

**TOWN OF WEYMOUTH
BOARD OF ZONING APPEALS APPLICATION**

TO BE COMPLETED BY STAFF

Case Number: 3292 Town Clerk Stamp
Submittal Accepted: L.S. Date 0/23/16
Signature of Planning Dept. Staff for minimal requirements
Determined to be complete and may now be filed with Town Clerk: _____
Signature of Principal Planner or Director

PROPERTY INFORMATION - TO BE COMPLETED BY APPLICANT

PROJECT / PROPERTY STREET ADDRESS: 958 Commercial Street
18 189 8
Assessor's Map Sheet, Block, & Lot: _____
Zoning District: R1 Overlay District: _____
OWNER OF RECORD (S) (print & sign): John Deady
(The owner of record is the person or entity who owns title to the property as of today's date)
540 Commercial Street, Weymouth, MA 02188
Address of owner of record: _____
Norfolk County Registry of Deeds Book and Page No. _____
Or registered in Land Registration Office under Certificate No. 192573
John Deady
NAME OF APPLICANT (S) (print & sign): _____
540 Commercial Street, Weymouth, MA 02188
Applicant's Address: _____
Contact Information: Email dd0501@hotmail.com Phone 617-455-9168
Check if you are an: owner(s) ☒ lessee(s) ☐ optionee (s) ☐

NAME & AFFILIATION OF REPRESENTATIVE:

Same
Address: _____
Contact Information: Email _____ Phone _____

NAME OF ENGINEER AND / OR ARCHITECT: J2M Consulting LLC

Prior to submitting your application you must review this entire package and the Board Rules and Regulations outlining the Board's policies and procedures. Your signature signifies that you have read the required material and you will be expected to adhere to them.

I (we) hereby certify that I (we) have read the Board of Zoning Appeals Rules and Regulations and that the statements within my (our) application are true and accurate to the best of my (our) knowledge.

John Deady 5/15/16
Applicant / Petitioner - Date (sign & print)

NATURE OF REQUEST

Application is for: ☒ Special Permit ☒ Variance Other: _____

Applicable Section of Zoning Ordinance (specify Section (s) of the Zoning Ordinance from which relief is sought):

120-40 120-48 and Table 1

The above relief and Ordinance sections will be further reviewed after a complete package is submitted. This may be amended by the Planning or Building staff during the application review process after having the benefit of plan to accurately advertise the application before the Board.

PETITIONER'S DESCRIPTION AND NARRATIVE:

To be completed by all Board of Appeals Applicants. Attach additional sheets as necessary.

1. Describe what is presently located on the property (use as much detail as possible including all uses and square footage of each use):

Presently there is a single family dwelling and a one car garage. The dwelling was built sometime before 1938.

2. The applicant seeks to (describe what you want to do on the property in as much detail as possible):

Reduce the frontage along Commercial Street from 100 feet to 80 feet to allow for the existing structure to remain while allowing the rear lot the required access by the current zoning requirements. Also reduce the frontage from 18 to 10 feet on the right side of the dwelling

3. Such a use is permitted by the Town of Weymouth Zoning Ordinance under Article (insert Article, Section of the Zoning Ordinance which permits the proposed use of the property).

120-11 and 120-12

4. Are you aware if this property has been previously granted approvals from any Town Board or Commission? If so, please list (provide dates of previous approvals, book and page numbers or any recorded decisions and copies of past decisions).

No

5. Any other additional information as relevant to the Variance or Special Permit:

ZONING COMPUTATION WORKSHEET

(To be attached with all Board of Zoning Appeals Applications)

The Zoning Computation Worksheet must be completed by the Applicant / Petitioner. All information should be measured and calculated in accordance with the Weymouth Zoning Ordinance (Section 120-51 Table 1 "Schedule District Regulations" and other applicable sections of the Zoning Ordinance). The information should be based on engineer/surveyor/architectural prepared plans and or calculations. Further guidance can also be provided by the Board's step-by-step application instructions and by contacting the Planning or Building Department while completing this section.

Data	Required	Existing	Proposed
Use			
Lot Area / Size (Sq. Ft.)			
Dwelling Units			
Frontage (ft.)			
Lot Width (ft.)	120	100	80
Front Yard Setback (ft.)			
Front Yard Setback (ft.) – corner lots	18	currently a side lot	10
Side Yard Setback (ft.)			
Side Yard Setback (ft.)			
Rear Yard Setback (ft.)			
Height (ft.) & # of Stories			
Lot Coverage			
Off-Street Parking Spaces			
Off-Street Loading Spaces			
Parking Setback			
Accessory Structure Setback			
Landscaping			
Floor Area Ratio			
Signage			
Other:			

SPECIAL PERMIT APPLICATION

To be completed for Special Permit Applications only.

SPECIAL PERMIT FINDINGS OF FACT

In the spaces below explain how the adverse effects of the proposal will not outweigh its beneficial impacts to the Town with respect to each of the following considerations per Article XXV, Section 120-122 of the Zoning Ordinance. The Special Permit Granting Authority may approve any such application for a special permit **only** if it finds that, in its judgment, all of the following conditions are met. (Attach additional supporting documentation as necessary).

1. Is the specific site an appropriate location for such a use? Please explain.

Yes, this site is appropriate as it is within and R1 district

2. Will the proposed use / structure be detrimental or adversely affect the character of the neighborhood or town? Please explain.

No, The dwelling is existing and the home has been in this location since approximately 1938. We would like to keep the dwelling were it is presently located as to not adversely affect the streetscape by moving it.

3. Is there potential for nuisance or serious hazard to vehicles or pedestrians? Please explain.

No, This would actually improve access for the subject property by allowing the existing driveway to be moved and no longer be required to back onto Commercial Street.

4. Will adequate and appropriate facilities, utilities and other public services be provided for the proper operation of the proposed use? Please explain.

Yes, A new driveway would be 24 foot wide, would allow the vehicles to drive out onto Commercial Street rather than backing out.

5. Will the public convenience and welfare be substantially serviced with this proposal? Please explain.

Yes, Again moving the driveway lessens the hazards of requiring cars to back onto Commercial Street from # 958

SUPPLEMENTARY QUESTIONS - SECTION 120-40 SPECIAL PERMITS

Extension, Alteration or Change of a Privileged Pre-existing, Nonconforming Structure or Use (Article XIII "Nonconforming Uses" Section 120-40 "Extension or Change")

To be completed by Applicants applying for a Special Permit under Section 120-40 Only.

EXTENSION OR CHANGE FINDINGS OF FACT:

Any lawful structure or use in existences at the time the Zoning Ordinance was adopted or amended may be extended or altered, provided that no such extension or alteration shall be permitted unless there is a finding by the Board of Zoning Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use or structure to the neighborhood.

1. Describe what is currently nonconforming about this structure (list specific dimensional nonconformities):

The existing lot width is 100 feet not the currently required 120 feet

2. Indicate how long the nonconforming aspects of the structure have been in existence:

Since sometime before 1938

3. At the time the nonconformity was created (the structure or use initiated) was it compliant with the current zoning requirements? Past zoning ordinances are available for research at the Town Clerk's office and Planning Department. Past zoning maps are available at the Planning Department.

Yes the zoning laws were not created until June 6, 1940

4. Explain how the extension, alteration, or change itself complies with the current Zoning Ordinance requirements:

N/A

5. Indicate the number of off-street parking spaces currently provided and to be provided for the proposed structure as extended, altered or changed:

Currently there is parking for 4 cars, however it is a single line of cars requiring the last car in to back out to allow any others to back out of the driveway. The new configuration would provide four spaces which would not have to back on to Commercial Street but drive out instead

6. Explain how the use or structure as extended, altered or changed will not be substantially more detrimental to the neighborhood than the existing structure:

The use of the dwelling structure will not change. The garage would converted to a shed.

VARIANCE APPLICATION

To be completed for Variance applications only.

VARIANCE FINDINGS OF FACT:

Criteria for approval. The Board may approve any such application for a Variance **only** if it finds that, in its judgment, all of the following conditions are met.

Complete the following questions. Your responses should provide justifications as to why the requested Variance(s) should be granted. Attach additional documentation as necessary.

1. Describe how a literal enforcement of the provision of the Town of Weymouth Zoning Ordinance would involve a substantial hardship, financial or otherwise, to the petitioner.

If the lot width was not reduced it would require that the structure be moved or removed to allow for legal access to the rear lot. The rear lot is not part of this appeal however for clarity it had two twenty foot right of ways when it was created. This size right of way was common at the time subsequently the ROW size

2. Describe how the hardship is owing to circumstances relating to the soil conditions, shape, and/or topography of the land or structures and how the hardship especially affects said land or structures, but does not affect generally the zoning district in which it is located.

The size and shape of the structure as well as the lot would require the structure to be moved or removed if the lot width was not reduced

3. Describe how desirable relief may be granted without detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Town of Weymouth Zoning Ordinance.

If relief were granted it would improve public safety by having less cars backing onto Commercial Street into oncoming traffic

4. Describe how the dimensional variance as it relates to floor space, bulk, number of occupants or other relevant measures, if granted, shall be no greater than the minimum necessary to provide relief from the statutory hardship.

The existing structures would remain, it would still be a single family dwelling.

NOTE THAT THE LAW DOES NOT PERMIT THE BOARD TO GRANT A VARIANCE UNLESS ALL OF THE REQUIREMENTS SET FORTH IN CHAPTER 40A SECTION 10 OF THE GENERAL LAWS AND IN ARTICLE XXIV SECTION 120-119 OF THE WEYMOUTH ZONING ORDINANCE ARE SATISFIED. EACH OF THE ABOVE FINDINGS MUST BE ANSWERED IN DETAIL. ATTACH ADDITIONAL SHEETS IF NECESSARY.

ZONING: LOT SIZES

Original Zoning By-Laws approved by
Attorney General 6-6-40.

RE: TOWN OF WEYMOUTH ZONING BY-LAWS - LOT
SIZE

Original lot size, 5,000 sq. ft. with a
60 ft. frontage. Adopted - 4-28-40.

Amended to read: 7,500 sq. ft. with
a frontage of 75 ft. - 6-19-42.

Amended to read: 10,000 sq. ft. with a
frontage of 100 ft. - 1-24-52.

Amended to read: 15,000 sq. ft. with a
frontage of 120 ft. - 8-20-59.

120 ft. frontage - Town Counsel Folder - 1960.

NON-CONFORMING STATUS OF VACANT LOTS OF LAND

The construction of a single family dwelling on certain undersized lots is protected by state law and the Town's Zoning By-Law.

M.G.L. 40A-Section 6 (in part) Pre-existing Non-Conforming Uses, Structures & Lots

"Any increase in area, frontage, width, yard, or depth requirements of a zoning ordinance or by-law shall not apply to a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage."

Town of Weymouth Zoning By-Law Subsection 120-52

Exception for erection of single-family dwelling on previously recorded lots.

"A single-family dwelling may be erected on a lot containing less than is hereby prescribed if such lot was recorded at the time of the adoptions of this bylaw, if separately owned and containing not less than five thousand (5,000) square feet and if it did not at the time of such adoption adjoin other land of the same owners available for use in connection with said lot; provided, however, that any building erected thereon shall conform to all other provisions of this bylaw."

Chronology of lot size changes - Town of Weymouth Zoning By-Law

Original Zoning By-Law approved by Attorney General	6-6-40	
Original lot size: 5,000 sq. ft. with 50 ft. of lot width	4-28-40	ADOPTED
Amended to read: 7,500 sq. ft. with 75 ft. of lot width.	6-19-42	ADOPTED
Amended to read: 10,000 sq. ft. with 100 ft. of lot width	1-24-52	ADOPTED
Amended to read: 15,000 sq. ft. with 120 ft. of lot width	8-20-59	ADOPTED
Amended to read: 25,000 sq. ft. within the "Watershed Protection District".	5-3-85	ADOPTED

Therefore, in order for a lot that does not comply with the current zoning regulations to be buildable, documentation must be presented to this Department that:

1. The lot was legally recorded at the time of the adoption of the bylaw or amendment.
2. The lot was not owned jointly with any abutting lot at the time of the adoption of the bylaw or amendment.

All information will be reviewed and a determination made by the Inspector of Buildings.

7056A

Plan of Land in Weymouth

Scale 50 feet to an inch

DEC. 9, 1918

Russell H. Whiting, Civil Engineer.

Weymouth County Registry District,
FEB 4 1919

RECEIVED FOR REGISTRATION
4 O'CLOCK P.M.
NOTED ON CERTIFICATE NO. 441
IN REGISTRATION BOOK 21 PAGE 17

UNION
AVE.

James P. Haddie
Plan with Cert. 2301
L.C. No. 4966

Arthur
Cunningham

George F. Clapp

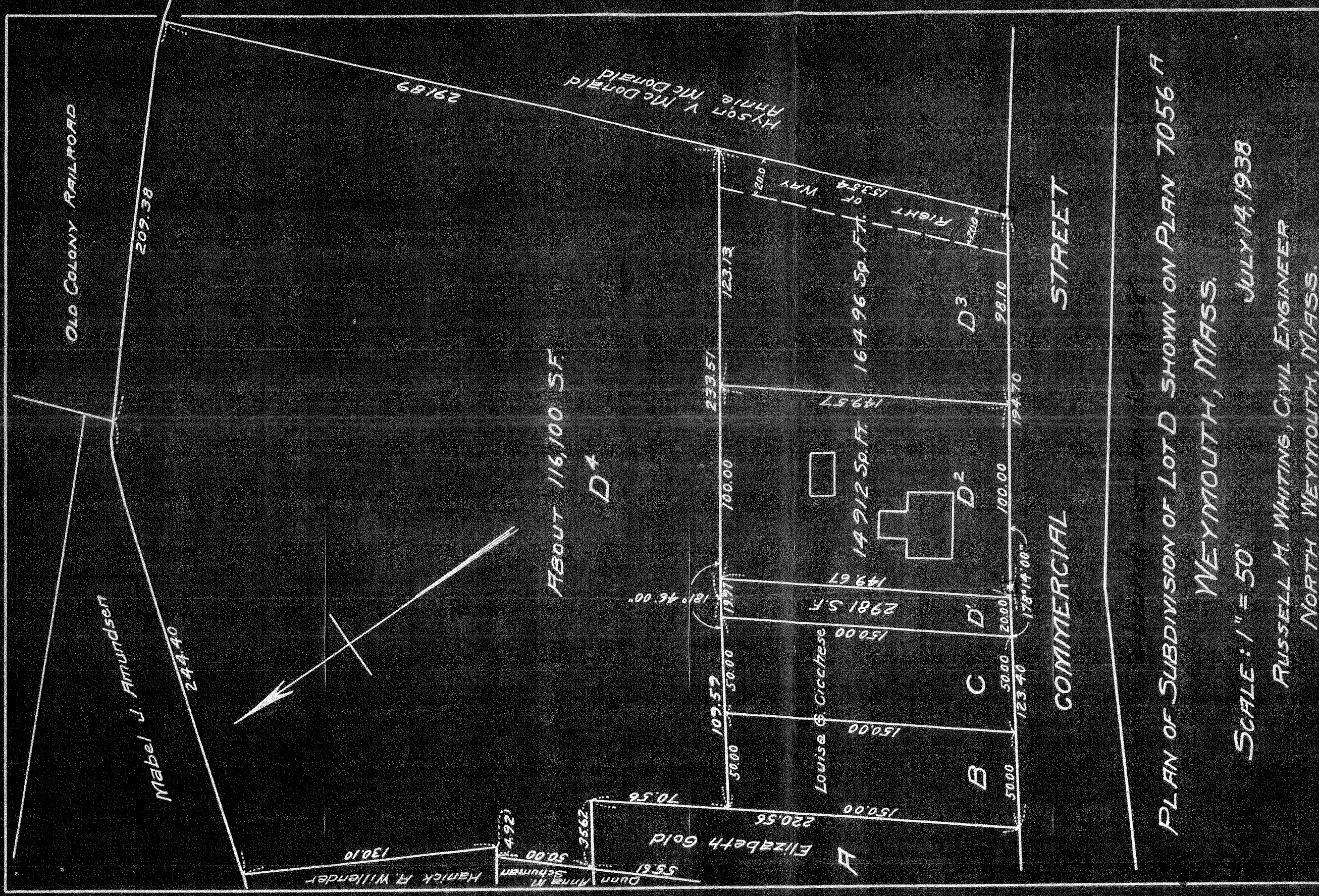
Old Colony Railroad Co.

Hyson Mc Donald

ST.

COMMERCIAL

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
Dec. 19, 1918
Scale of this plan 80 feet to an inch
C. B. Humphrey, Surveyor for Court



PLAN OF SUBDIVISION OF LOT D SHOWN ON PLAN 7056 A
WEYMOUTH, MASS.

SCALE: 1" = 50'
JULY 14, 1938
RUSSELL H. WHITING, CIVIL ENGINEER
NORTH WEYMOUTH, MASS.

7056B

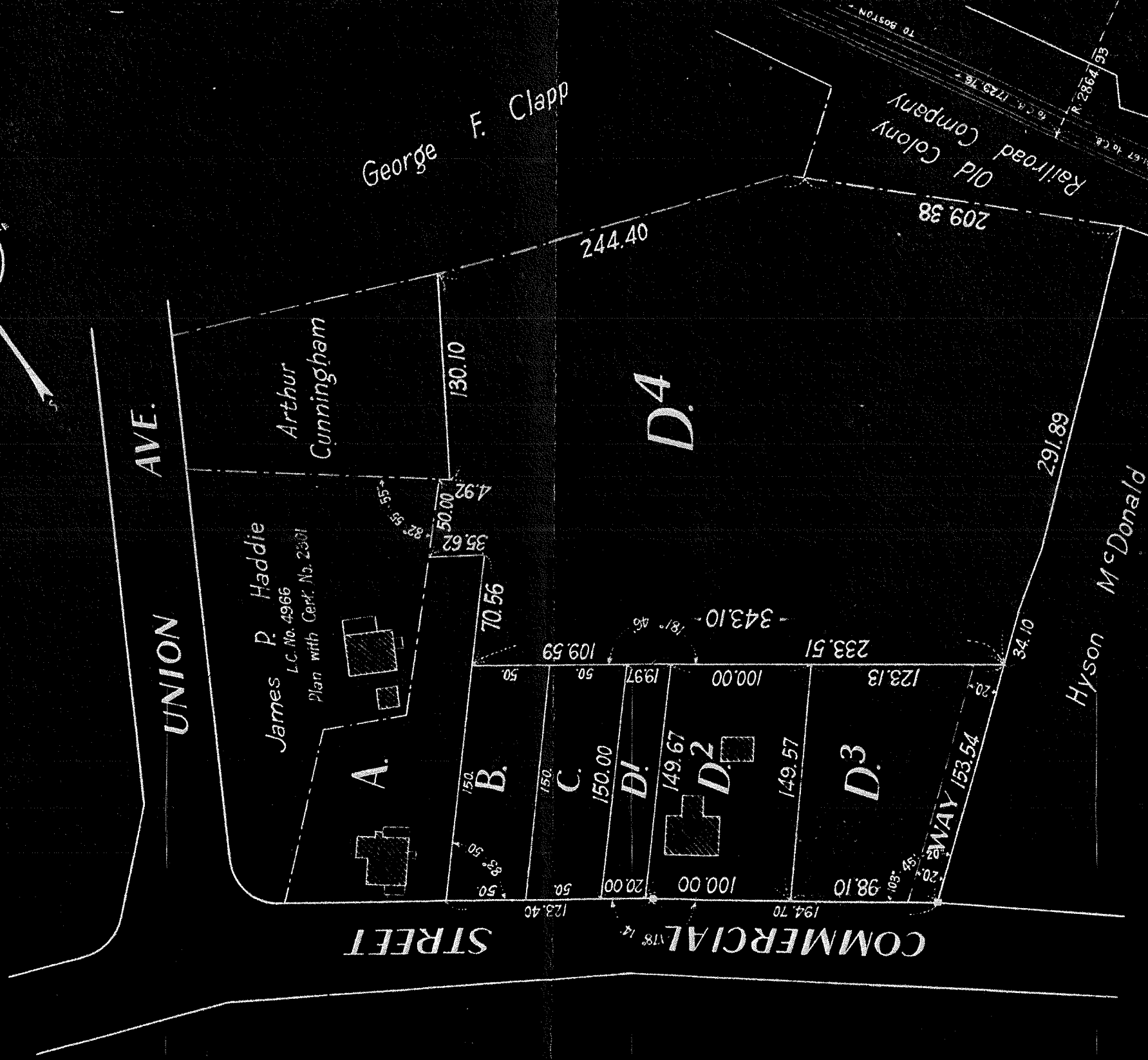
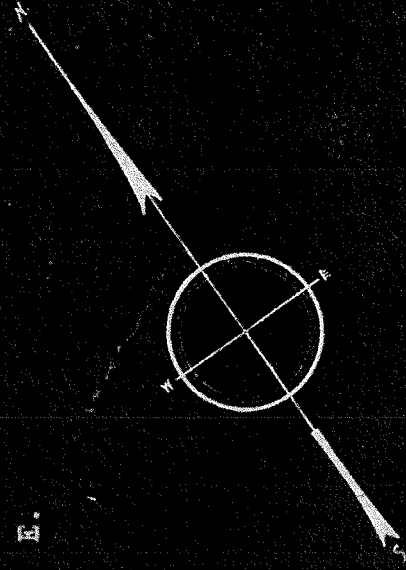
Subdivision of Lot D shown on plan 7056A

Filed with Cert. of Title No. 4067 Registry District of Norfolk County

LAND IN WEYMOUTH

July 14, 1938.

Russell H. Whiting, C. E.



Separate certificates of title may be issued
for lots D1 to D4 incl. as shown hereon
By the Court

NOV. 1, 1938.

Recorder.

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
OCT. 25, 1938.
Scale of this plan 80 feet to an inch
C.B. Humphrey, Engineer for Court

