property is owned by applicants at the above address and consists of 0.99 acres in an R-2A zone as shown on W.L.R. Map #4024.

Granted 3/15/89

ZBA



