

**Bolton Zoning Board of Appeals**  
**Regular Meeting Minutes**  
**January 12, 2026, 7:00 p.m.**  
**Bolton Town Hall, 222 Bolton Center Road**  
**In-Person Meeting and Virtual Utilizing Zoom**

**Members Present:** Vice Chairman William Pike, Joshua Machnik, Jonathan Treat, Athina Loveland, Anne Decker, Alternate Andrew Chambers

**Others Present in Person:** Michael and Michelle Pierce, Stephen Rascher, Neighbor at 27 Clark Rd

**Others Present Via Zoom:** Board Clerk Mary Johnston, Jim Loersch

**1. Call to Order**

W. Pike called the meeting to order at 7:02 p.m.

**2. Approval of Minutes**

J. Machnik MOVED to approve the December 9, 2025 Minutes as presented. A. Decker SECONDED the motion. MOTION CARRIED UNANIMOUSLY 5:0:0.

**3. Resident's Forum/Public Comment**

There was no public comment.

**4. Public Hearings:**

**No. ZBA-25-2: Michelle Pierce – 28 Clark Rd – requesting a variance of 14 ft, reducing the side yard setback from 25 ft to 11 ft to construct an 800 sq. Ft.addition.**

W. Pike opened the Public Hearing and said this application was from the last meeting. Michael Pierce explained the application request and said they are requesting a 14 ft.variance on the left side of their house to construct a garage with a couple of bedrooms above it. M. Pierce added they are requesting the variance since their lot is narrower than others nearby. W. Pike asked if there were any changes from the last meeting. Michelle Pierce replied the correct surveyor numbers were submitted. A. Decker asked if there was any opportunity to build in the back. M. Pierce replied there was not and do not have a usable garage currently. A. Loveland asked if this was a two car garage. M. Pierce replied it will be a one car garage. W. Pike pointed out the hardship was adjusted and asked if they wanted to add to it. M. Pierce replied it was adjusted and is part of the application. The Board discussed the lots in the neighborhood that are narrow. J. Treat asked if the applicants are claiming unnecessary difficulty and unreasonable hardship. M. Pierce replied they were unsure what was being asked but said their lot is narrower than other neighboring lots. W. Pike said other neighboring lots have been granted variances. J. Treat asked if the variance is not granted the lot would still have potential for use. M. Pierce replied yes. J. Treat asked the Board to look at 19e to which W. Pike replied the Board can discuss amongst themselves. There being no more discussion, the Public Hearing closed

at 7:22 p.m. J. Machnik said he agrees with the applicant the lot is narrower than others. A. Decker pointed out there are six identical lots in a row and some have garages. J. Machnik MOVED to approve the variance for the applicant on the basis the lot being abnormally narrower than the neighbor. A. Decker felt the Board should discuss the hardship and the regulation in their book. The motion failed due to the lack of a second. J. Treat said he does not feel that section applies. J. Treat asked if the Board feels an unnecessary hardship exists. W. Pike felt the width of the lot is a hardship. A. Decker said there are six identically small lots is noteworthy and have been built on in very different ways with building over their setbacks.

J. Machnik MOVED to approve a variance for the applicant for 14 ft. on the left side of the house because of the narrowest of the lot based on the lot being narrower than those in the neighborhood and precedent set by the neighbors and narrow lots in town. A. Loveland SECONDED the motion. A. Decker wondered about setting a precedent with this variance. W. Pike pointed out this has been happening in this neighborhood and is a consideration with many different sizes of lots in town. MOTION CARRIED UNANIMOUSLY 5:0:0.

**No. BZA-25-3: Stephen Rascher – 8 Alexis Dr.- requesting a variance of 14ft., reducing the rear yard setback from 40 ft to 26 ft to construct an in-ground pool.**

S. Rascher explained he would like to install a 14' by 30' pool in his backyard. S. Rascher stated he is requesting a change to the setback from the 40 feet to 26 feet from the rear building line. S. Rascher said his rear boundary line borders a large underdeveloped parcel of about 30 acres and the planned pool complies with the regulations pertaining to distances from the pool to well and septic system. W. Pike asked about the location of the septic tank over the setback line. S. Rascher replied he had a new one replaced recently and permitted. W. Pike asked if the foundation has been replaced. S. Rascher replied it was replaced last year. W. Pike asked if the map in the application showing the location of the pool was correct. J. Treat asked if the house was out of square and asked if the drawing was done by a professional for this occasion. S. Rascher replied no and this map was a drawing from 1978. J. Treat said the board does not have the reassurance of a surveyor's certification on this drawing as of today. W. Pike said the board is to have confidence the distances are accurate. S. Rascher stated the red lines on the drawing were put in by the Zoning Officer. J. Treat pointed out the Zoning Officer is not a certified surveyor. W. Pike asked if the Zoning Officer visited the site. S. Rascher stated they did not. W. Pike expressed concerns with the location of the house in relation to the proposed pool and lack of certified dimensions. J. Treat asked about the hardship statement. W. Pike explained the reason for a hardship statement in relation to this application. W. Pike stated the Board needs a substantial map and its typically an authorized site survey. W. Pike said he will speak with the Zoning Officer tomorrow. The Public Hearing and application is tabled and will be continued at next month's Zoning Board of Appeals meeting.

**5. Revise October 2026 Meeting Date**

J. Machnik MOVED to move the October's meeting date to October 5, 2026. A. Loveland SECONDED the motion. MOTION CARRIED UNANIMOUSLY 5:0:0.

**6. Other**

A. Chambers asked if the pool ends at the walls of the pool or the patio. W. Pike replied it includes the patio. A. Chambers pointed out the setback will be less with the patio/walkway around the pool.

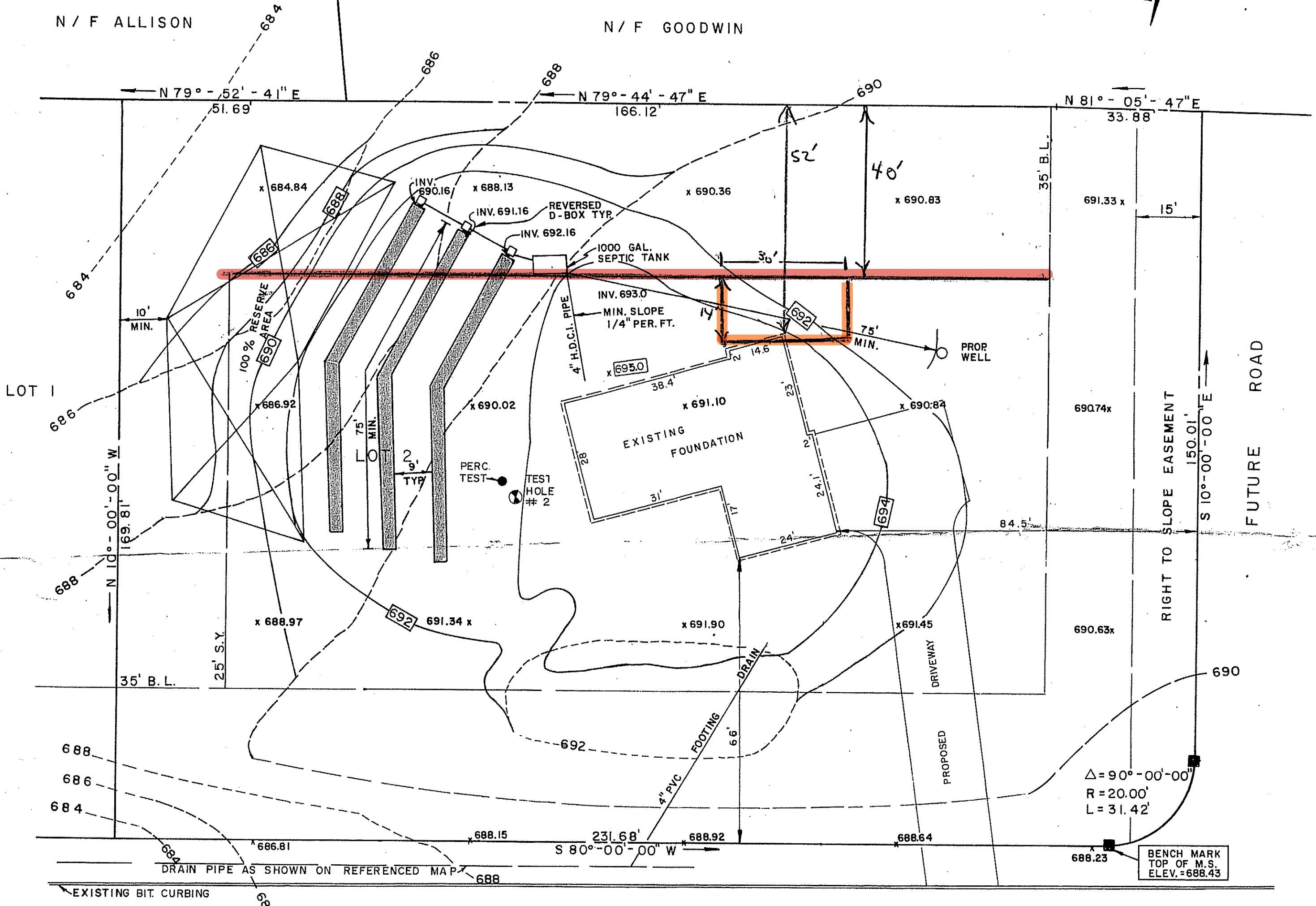
**7. Adjournment:** J. Machnik MOVED to adjourn the meeting at 8:04 p.m. A. Decker SECONDED the motion. MOTION CARRIED UNANIMOUSLY 5:0:0.

Respectfully submitted by Mary J. Johnston

*Mary J. Johnston*

Please see the Minutes of subsequent meetings for corrections to these Minutes and any corrections hereto.

MAP #1



Design Criteria

Three bedroom house  
1,000 gallon septic tank  
675 square feet of effective leaching area required  
675 square feet of effective leaching area provided  
Three trenches - 75' long by 3' feet wide

THIS MAP IS COMPILED FROM OTHER MAPS, DEED DIMENSIONS AND OTHER SOURCES OF INFORMATION, NOT TO BE CONSTRUED AS AN ACCURATE SURVEY AND SUBJECT TO FINAL CHANGES AS A MORE ACCURATE SURVEY MAY DISCLOSE.

LEGEND

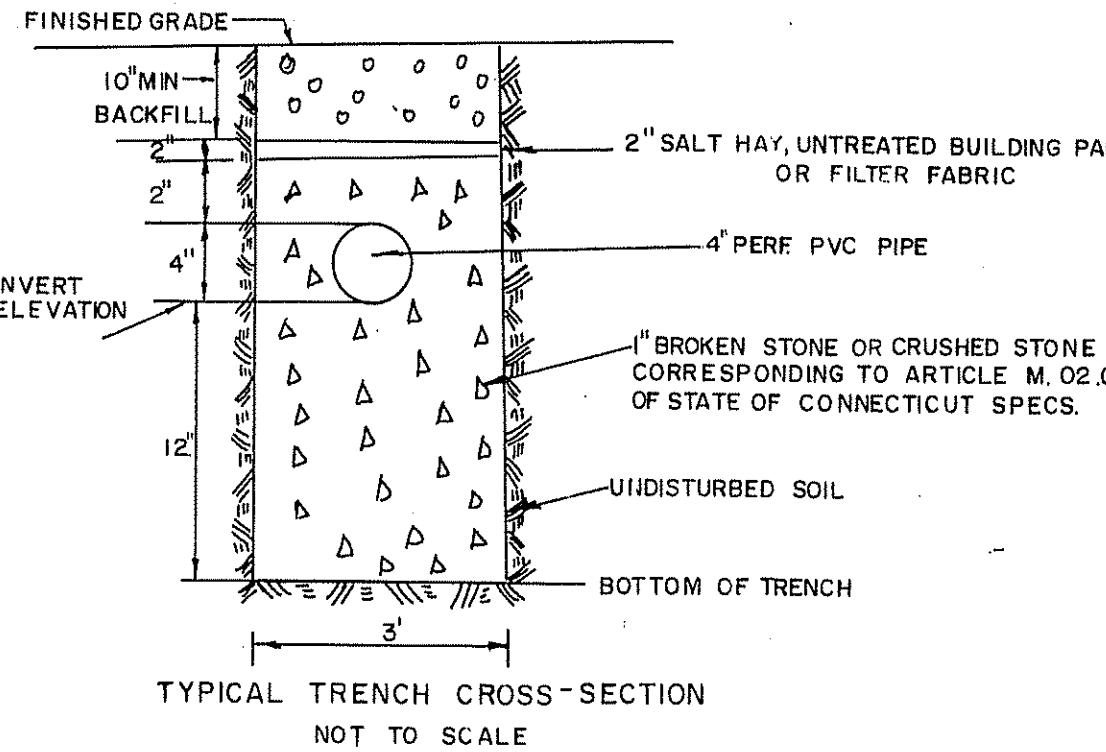
- EXISTING MERESTONE
- EXISTING CONTOUR
- PROPOSED CONTOUR
- × (○) PROPOSED SPOT ELEVATION
- LEACHING TRENCH
- SURFACE GRADE TO DRAIN
- × ○ EXISTING SPOT ELEVATION

CERTIFIED SUBSTANTIALLY CORRECT. FOUNDATION LOCATED AS SHOWN. NO ZONING VIOLATIONS NOTED WITH RESPECT TO BUILDING LOCATIONS. NO CERTIFICATION IS EXPRESSED OR IMPLIED BY THIS MAP UNLESS IT BEARS THE IMPRESSION TYPE SEAL AND SIGNATURE OF THE SURVEYOR WHOSE NAME AND REGISTRATION NUMBER APPEAR BELOW.

I HEREBY CERTIFY THAT THIS MAP AND SURVEY WERE PREPARED IN ACCORDANCE WITH THE STANDARDS OF A CLASS D SURVEY AS DEFINED IN THE CODE OF PRACTICE FOR STANDARDS OF ACCURACY OF SURVEYS AND MAPS, ADOPTED DECEMBER 10, 1975 AS AMENDED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC.

RICHARD MEEHAN L.L.S. 12330

MAP NORTH



NOTES

- Fill to be placed in leaching area to be inspected and approved by Town of Bolton public health official before placement.
- Bench Mark Spike in 12" maple on south line of Lot #1 Elevation = 675.18'

TEST HOLE DATA

Test Hole #2

0" - 6"  
6" - 24"  
24" - 90"  
Humus and leaf litter  
Fine-coarse sandy silt loam  
Trace to clayey silt. Fine to medium sand with coarser particles. Dark brown with some grey-rust mottled layering, very compact.

Water Table at 16"  
Percolation Rate: 1" in 15 minutes  
Test Hole and percolation rate by Griswold & Fuss on 1/77 and 4/77, respectively

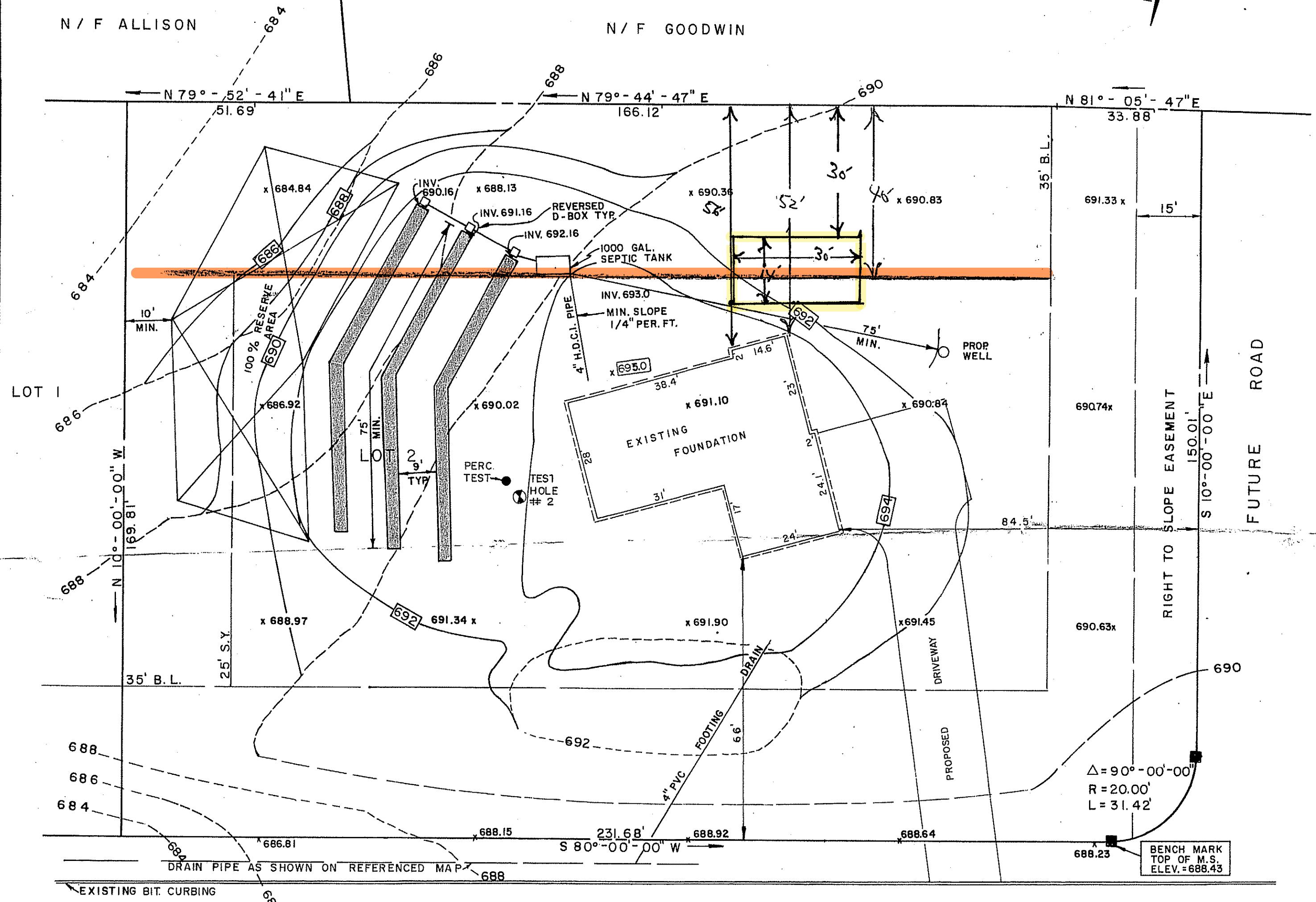
BEING LOT NO. 2 ON ALEXIS DRIVE (FORMERLY KNOWN AS LEVEY LANE)  
ON A MAP ENTITLED "SUBDIVISION P.A.N. 'SHERIDAN HEIGHTS'" BERNARD  
SHERIDAN, DEVELOPER LEVEY LANE BOLTON, CONNECTICUT SCALE 1" = 40'  
APRIL, 1977 REVISED 6/17/77 SHEET NO. 2 OF 8 CERTIFIED BY WILLIAM D.  
O'NEILL L.S. 62999

20-4-52  
0 40 80 120  
20 60 100

<p>BOUD &amp; MEEHAN Consulting Engineers - Surveyors, P.C. 387 North Main Street • Manchester, CT 06040</p>			
		PLAN PREPARED FOR STEVE RASCHER	
NO. 2 ALEXIS DRIVE BOLTON, CONN.			
SITE PLAN			
REVISIONS		APPROVED	
DATE	4-26-84	APPROVED	R.M.
	5-2-84		R.M.
	5-7-84		R.M.
	5-25-84		R.M.
DATE	7-12-84	SCALE 1" = 20'	DRN. J. P.
		FILE NO.	SHEET NO.
		84336	1 OF 1

2-500

MAP #2  
Requested Location



### Design Criteria

Three bedroom house  
1,000 gallon septic tank  
675 square feet of effective leaching area required  
675 square feet of effective leaching area provided  
Three trenches - 75 feet long by 3 feet wide

THIS MAP IS COMPILED FROM OTHER MAPS, DEED DIMENSIONS AND OTHER SOURCES OF INFORMATION, NOT TO BE CONSTRUED AS AN ACCURATE SURVEY AND SUBJECT TO FINAL CHANGES AS A MORE ACCURATE SURVEY MAY DISCLOSE

#### LEGEND

- EXISTING MERESTONE
  - OO--EXISTING CONTOUR
  - OO PROPOSED CONTOUR
  - OO PROPOSED SPOT ELEVATION
  - █████ LEACHING TRENCH
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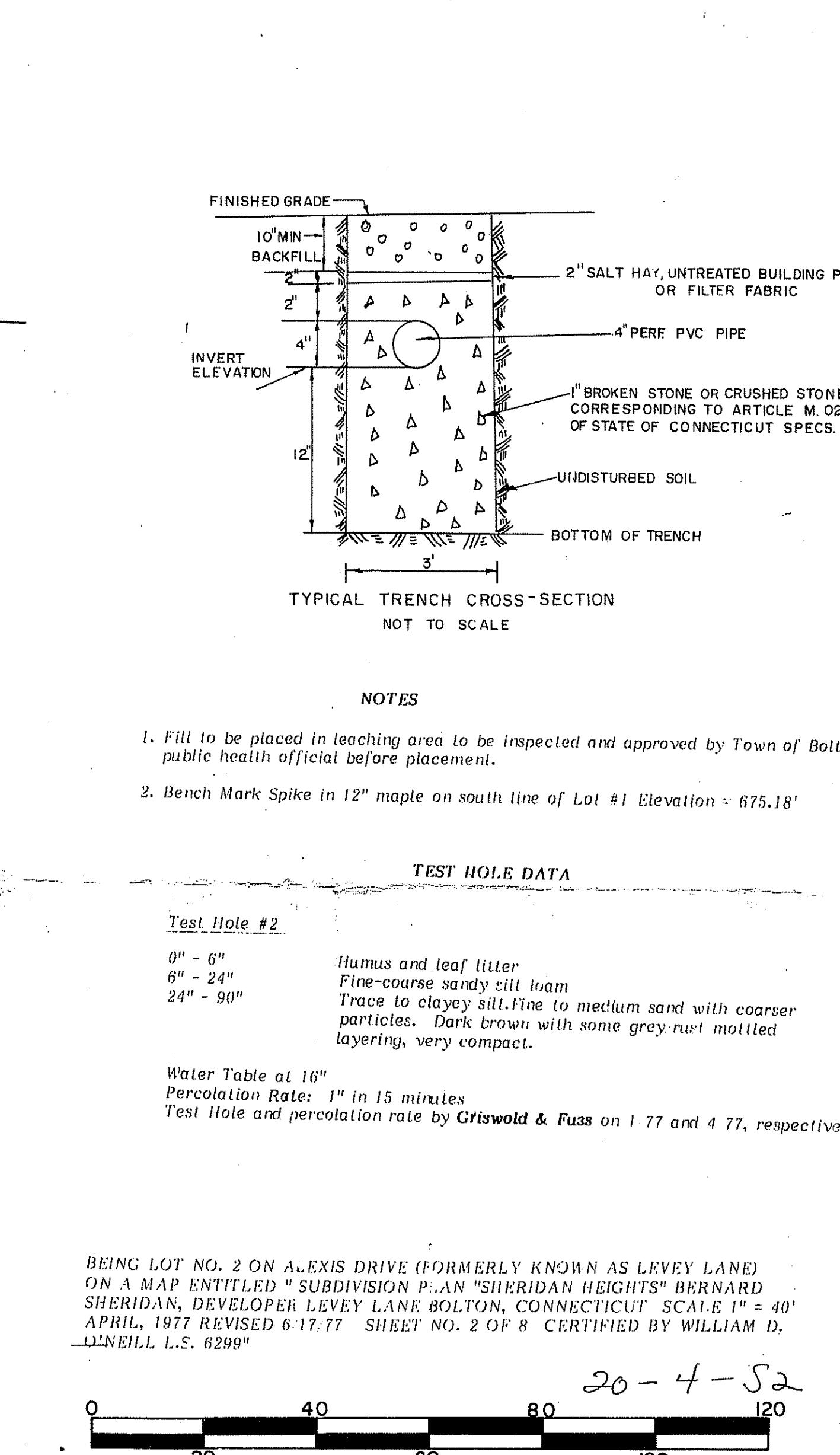
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RICHARD MERRILL, JR. 1888-8

330

BEING LOT NO. 2 ON ALEXIS DRIVE (FORMERLY KNOWN AS LEVEY LANE)  
ON A MAP ENTITLED " SUBDIVISION PLAN "SHERIDAN HEIGHTS" BERNARD  
SHERIDAN, DEVELOPER LEVEY LANE BOLTON, CONNECTICUT SCALE 1" = 4  
APRIL, 1977 REVISED 6/17/77 SHEET NO. 2 OF 8 CERTIFIED BY WILLIAM D  
O'NEILL, L.S. #62009



BOUD & MEEHAN

**BOOD & MEISTER**  
Consulting Engineers—Surveyors, P.C.  
387 North Main Street • Manchester, CT 06040

PLAN PREPARED FOR

## STEVE BASCHER

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		 <p><b>BOUD &amp; MEEHAN</b>            Consulting Engineers—Surveyors, P.C.            387 North Main Street • Manchester, CT 06040</p>													
		<p>PLAN PREPARED FOR  <u>STEVE RASCHER</u></p>													
<p>REVISIONS</p> <table border="1"> <tr> <td>DATE</td> <td>APPROVED</td> </tr> <tr> <td>4-26-84</td> <td>R. M.</td> </tr> <tr> <td>5-2-84</td> <td>R. M.</td> </tr> <tr> <td>5-7-84</td> <td>R. M.</td> </tr> <tr> <td>5-25-84</td> <td>R. M.</td> </tr> <tr> <td>7-12-84</td> <td>R. M.</td> </tr> </table>		DATE	APPROVED	4-26-84	R. M.	5-2-84	R. M.	5-7-84	R. M.	5-25-84	R. M.	7-12-84	R. M.	<p>NO. 8 ALEXIS DRIVE <u>BOLTON, CONN.</u></p>	
DATE	APPROVED														
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		<p>SITE PLAN</p>													
		<p>SCALE 1" = 20'</p>	<p>DRN. J. P.</p>	<p>FILE NO.</p>	<p>SHEET NO</p>										
		<p>DATE 4-5-84</p>	<p>TRD AVH</p>	<p>84336</p>	<p>1 OF 1</p>										

$$2 = 500$$

CONNECTICUT FEDERATION OF PLANNING & ZONING AGENCIES

P.O. Box 1065

Farmington, CT 06034-1065

[contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)

STEVEN BYRNE  
Executive Director  
Telephone: (860) 677-7355

PLEASE FORWARD THIS REGISTRATION MATERIAL TO YOUR LAND  
USE AGENCY'S CHAIRPERSON.

RESERVATIONS MUST BE MADE THROUGH THE CHAIR BY NO  
LATER THAN TUESDAY, MARCH 24, 2026.

PHONE: (860) 677-7355  
EMAIL: [contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)

RESERVATION FORM ENCLOSED.

CONNECTICUT FEDERATION OF  
PLANNING & ZONING AGENCIES

**CONNECTICUT FEDERATION OF PLANNING AND ZONING COMMISSIONS**  
**78<sup>th</sup> ANNUAL CONFERENCE**  
**AQUA TURF COUNTRY CLUB**  
**PLANTSVILLE, CONNECTICUT**

January 26, 2026

Chairman of Planning and/or Zoning Commission  
and Zoning Boards of Appeal

RE: CFPZA Annual Conference – March 26, 2026

Dear Chairman:

I am writing to encourage you and your commission members to consider attending this year's Annual Conference of the Connecticut Federation of Planning and Zoning Agencies. The night is sure to be both enjoyable and informative. Part of the evening's program will be a presentation on HB 8002 'An Act Concerning Housing Growth'. This comprehensive law imposes substantial requirements and responsibilities on municipal land use commissions to amend their regulations to allow certain types of housing. This includes state-mandated amendments to zoning regulations to allow 'as-of-right' multi-family housing and eliminate parking requirements for certain types of housing. In addition, this new law requires commissions to focus on planning, requiring that they demonstrate how their towns will meet their affordable housing needs. Our speaker will provide a summary of this new law and address what resources are available to towns.

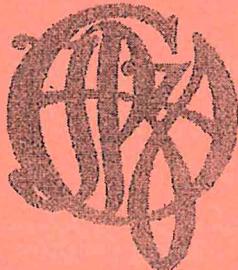
Public Act 21-29 now requires an educational component for all land use commission members. At a cost of only \$70.00 per individual, this conference is a cost-effective way toward satisfying this requirement while providing an opportunity to enjoy dinner and socialize with commission members from other towns.

In addition, Length of Service awards will be presented to commission members who have served in any capacity for 12 or 25 years. If you have a commission member who is eligible, please submit his or her name using the attached form.

I hope to see you and members of your commission at this worthwhile event!

Steven Byrne, Ex. Dir.  
CT Fed. of Planning & Zoning Agencies

**CONNECTICUT FEDERATION  
OF  
PLANNING AND ZONING AGENCIES**



**ANNOUNCES**

**ITS**



**78<sup>th</sup> ANNUAL CONFERENCE**

**THURSDAY, MARCH 26, 2026**

**AT THE**

**AQUA TURF COUNTRY CLUB  
PLANTSVILLE, CONNECTICUT**

**Cost: \$70.00 per person for Agencies that are members of the CFPZA  
\$80.00 per person for Agencies that are not members of the CFPZA**

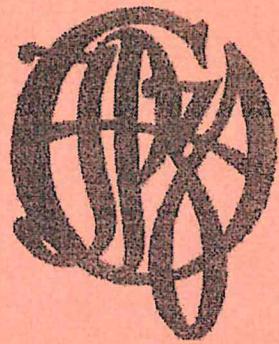
**The enclosed registration form must be received by the  
Connecticut Federation of Planning & Zoning Agencies  
by mail, or email no later than Tuesday, March 24, 2026**

**P.O. Box 1065, Farmington, CT 06034-1065**

**email: [contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)**

**Questions? Contact Steve Byrne at (860) 677-7355**

**More info on back →**



CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES

## 78<sup>th</sup> ANNUAL CFPZA CONFERENCE

Aqua Turf Country Club  
Plantsville, CT  
Thursday, March 26, 2026

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### PROGRAM

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5:00 p.m.	<b>SOCIAL HOUR / REGISTRATION</b>
6:00 p.m.	<b>DINNER</b> Salad, Penne, NY Strip, Vegetables, Potato, Dessert
7:15 p.m.	<b>AWARDS PRESENTATION</b> <ul style="list-style-type: none"><li>▪ 12-Year Length of Service Awards</li><li>▪ Lifetime Achievement Awards</li></ul>
8:00 p.m.	<b>TOPIC: HB 8002 'An Act Concerning Housing Growth'</b>

This comprehensive law imposes substantial requirements and responsibilities on municipal land use commissions to amend their regulations to allow certain types of housing. This includes state mandated amendments to zoning regulations to allow 'as-of-right' multi-family housing and eliminate parking requirements for certain types of housing. In addition, this new law requires commissions to focus on planning, requiring that they demonstrate how their towns will meet their affordable housing needs. Our speaker will provide a summary of this new law and address what resources are available to towns.

**Principal speaker:** Delia P. Fey AICP

Our speaker is a Senior Regional Planner for the Northeastern Connecticut Council of Governments. With over 23 years of experience in municipal planning in northeastern CT, Delia has served as town planner, ZEO and wetlands agent in northeastern CT towns, has written regulations, Plans of Conservation & Development and Affordable Housing Plans for multiple towns and reviewed many hundreds of development proposals.

#### DIRECTIONS TO THE AQUA TURF

**I-84 EAST FROM WATERBURY** – Merge onto I-169 E via Exit 27 toward Meriden. Take the CT-10 exit, EXIT 3, toward Cheshire. Turn left onto CT-10 (Highland Ave.). Continue to follow CT-10. Stay straight to go onto Old Turnpike Road. Turn right onto Mulberry Street. Aqua Turf, 556 Mulberry Street is on right.

**I-84 WEST FROM HARTFORD** – Take the CT-10 exit, EXIT 29, on the left toward Milldale. Stay straight to go onto Mulberry Street. Aqua Turf, 556 Mulberry Street is on right.

**FROM I-91 OR THE MERRITT PARKWAY** – Merge onto I-169 E via Exit 27 toward Meriden. Take the CT-10 exit, EXIT 3, toward Cheshire. Turn left onto CT-10 (Highland Ave.). Continue to follow CT-10. Stay straight to go onto Old Turnpike Road. Turn right onto Mulberry Street. Aqua Turf, 556 Mulberry Street is on right.

**CONNECTICUT FEDERATION OF PLANNING AND ZONING COMMISSIONS  
78<sup>th</sup> ANNUAL CONFERENCE  
THURSDAY, MARCH 26, 2026  
AQUA TURF COUNTRY CLUB  
PLANTSVILLE, CONNECTICUT**

## **REGISTRATION FORM**

Agency Name \_\_\_\_\_ Town \_\_\_\_\_

## Town

Individual's names

## Position

Special Diet  
(Please Specify)

**Cost:** \$70.00 per person for Agencies that are members of the CFPZA  
\$80.00 per person for Agencies that are not members of the CFPZA

Mail or email this registration form to:

Connecticut Federation of Planning & Zoning Agencies  
P.O. Box 1065  
Farmington, CT 06034-1065  
[contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)

Make checks payable to: "Connecticut Federation of Planning and Zoning Agencies."

Reservations must be received by Tuesday, March 24, 2026.

Cancellations will be accepted until noon on March 25, 2026 by calling CFPZA at (860) 677-7355. All reservations not properly cancelled must be paid for.

**CONNECTICUT FEDERATION OF PLANNING AND ZONING COMMISSIONS**  
**78<sup>th</sup> ANNUAL CONFERENCE**  
**AQUA TURF COUNTRY CLUB**  
**PLANTSVILLE, CONNECTICUT**

January 26, 2026

Chairman of Planning and/or Zoning Commissions  
and Zoning Boards of Appeal

RE: Length of Service Awards / Lifetime Achievement Awards

Dear Chairman:

Length of Service Awards will be presented at the Connecticut Federation of Planning and Zoning Agencies' Annual Conference on March 26, 2026, to those persons who have served 12 or more years as a member of a planning commission, zoning commission, planning and zoning commission or zoning board of appeals.

The twelve years of service may be a combination of time spent as a member of all four agencies. The twelve years, however, must be continuous from year to year.

Lifetime Achievement awards are presented to individuals who have served at least twenty-five (25) years in the area of land use, either as a member of a zoning agency or as staff or advisor to a zoning agency. Please contact Steven Byrne at (860) 677-7355 or by email ([contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)) if there is an individual you believe should be considered for this award.

All nominations should be mailed or emailed to:

The Connecticut Federation of Planning and Zoning Agencies  
P.O. Box 1065  
Farmington, CT 06034-1065  
[contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)

Please note that individuals who have received these awards in the past are not eligible to receive them again. If you need information about whether an individual has previously been a recipient, please contact us at (860) 677-7355.

All nominations for awards must be returned no later than **March 20, 2026**.

**NOMINATION FORMS ATTACHED**

**LIFETIME ACHIEVEMENT AWARD  
NOMINATION FORM**

1. Name of Agency \_\_\_\_\_ Town \_\_\_\_\_

2. Name and home address of Lifetime Achievement Award candidate:

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

3. Contact information for person(s) making this nomination.

Name	Home Address	Home/Business Phone
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4. Name and address of individual to send congratulation letter confirming award:

\_\_\_\_\_

5. Lifetime Achievement: List below the names of agencies and dates served. Length of service must be continuous and total 25 or more years. It may, however, consist of time spent on a planning commission, zoning commission, combined commission and/or zoning board of appeals. Time spent as an alternate member is valid. This award is also open to individuals who have served part or all of the above time as professional staff to one or more of the above-mentioned agencies.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Individuals who have received this award previously ARE NOT eligible to receive it again.  
Please call (860) 677-7355 or e-mail contact.cfpza@gmail.com to inquire about members  
who may have previously received an award.**

**A brief 1-2 paragraph bio about the recipient's tenure and notable achievements to be read  
by our moderator at the presentation ceremony is requested.**

***TWELVE YEAR  
LENGTH OF SERVICE AWARD  
NOMINATION FORM***

1. Name of Agency \_\_\_\_\_ Town \_\_\_\_\_

2. Name and home address of Length of Service Award candidate:

Name: \_\_\_\_\_

Home Address: \_\_\_\_\_

3. Contact information for person(s) making this nomination.

4. Name and address of individual to send congratulation letter confirming award:

5. Length of Service: List below the names of agencies and dates served. Length of service must be continuous and total 12 years. It may, however, consist of time spent on a planning commission, zoning commission, combined commission and/or zoning board of appeals. Time spent as an alternate member is valid.

**Individuals who have received this award previously ARE NOT eligible to receive it again.  
Please call (860) 677-7355 or e-mail contact.cfpza@gmail.com to inquire about members  
who may have previously received an award.**

## **SAVE THE DATE!**

CFPZA Annual Conference – March 26, 2026

Please consider attending this year's Annual Conference of the Connecticut Federation of Planning and Zoning Agencies scheduled to take place at 5:00 pm on Thursday, March 26, 2026, at the Aqua Turf, Southington, CT. The night is sure to be both enjoyable and informative.

Our speaker will be presenting information on HB 8002 'An Act Concerning Housing Growth'. This comprehensive law imposes substantial requirements and responsibilities on municipal land use commissions to amend their regulations and affordable housing plans. This includes state-mandated amendments to zoning regulations to allow 'as-of-right' multi-family housing and eliminate parking requirements for certain types of housing. In addition, housing plans will need to be adopted or amended to show how each town will meet its affordable housing needs. Our speaker will provide a summary of this new law and also address what resources are available to towns to comply with it.

Connecticut General Statute §8-4c now requires an educational component for all land use commission members. At a cost of only \$70.00 per individual, this conference is a cost-effective way to complete one hour of education while providing an opportunity to socialize with commission members from other towns.

In addition, Length of Service awards will be presented to commission members who have served in any capacity for 12 or 25 years. If you have a commission member who is eligible for this recognition, please submit his or her name. Nomination forms will be included in the registration packet that will be sent to your commission in the coming weeks.

I hope to see you and members of your commission at this worthwhile event!

# CONNECTICUT FEDERATION OF PLANNING AND ZONING AGENCIES QUARTERLY NEWSLETTER

Winter 2026

Volume XXX, Issue 1

## SAVE THE DATE – 2026 ANNUAL CONFERENCE

The Federation will hold its Annual Conference on March 26, 2026 at the Aqua Turf Country Club in Plantsville CT. The event starts at 5:00 p.m. The program for the Conference will include a presentation on HB 8002 ‘An Act Concerning Housing Growth’. Flyers announcing the event will be sent to all members later this month. Attendees will be entitled to receive credit for One Hour of Training as well as enjoy a wonderful dinner.

## CONDITIONS OF APPROVAL FOR A VARIANCE MUST BE STATED ON THE VARIANCE CERTIFICATE

The owners of a parcel of property abutting Long Island Sound were granted a variance to exceed building height limitations contained in the zoning regulations. The variance would allow a room on the top of their planned home, providing access to a rooftop deck. Before work could commence, various tropical storms impacted the Long Island shoreline, leading to revised floodplain and zoning regulations. The property owners submitted a revised permit application for their proposed home which was approved by the land use officer.

A neighbor appealed the zoning permit approval to the zoning board of appeals claiming that the variance could

not be relied upon to approve the new permit because the variance approval was conditioned on the building plans submitted at that time, and not on the new plans which proposed a full top floor instead of a rooftop deck and access room.

The zoning board of appeals affirmed the issuance of the zoning permit. An appeal to court followed. The court found that the variance was not conditioned on the building plans submitted with the variance application. The certificate of variance, which was recorded on the land records, contained no conditions including no references to any building plans. If the board wanted to condition its issuance of a variance based upon plans submitted with the variance application, it must state this on the certificate of variance. *Sargent v. Zoning Board of Appeals*, 236 Conn. App. 269 (2025).

## LOSS OF REMOTE CONNECTION AT HYBIRD MEETING IS LOSS OF FUNDAMENTAL FAIRNESS

A land use commission scheduled a hybrid public hearing on a special permit application. The first night of the public hearing went according to plan. However, at the second night of the hybrid hearing, the zoom meeting connection failed for over two hours. Despite this technical issue, the public hearing continued in-person. The Commission subsequently held a

Written and Edited by.

Attorney Steven E. Byrne  
P.O. Box 1065, Farmington CT 06034-1065  
Tel. (860) 677-7355  
[attysbyrne@gmail.com](mailto:attysbyrne@gmail.com)  
[contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)

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hybrid meeting wherein it approved the application. Again, the zoom meeting connection failed leaving remote attendees unable to view or hear the proceedings. The court found these proceedings fatally flawed as the failure of the remote connection during the hearing and meeting on the pending application deprived remote attendees of fundamental fairness.

Fundamental fairness requires that administrative agencies provide the public with the right to offer testimony and other evidence and to cross-examine witnesses as well as pose questions to the agency. The zoom meeting failure deprived the public of this right. The zoom failure and the Commission's response also violated the freedom of information act, providing additional supporting evidence that fundamental fairness was not provided. *Wallach v. Plan & Zoning Commission, LND-CV-24-6188465 (10.28.25)*.

## SEWER CONNECTION PERMITS CAN EXPIRE

An application to connect to a municipal sewage system was approved with a condition that the approval would expire if a connection to the system was not made within 2 years of the approval. This time limit condition was appealed, wherein the court found that it was within the water pollution control authority's powers to impose it. The court also ruled that the 2-year time

period was stayed during any pending appeals to court.

This decision places WPCA approvals in the same class as zoning approvals wherein such approvals can expire and any pending court cases involving the approval stay the running of the time period. *Shapiro Commons LLC v. WPCA, FBT-CV-24-6140246 (10.17.24)*

## TREE REMOVAL AND THERMAL POLLUTION

The removal of mature trees within a regulated area was determined by the commission as likely to cause a significant adverse impact to a wetland, forming the basis for a denial of an application to construct a single-family dwelling. Evidence in the record demonstrated that by removing the trees, there would be increased thermal pollution that would negatively impact water temperature, increase algae growth and change the water content of the soil.

While the applicant disputed whether there would be any adverse impact from the tree removal, the commission could decide which expert evidence to believe as long as fundamental fairness was observed. Fundamental fairness in an administrative hearing includes placing an expert witness on notice of the reviewing agencies concerns and doubts about the expert's evidence. *Milne v. IWWA, FST-CV-24-6068722 (11.10.25)*

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Attorney Steven E. Byrne  
P.O. Box 1065, Farmington CT 06034-1065  
Tel. (860) 677-7355  
[attysbyrne@gmail.com](mailto:attysbyrne@gmail.com)  
[contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)

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## SELF-INFILCTED HARDSHIP DUE TO LOT MERGER

An application to vary the required street frontage for a lot was denied on the basis that any hardship was self-inflicted. The applicant wanted to split his lot and create a new building lot. One lot contained an existing home and fronted on a street. The second lot would have access by means of a 25' wide deeded driveway. The zoning regulations required 50' of street frontage for an interior lot.

The history of the existing lot was that it had once been two lots. The applicant had purchased both lots and due to a lot merger provision in the zoning regulations, the lots had merged into one lot. Sometime after this merger, the zoning regulations had been amended to increase lot frontage requirements from 25' to 50'.

Any hardship was self-inflicted because if the applicant had placed the lots in different ownership, then he could have avoided the merger of his lots. In doing so, the lots would have been nonconforming as to frontage requirements.

Another issue on appeal was whether the board members were biased against the application. Apparently, this same application had been submitted several times before and been denied each time. Several board members stated their displeasure to have to hear

the same application again. The court found that this frustration did not amount to bias. *Haines v. ZBA, LND-CV-23-6171028 (1.24.25)*

## ANNOUNCEMENTS

### **Lifetime Achievement Award and Length of Service Award**

Nomination forms will be sent out later this month for these awards which will be presented to recipients at the Federation's annual conference. You should begin your process of finding eligible nominees now.

### **Workshops**

Connecticut law now requires that every land use agency member receive 4 hours of training every two years. At the price of \$200.00 per session for each agency attending, our workshops are an affordable way for your board to 'stay legal'.

## ABOUT THE EDITOR

*Steven Byrne is an attorney with an office in Farmington, Connecticut. A principal in the law firm of Byrne & Byrne LLC, he maintains a strong focus in the area of land use law and is available for consultation and representation in all land use matters both at the administrative and court levels.*

Written and Edited by  
Attorney Steven E. Byrne  
P.O. Box 1065, Farmington CT 06034-1065  
Tel. (860) 677-7355  
[attysbyrne@gmail.com](mailto:attysbyrne@gmail.com)  
[contact.cfpza@gmail.com](mailto:contact.cfpza@gmail.com)