

TOWN OF MILFORD

Office of Community Development
Planning • Zoning • Building Safety • Code Enforcement • Health
Economic Development • Active Projects



Administrative Review

Date: July 29, 2021
To: Jason Plourde, Chair, Zoning Board of Adjustment
From: Lincoln Daley, Community Development Director
Subject: **Case #2021-10:** Duane Myers, 4 Fernwood Drive, Milford Tax Map 48, Lot 55 – Special Exception Application for Dimensional Setbacks. *Continued from 7/15/21.*

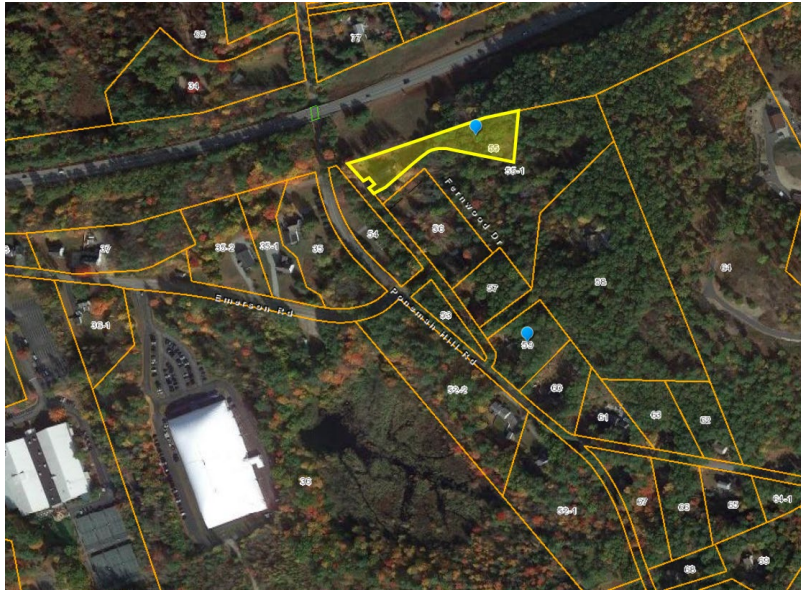
The applicant is before the Board of Adjustment seeking a Special Exception from the Milford Zoning Ordinance, Article V, Section 5.04.2.7 to allow the construction of a 24' x 28' accessory structure (detached garage) approximately within the 30 foot front property line dimensional setback and within the 15 foot side setback of the Fernwood Drive right of way in the Residential 'R' Zoning District. In reviewing the files for this property, I offer the following comments:

1. Existing Conditions:
 - a. The subject property is approximately 1.449 acres in area with approximately 195 linear feet of frontage on Fernwood Drive and situated at the very end of the subject Class V roadway.
 - b. The property consists of a 2-story, 3 bedroom, single-family residence and is serviced by private well and septic
 - c. The subject property is situated in an established single-family residential area and directly abuts Town owned property and Route 101 right of way. To the west of the subject property lies NH Route 101 Right of way and to the east Town owned property (Tax Map 48-55-1). The property is bounded to the south and east by residential uses.
 - d. A 25' x 32' square foot section of the Fernwood Drive right of way extends into the subject property. This portion of the Fernwood Drive functions as the turn-around on the dead-end cul-de-sac for town maintenance and emergency vehicles.
2. The proposal calls for the construction of a 24' x 28' square foot (672 sf) detached garage along the southwesterly portion of the subject property. The proposed garage is located approximately 1 foot from the northwesterly section of the Fernwood right of way (turnaround area) and 20 feet from the southerly property boundary along Fernwood Drive.
3. The applicant provided a visual representation of the proposed one story, 2 bay, detached garage as part of the revised submittal. See attachment below.
4. The detached garage is categorized as an accessory structure and permitted within the Residential 'R' District. Pursuant to Section 5.04.2.7, a structure can be placed within the front (30') and side (15') dimensional setbacks with the issuance of a Special Exception by the Board of Adjustment.
5. In speaking with the applicant, the requested additional time was necessary to locate the septic system on the property. Having located the septic system, the revised location of the proposed garage was positioned on the

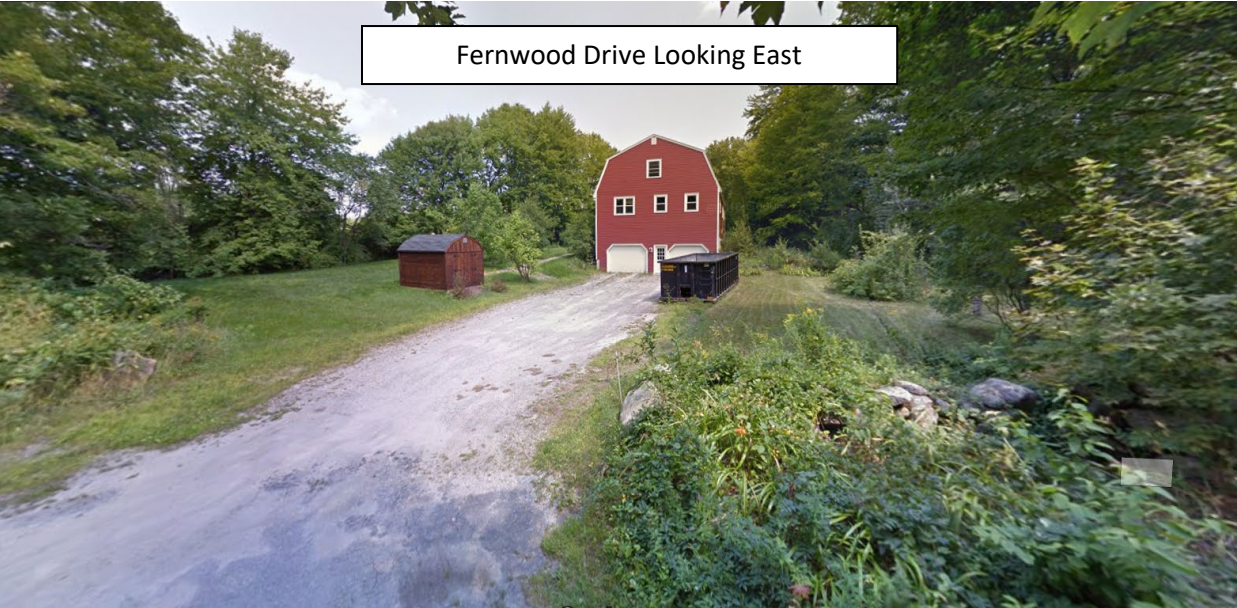
property to have the least amount of impact on said system and tank. The applicant should be prepared to provide information regarding any/all alternative locations considered for the placement of the detached garage.

- 6. Community Development staff has requested information/input from the Public Works Department relative to the proximity of the proposed structure to the Fernwood right of way and will forward to members prior to the meeting.

Aerial Photos of Subject Property:



Street Photos of Subject Property:



Fernwood Drive Looking Northeast

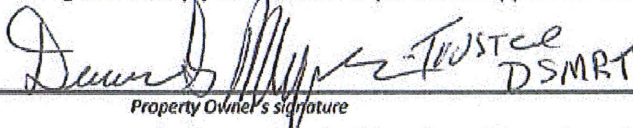


Fernwood Drive Looking Southeast





ZBA Application
MILFORD ZONING BOARD OF ADJUSTMENT
GENERAL PROPERTY INFORMATION FOR ALL APPLICATIONS

PROPERTY INFORMATION	
Street Address: 4 Fernwood Drive, Milford NH 03055	
Tax Map / Parcel #: 48-55	Lot Size: 1.45 Acre
PROPERTY CURRENTLY USED AS	
Single Family Dwelling	
<i>If the application involves multiple lots with different owners, attach additional copies of this page.</i>	
PROPERTY OWNER	
Name: Duane S Myers Revocable Trust, Duane S Myers Trustee	
Address: 4 Fernwood Drive	
City/State/Zip: Milford NH 03055	
Phone: () 603-426-3487	
Email: hemhane@comcast.net	
<i>The applicant is the person who is making this proposal on behalf of themselves, the owner or a third party. This is usually the same as the property owner, but might be a tenant, someone who plans to purchase the property, an engineer or lawyer, etc. If the applicant is the same as the owner, just check "Same as owner" and leave the rest of this section blank.</i>	
APPLICANT/REPRESENTATIVE	
<input checked="" type="checkbox"/> SAME AS OWNER	
Name:	
Address:	
City/State/Zip:	
Email: hemhane@comcast.net	
Phone: ()	Cell: () 603-426-3487
The undersigned property owner(s) hereby authorize(s) the filing of this application and agree to comply with all code requirements applicable to this application.	
 Property Owner's signature	
Date: 4/21/21	

Date Received:	
Case Number:	TOWN OF MILFORD RECEIVED
Application Number:	
Hearing Date:	APR 22 2021
Decision Date:	
Decision:	B ZBA Office

Zoning District (check one):
<input type="checkbox"/> Residence A <input type="checkbox"/> Residence B <input checked="" type="checkbox"/> Residence R <input type="checkbox"/> Commercial <input type="checkbox"/> Limited Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Integrated Commercial-Industrial <input type="checkbox"/> Integrated Commercial-Industrial-2
Overlay District (check any that apply):
<input type="checkbox"/> West Elm Street Overlay <input type="checkbox"/> Nashua/Elm Street Overlay <input type="checkbox"/> Commerce & Community Overlay <input type="checkbox"/> Open Space & Conservation <input type="checkbox"/> Wetlands Conservation <input type="checkbox"/> Groundwater Protection <input type="checkbox"/> Floodplain Management

APPLICATION FEES	
Application Fee:	\$75.00
Abutters Fee: \$4 x ⁴	\$16.00
Amount received:	\$91.00
Date Received:	4/21/21
Check _____ Cash <input checked="" type="checkbox"/>	

THE FEES ASSOCIATED WITH THIS APPLICATION DO NOT APPLY TO ANY OTHER FEES REQUIRED FOR APPROVAL OF THIS PROJECT. PLANNING, IMPACT, BUILDING AND OTHER FEES MAY APPLY.



ZBA Application – Special Exception
MILFORD ZONING BOARD OF ADJUSTMENT

Date Received: 4-22-21
 Case Number: 2021-10
 Application #: 20210911
 Date Complete: _____
 Hearing Date: 5-20-21
 Decision Date: _____
 Decision: _____

PROPERTY INFORMATION
Street Address: 4 Fernwood Drive Milford NH 03055
Tax Map / Parcel #: 48-55
A Special Exception is a use which is permitted by the Zoning Ordinance, but requires approval from the Zoning Board of Adjustment. Most special exceptions have a list of additional criteria that must be met in order for the ZBA to approve the application. *Note that in addition to the specific criteria that may be listed for a particular special exception, all special exceptions are subject to the general criteria in Section 10.02.1 of the Zoning Ordinance.
What section of the Zoning Ordinance are you applying under? Article <u>V</u> Section <u>5.04.2.A & 5.04.2.B</u> Describe the <u>use</u> you are proposing under the above section of the Ordinance. <u>Build a 2 Car Garage less than 30 feet from front lot line (5.04.2.A)</u> <u>and Less than 15 feet from side lot lines (5.04.2.B)</u> <u>Town of Milford being the abutter on all sides.</u>

**Application for
(check all that apply):**

Change/Expansion of Non-conforming Use/Structure (2.03.1.C)
 Wetland Buffer Impact (6.02.6)
 Accessory Dwelling Unit (10.2.6)
 Office in Res-A & B (10.2.7)
 Home Business (7.12.6)
 Side/Rear Yard Setback Reduction (Zoning District Specific)
 Other

General Criteria Section 10.02.1

Describe the project you are requesting a Special Exception for:
2 Car Detached Garage.

Explain how the proposal meets the general criteria as specified in Article X, Section 10.02.1 of the Zoning Ordinance:

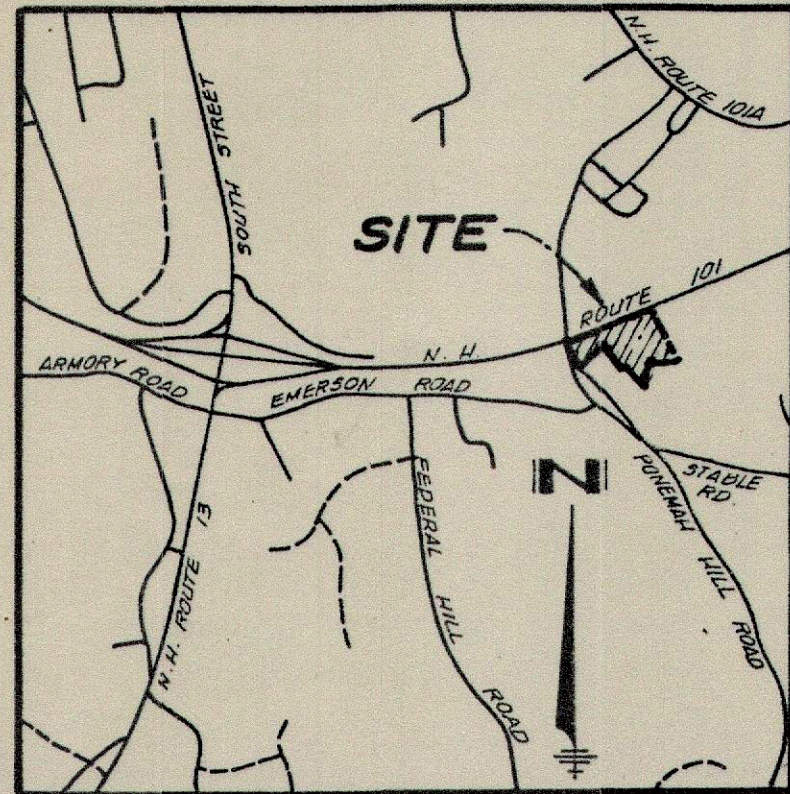
A. The proposed use is similar to those permitted in the district because:
2 Car detached garage is common in the district.

B. The specific site is an appropriate location for the proposed use because:
It is the only possible location on my property given my unusual property lines.

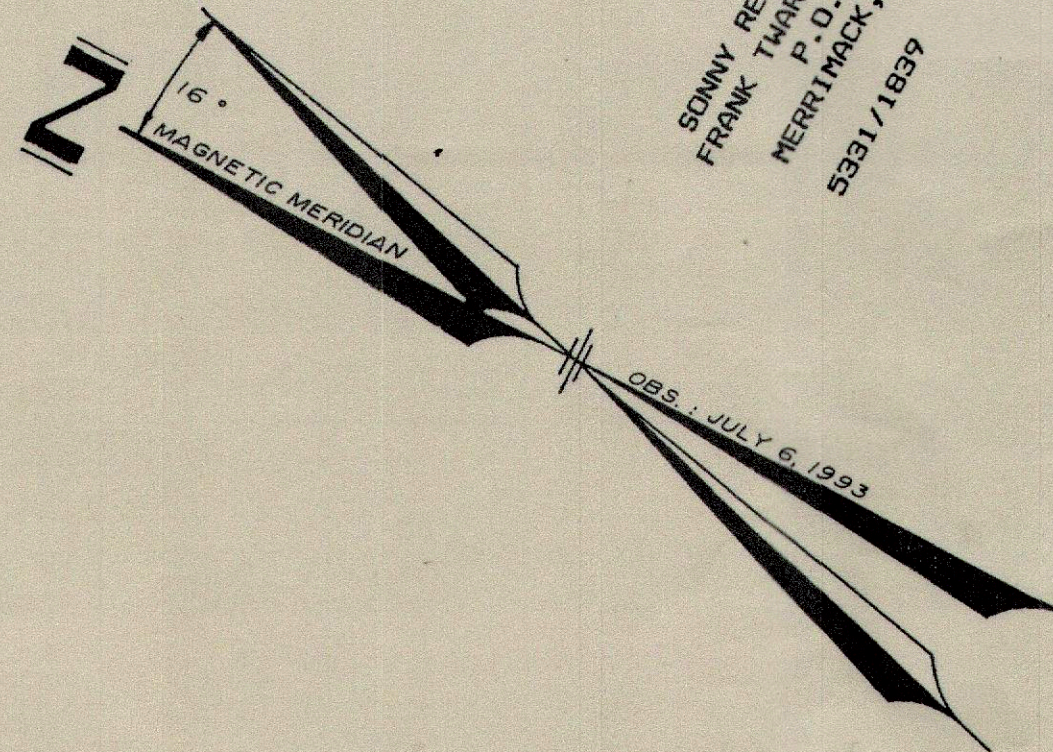
C. The use as developed will not adversely affect the adjacent area because:
~~Stone wall between road and proposed location so won't affect traffic. Town land on 50 foot strip is not used and town has 30' ROW on other side.~~ Location will not affect turn arounds in driveway as it is set back from driveway

D. There will be no nuisance or serious hazard to vehicles or pedestrians because:
**It will be a standard detached garage in my yard at the end of a dead end street.
 Not many cars or pedestrians use this area except occupants of the residence.**

E. Adequate appropriate facilities will be provided for the proper operation of the proposed use because:
The garage will be maintained properly.



LOCUS PLAN
SCALE: 1" = 2000'

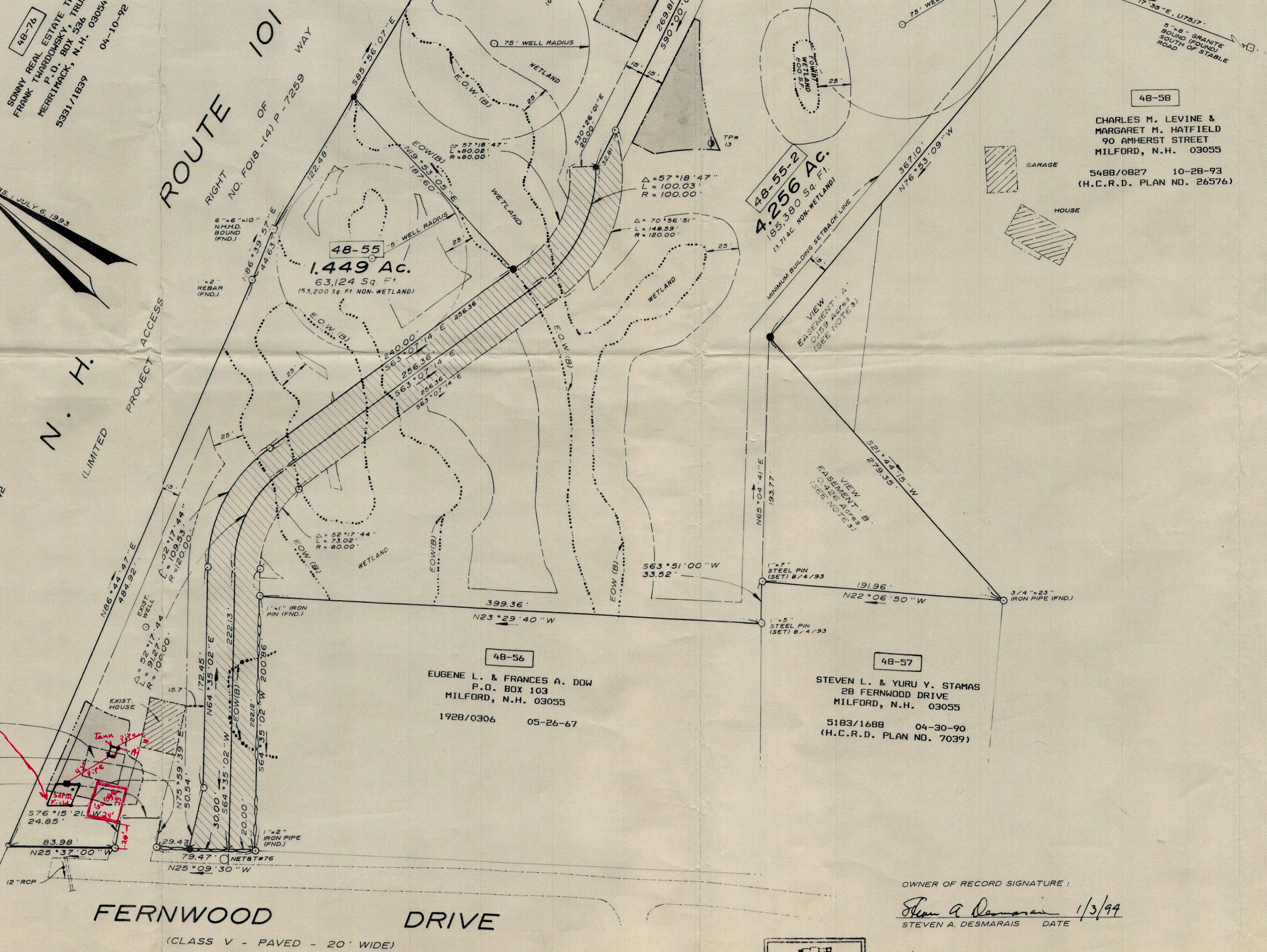


LEGEND:

- DENOTES EDGE OF HYDRIC 'B' WETLAND
- DENOTES 4,000 SQUARE FOOT AREA RESERVED FOR SEWAGE DISPOSAL
- DENOTES PRIVATE WAY ACCESS EASEMENT
- DENOTES MONUMENT TO BE SET IN ACCORDANCE WITH SECTION 6.031 OF THE TOWN OF MILFORD DEVELOPMENT CODE; UNLESS OTHERWISE NOTED.
- DENOTES STEEL PIN SET.

48-76
SONNY REAL ESTATE TRUST
FRANK THARRODINSKY, TRUSTEE
MERRITRACK, N.H. 03054
5331/1839 04-10-92

48-77
SONNY REAL ESTATE TRUST
FRANK THARRODINSKY, TRUSTEE
MERRITRACK, N.H. 03054
5331/1839 04-10-92



- REFERENCE PLANS:
- "SUBDIVISION PLAN OF LAND - PONEMAH HILL ROAD - MILFORD, N.H. - SURVEYED FOR - GORDON McLAUGHLIN" SCALE: 1"=100' DATED OCTOBER 1973 PREPARED BY W. ROBERT NOLTE & ASSOCIATES. (H.C.R.D. PLAN NO. 7039 DRAWER 7).
 - "LOT LINE ADJUSTMENT PLAN - JAMES A. WIEDMAN - MILFORD, N.H." SCALE: 1"=40' DATED JULY 19, 1979 PREPARED BY THOMAS F. MORAN, INC. (H.C.R.D. PLAN NO. 12692 DRAWER 24).
 - "PLAN OF - CHARLES S. EMERSON'S FARM - PROPERTY OWNED BY FRANKLIN I. ABBOTT - IN - MILFORD, N.H." SCALE: 1"=200' DATED DECEMBER, 1909 PREPARED BY CLARENCE R. RUSSELL (H.C.R.D. PLAN NO. 550).
 - "LOT LINE ADJUSTMENT PLAN - MILFORD - CO-OPERATIVE BANK - AND - PAUL C. HOLLAND, JR. - MILFORD, NEW HAMPSHIRE" SCALE: 1"=50' DATED SEPTEMBER 15, 1993 REVISED OCTOBER 5, 1993 BY MONADNOCK SURVEY, INC. (H.C.R.D. PLAN NO. 26576).

- NOTES:
- OWNER OF RECORD OF THE PARCEL BEING SUBDIVIDED IS STEVEN A. DESMARAIS, 335 NASHUA STREET, MILFORD, N.H. 03055.
 - DEED REFERENCES TO THE PARCEL ARE HILLSBOROUGH COUNTY REGISTRY OF DEEDS VOLUME 5483 PAGE 1907 DATED OCTOBER 22, 1993 AND VOLUME 5483 PAGE 1908 DATED OCTOBER 22, 1993.
 - PARCEL IS SUBJECT TO AND HAS THE BENEFIT OF VIEW EASEMENTS AS DESCRIBED IN HILLSBOROUGH COUNTY REGISTRY OF DEEDS VOLUME 5483 PAGE 1907 AND VOLUME 5488 PAGE 0827.
 - TOTAL AREA OF THE PARCEL IS 7.440 ACRES.
 - PARCEL IS SHOWN AS LOT 55 ON MAP 48 OF THE MILFORD TAX MAP.
 - ZONING DISTRICT IS RESIDENCE R.
 - THE INTENT OF THIS PLAN IS TO SUBDIVIDE THE PARCEL INTO 3 LOTS; LOTS 48-55-1 AND 48-55-2 BEING REDUCED FRONTAGE LOTS ACCESSED BY A PRIVATE WAY TO BE CONSTRUCTED IN CONFORMANCE WITH SECTION 6.053 OF THE MILFORD DEVELOPMENT CODE.
 - LOT 48-55 IS SERVICED BY AN EXISTING ON-SITE WELL AND AN EXISTING SEWAGE DISPOSAL SYSTEM. LOTS 48-55-1 AND 48-55-2 ARE TO BE SERVICED BY INDIVIDUAL ON-SITE WELLS AND SEWAGE DISPOSAL SYSTEMS.
 - THIS APPROVAL IS GRANTED SUBJECT TO A DECLARATION OF COVENANTS, RESTRICTIONS, CONDITIONS AND RESERVATIONS ENTERED INTO BY THE DEVELOPER WITH THE PLANNING BOARD OF THE TOWN OF MILFORD, WHICH DECLARATION IS OF EVEN DATE HERewith AND WAS PROVIDED TO THE PLANNING BOARD OF THE TOWN OF MILFORD AT THE TIME THAT THE APPROVAL HEREIN WAS GRANTED AND IS RECORDED IN THE HILLSBOROUGH COUNTY REGISTRY OF DEEDS.
 - WETLAND BOUNDARIES WERE DELINEATED ON THE GROUND BY MARY E. WEHRLE-ANDERSON, CERTIFIED SOIL SCIENTIST.
 - N.H. WETLANDS BOARD APPROVAL IS POSTING PERMIT 94-0012, EXPIRATION DATE: JULY 19, 1996.
 - N.H.D.E.S. SUBDIVISION APPROVAL NO. IS SA1994042144, DATED JULY 26, 1994.

APPROVED
MILFORD, NH PLANNING BOARD
SUB DIVISION #: 150-20
DATE APPROVED: 5/17/94
SIGNED: *Steven A. Desmarais*
Dwain Barry
Russell Belden
Michael R. ...

SUBDIVISION PLAN
STEVEN A. DESMARAIS
MILFORD, NEW HAMPSHIRE

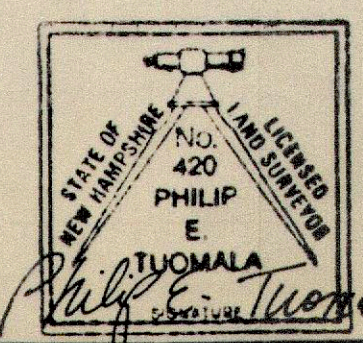
SCALE: 1" = 50' JAN. 3, 1994

MONADNOCK SURVEY, INC. LAND SURVEYORS - PLANNERS - ENGINEERS
WILTON STATION - MAIN STREET - P.O. BOX 607 - WILTON, N.H. 03086 (603) 654 - 2345

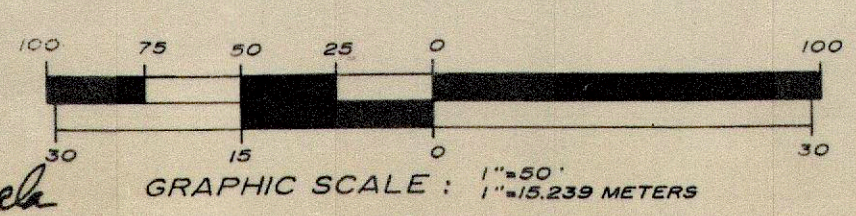
REV.	DATE	DESCRIPTION	DR	CK
1	8/9/94	ADD NOTES 11 & 12, NOTE MON. SET		

48-54
RICHARD P. & MAUREEN F. YERGEAU
142 PONEMAH HILL ROAD
MILFORD, N.H. 03055
3503/0910 04-18-86

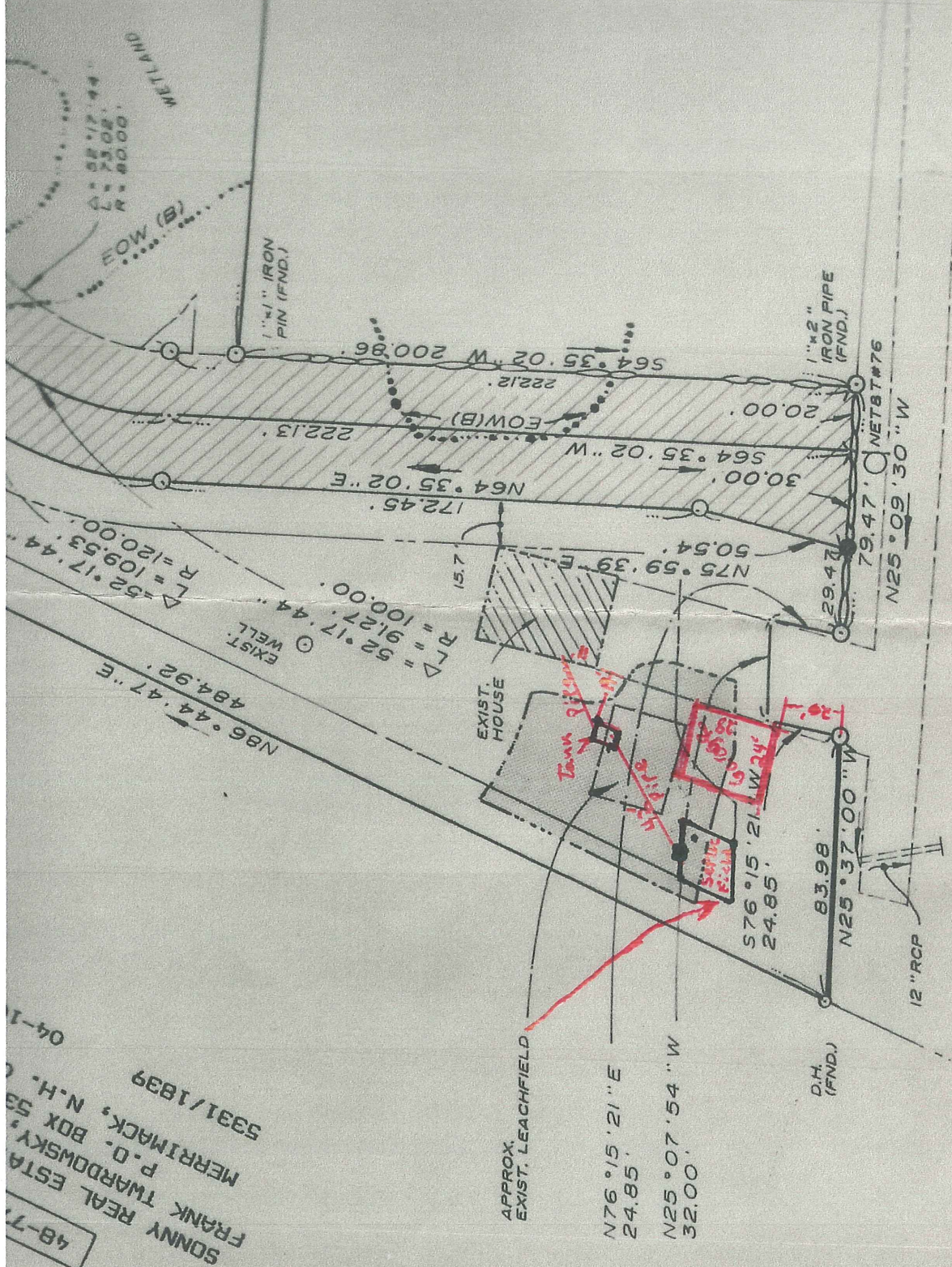
"I HEREBY CERTIFY THAT THIS PLAN IS THE RESULT OF AN ACTUAL SURVEY MADE ON THE GROUND AND HAS A MINIMUM RELATIVE ERROR OF CLOSURE OF ONE PART IN TEN THOUSAND ON ALL PROPERTY LINES. ALL MONUMENTS WERE FOUND OR SET AS SHOWN."



OWNER OF RECORD SIGNATURE:
Steven A. Desmarais 1/3/94
STEVEN A. DESMARAIS DATE



48/55
Fernwood, Dr.



FERNWOOD

(CLASS V - PAVED - 20' WIDE)

48-54

RICHARD P. & MAUREEN F. YERGEAU
 142 PONEMAH HILL ROAD
 MILFORD, N.H. 03055

48-71
 SONNY REAL ESTA
 FRANK TWARDOWSKY,
 P.O. BOX 53
 MERRIMACK, N.H. 03001
 5331/1839

4	ADD NOTES 11 & 12, NOTE MON. SET	DBT PET



1 inch = 30 Feet



April 16, 2021







TOWN
TURNAROUND

4.85'

1'

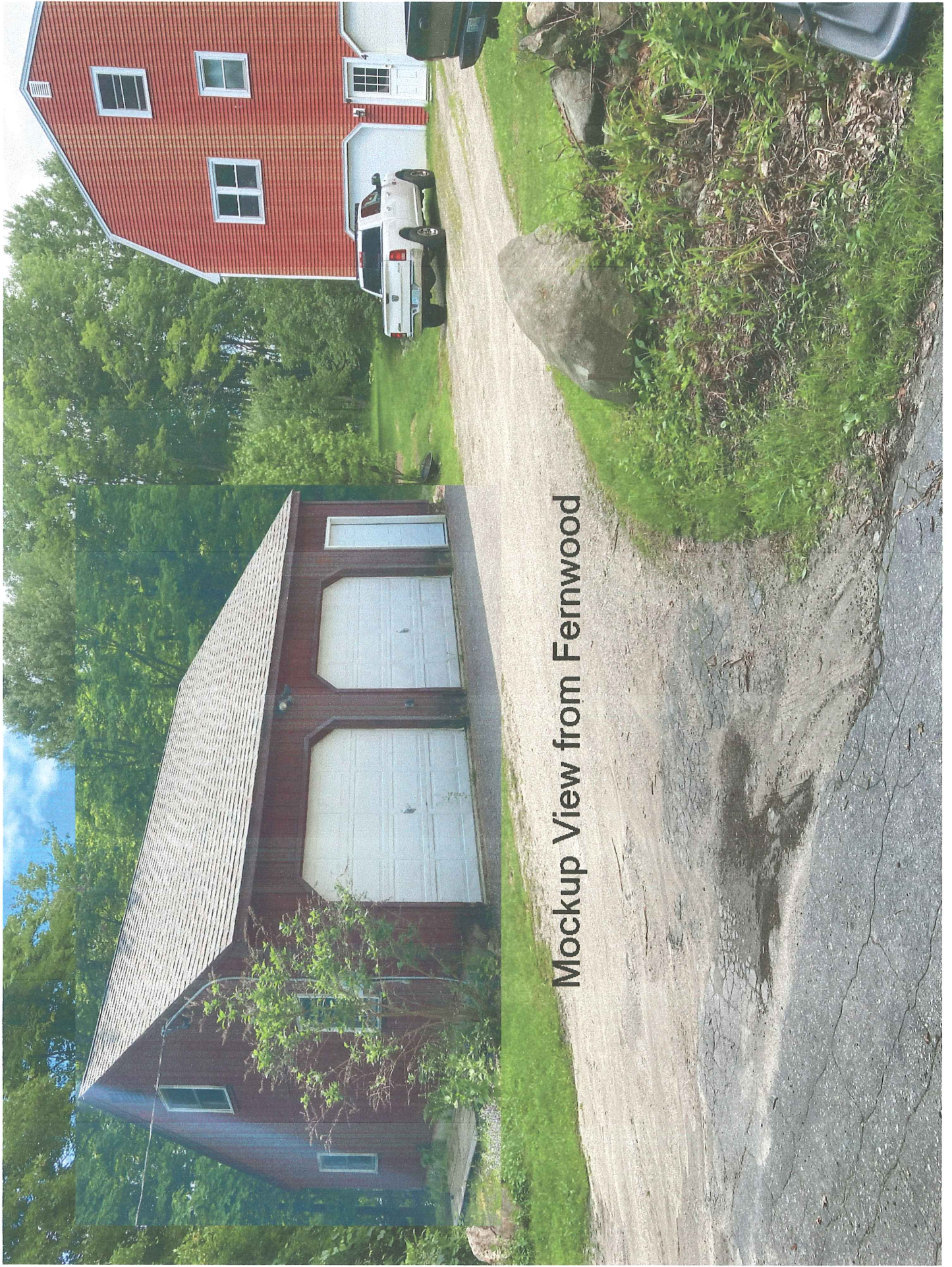
28'

24'

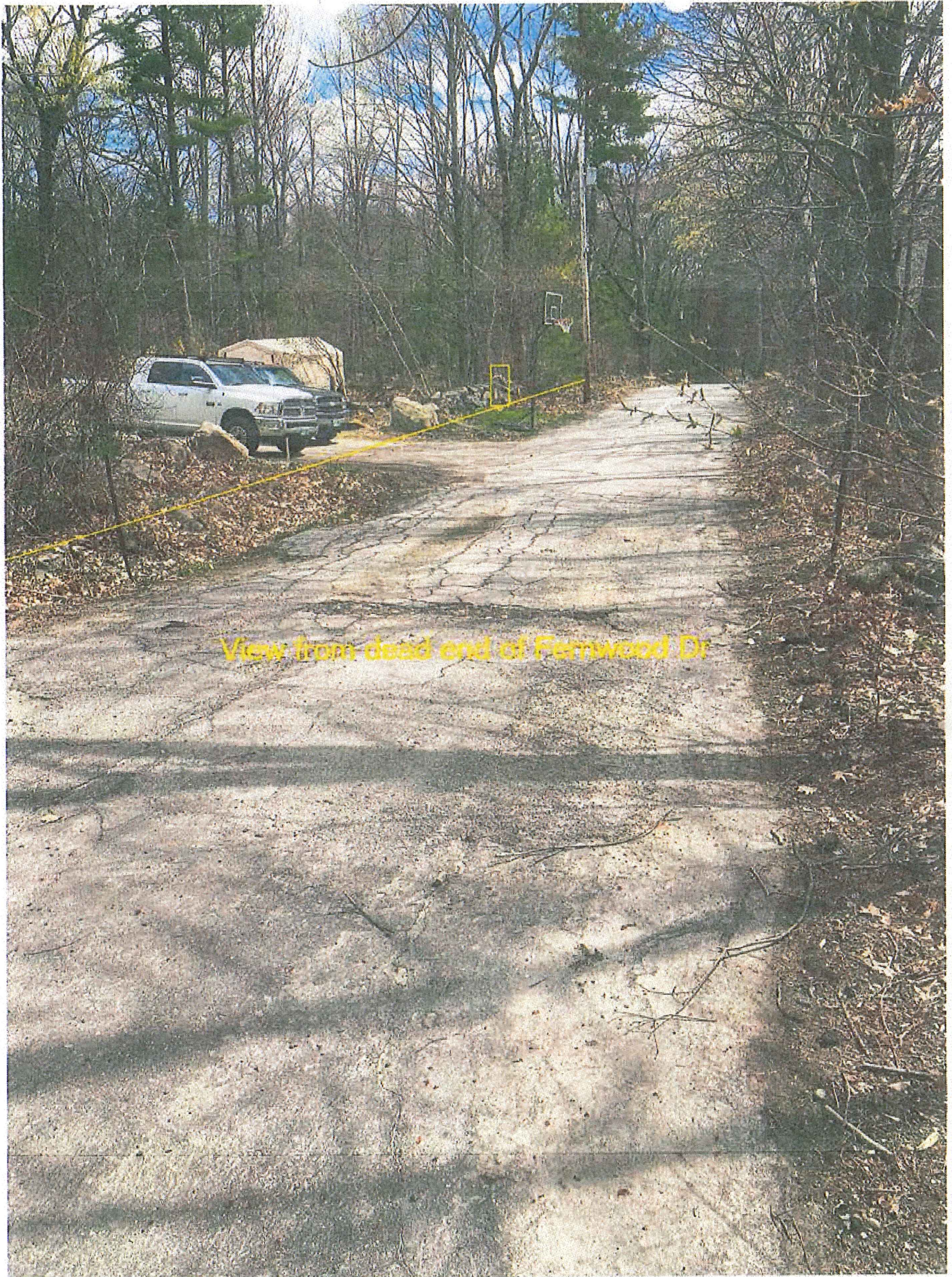
28'

Septic
Field

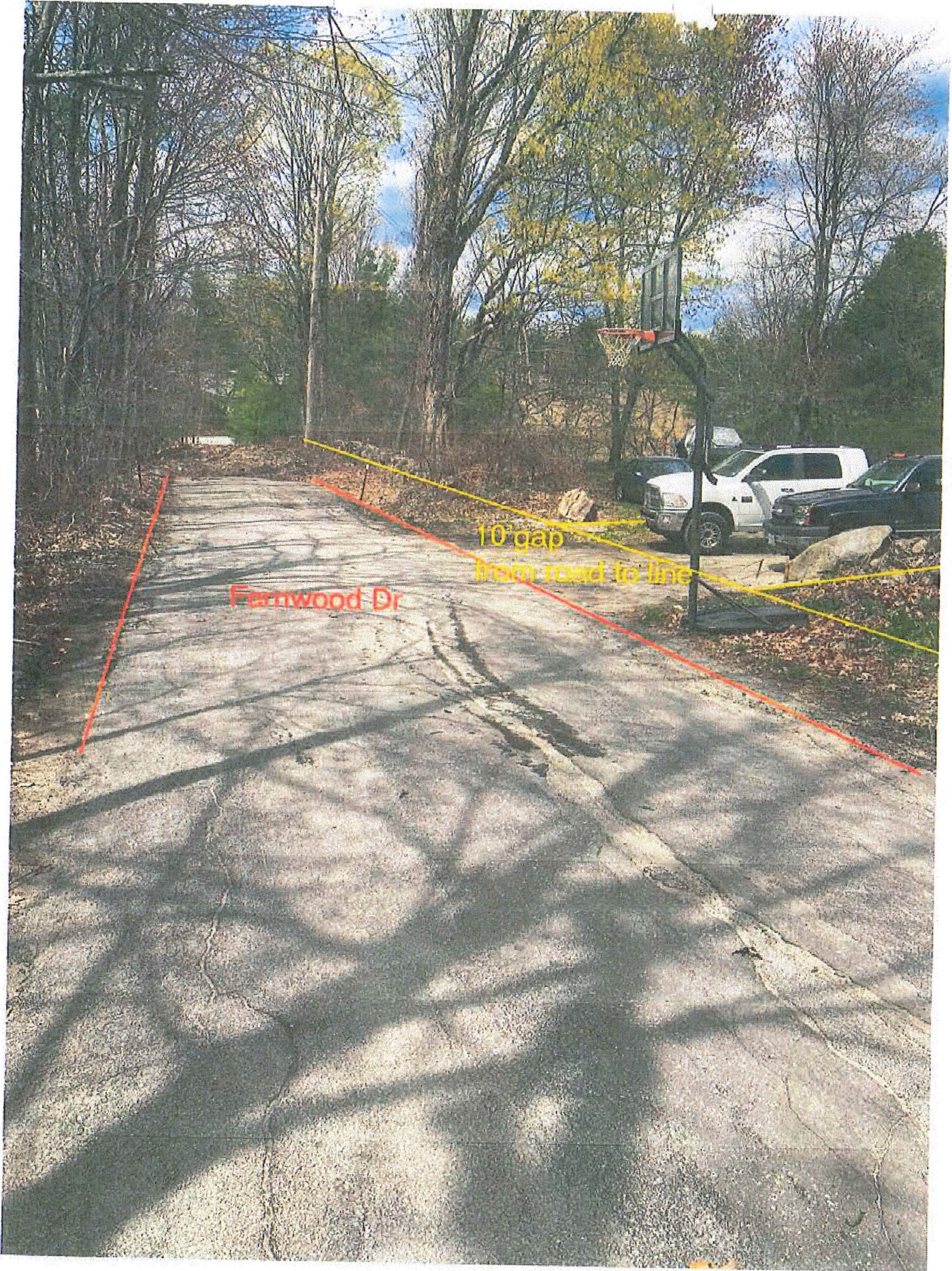
10'



Mockup View from Fernwood



View from dead end of Fernwood Dr



Fernwood Dr

10' gap
from road to line



24.85

5'

10'

32'

32'

Actual Driveway 22'

5'

24.85