

2023 MAR 20 AM 11: 44

TOWN OF WEYMOUTH  
BOARD OF ZONING APPEALS APPLICATION

TO BE COMPLETED BY STAFF

Case Number: 3499

Submittal Accepted: \_\_\_\_\_

Signature of Planning Dept. Staff for minimal requirements

Date 3/20/23

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: 176 Lake Shore Dr (30-341-11)

Assessor's Map Sheet, Block, & Lot: Lot 47 and 48A on plan "Plan of a Part of Lake Shore Part"

Zoning District: R-1

Overlay District: \_\_\_\_\_

OWNER OF RECORD (S) (print & sign): Daniel Borezo [Signature]  
(The owner of record is the person or entity who owns title to the property as of today's date)

Address of owner of record: 176 Lake Shore Dr

Norfolk County Registry of Deeds Book and Page No. Deed Ref: 28705/79, Plan Ref: 30278/586  
Bk 35898 Page 79

Or registered in Land Registration Office under Certificate No. \_\_\_\_\_

NAME OF APPLICANT (S) (print & sign): Daniel Borezo [Signature]

Applicant's Address: 176 Lake Shore Dr

Contact Information: Email danborezo@gmail.com Phone 774-364-2953

Check if you are an: owner(s) ☒ lessee(s) ☐ optionee (s) ☐

NAME & AFFILIATION OF REPRESENTATIVE: DANIEL BOREZO

Address: 176 LAKE SHORE DR WEYMOUTH MA 02189

Contact Information: Email DANBOREZO@GMAIL.COM Phone 774-364-2953

NAME OF ENGINEER AND / OR ARCHITECT: James Nabstedt (land surveyor); Brian Wood (contractor)

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.

Applicant / Petitioner - Date (sign & print)

[Signature] Daniel Borezo - 3/7/23

# 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

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):

Primary residence - Single family home (3BR / 1.5 baths)  
one story, (1,139 sq ft) (Lot 7,600sf)  
Existing patio (damaged) and stairs at side of proposed deck on upper yard.

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

construct a deck on the backyard that looks out over Whitman's pond, but that is within 10ft of an unused town-owned access point. We want to build over a patio (in disrepair). The alternative and is a fire hazard.

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).

R-1 ZONING DISTRICT

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).

Not aware of any previously granted approvals. However our entire left side of the house is already built within 10 ft of our property line.

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

The town-owned access point consists of a path upon which a fence was constructed by either a previous owner or a neighbor. It is unusable and overgrown. Our current patio at the side flood and causes water damage in the basement.

# 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		Patio	Deck
Lot Area / Size (Sq. Ft.)		7,600 sq. ft.	
Dwelling Units		1	0
Frontage (ft.)			0
Lot Width (ft.)			0
Front Yard Setback (ft.)		95.98 ft.	0
Front Yard Setback (ft.) -- corner lots		13 ft.	0
Side Yard Setback (ft.)			0
Side Yard Setback (ft.)			0
Rear Yard Setback (ft.)		4.6 ft. (R)	0
Height (ft.) & # of Stories		~40 ft.	~40 ft.
Lot Coverage		in ground / 1 story home	4 ft. high deck
Off-Street Parking Spaces		1,139 sq. ft.	0
Off-Street Loading Spaces		3	0
Parking Setback		3	0
Accessory Structure Setback		14.3 ft.	0
Landscaping		1.8 ft. (patio)	1.8 ft. (deck)
Floor Area Ratio		0	0
Signage		14 x 20 ft.	18 x 20 ft.
Other:		0	0
	N/A	N/A	N/A

## 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, A PATIO DOOR CURRENTLY LEADS TO AN EXISTING CAMPING & STAIRS. THIS IS A NATURAL SPOT FOR A DECK.

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

NO, THE STRUCTURE IS IN THE BACKYARD BEHIND THE STRUCTURE.

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

NO, STRUCTURE WILL BE BEHIND THE HOUSE & ABOUT AN UNUSED CEMENT.

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

NONE REQUIRES

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

WILL NOT AFFECT THE PUBLIC.

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):

DECK IS TOO CLOSE TO LOT LINE.  
4'6" TO 1'8" OFF EASEMENT

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

NOT APPLICABLE, EXISTING IS CONFORMING.

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.

NOT APPLICABLE, EXISTING IS CONFORMING.

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

NEW DECK IS NON CONFORMING BUT ABUTS AN  
UNUSED TOWN EASEMENT.

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

3 CURRENT SPOTS & 2 SPOTS IS ENOUGH FOR  
THIS HOME.

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:

DECK WILL BE BEHIND RESIDENCE & WILL  
NOT AFFECT NEIGHBORS.

## 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 we had to build 10 feet from town property, we would have to build out and block our lot's head, which is a fire hazard / not possible. Our current stairs and patio are breaking and falling apart. Water pools in our existing patio and causes water damage and basement flooding.

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.

Water pools in the patio, and causes basement flooding. We'd replace the patio with a deck, and tear up the concrete in favor of soil. The entire left side of our house is already built within 10 ft of "passageway."

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. Our mudroom, dining room, and bedroom are already within 10 ft of public.

If we were able to build the deck, it would have virtually no affect on any residents of Weymouth as the access point is unused since 2018 and likely before. The neighbors made the "public walkway" into a garden and is fenced off.

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 deck will not extend into the documented town property line, and will only extend into a range of 1.8' to 4.6' from it. The deck will only do so within a length of 18 ft.

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.

~~SHAW~~ DANIEL BOREZO  
176 LAKE SHORE DR  
WEYMOUTH, MA 02189

Bk 35898 Pg 79 #26470  
04-06-2018 @ 09:33a

MASSACHUSETTS STATE EXCISE TAX  
Norfolk Registry of Deeds  
Date: 04-06-2018 @ 09:33am  
Ct1#: 185 Doc#: 26470  
Fee: \$1,938.00 Cons: \$425,000.00

RECEIVED AND RECORDED  
NORFOLK COUNTY  
REGISTRY OF DEEDS  
DEDHAM, MA

CERTIFY

*William P. O'Donnell*  
WILLIAM P. O'DONNELL, REGISTER

### QUITCLAIM DEED

I, Joseph J. Fortunato, married to Rachael E. Fortunato, of 7 Westwood Street, Burlington, Massachusetts ("Grantor")

For consideration paid of Four Hundred and Twenty-Five Thousand Dollars (\$425,000.00)

Grant to Daniel Borezo, now of 176 Lake Shore Drive, Weymouth, Massachusetts ("Grantee")

With QUITCLAIM COVENANTS

The land with the buildings thereon situated on Lake Shore Drive in that part of Weymouth, Norfolk County, Massachusetts known as East Weymouth and being shown as Lot 47 and Lot 48A on a plan of land entitled "Plan of a Part of 'Lake Shore Park', Weymouth, Mass. August 9, 1951, Russell H. Whiting, C.E., said plan being duly recorded with Norfolk County Registry of Deeds in Book 3028, Page 586, and bounded and described as follows:

NORTHERLY by a passageway shown on said plan, 113 feet;  
WESTERLY by Lake Shore Drive, as shown on said plan, 95.98 feet;  
SOUTHERLY by Lot 488, as shown on said plan, 129 feet; and  
EASTERLY by Whitman's Pond, as shown on said plan, 30.5 feet.

Containing, according to said plan, 7,600 square feet, more or less.

GRANTOR hereby declares that no person is entitled to claim the benefit of an existing estate of homestead in the premises and releases and discharges any and all estates of homestead in and to the property conveyed herein, whether created automatically pursuant to Massachusetts law or declaration. By joining in this deed Rachael E.

176 LAKE SHORE DR., WEYMOUTH, MA

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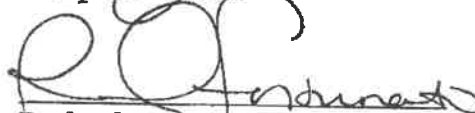
Fortunato waives any and all estates of homestead in and to the property conveyed herein, whether created automatically pursuant to Massachusetts law or declaration.

Meaning and intending to convey the Premises conveyed to Grantor by deed dated March 25, 2011 and recorded with Norfolk County Registry of Deeds in Book 28705, Page 79.

Witness my hand and seal this 6<sup>th</sup> day of April, 2018



Joseph J. Fortunato



Rachael E. Fortunato

**COMMONWEALTH OF MASSACHUSETTS**

Norfolk, ss.

On this 6th day of April, 2018, before me, the undersigned notary public, personally appeared Joseph J. Fortunato and Rachael E. Fortunato, proven to me through satisfactory evidence of identification, which were Massachusetts driver's licenses, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.



Shauna S. Rives

My Commission Expires: 8/29/19



# MORTGAGE INSPECTION PLAN

LOCATION: 176 LAKE SHORE DRIVE  
CITY, STATE: WEYMOUTH, MA  
APPLICANT:  
CERTIFIED TO:  
DATE: 04-02-2018

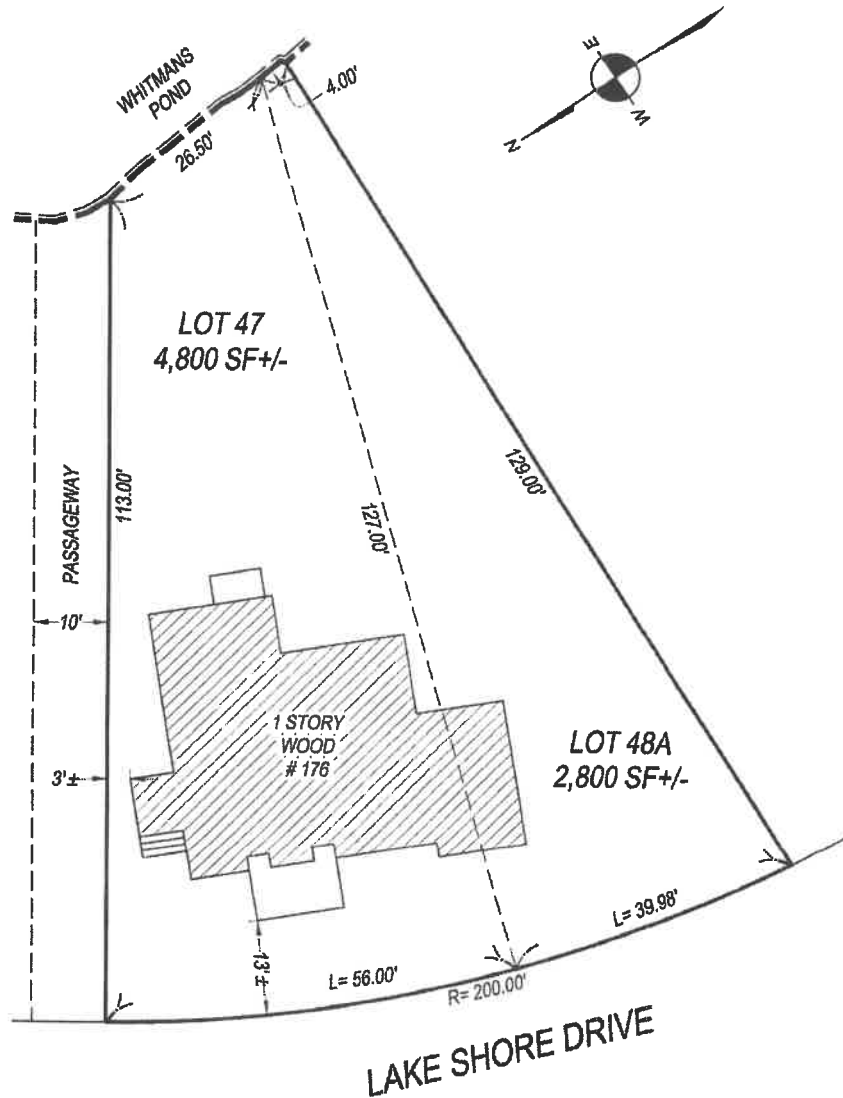
18-03713



BOSTON

SURVEY, INC.

P.O. BOX 290220  
CHARLESTOWN, MA 02129  
T (617) 242-1313; F (617) 242-1616  
WWW.BOSTONSURVEYINC.COM



SCALE: 1" = 30'

## FLOOD DETERMINATION

According to Federal Emergency Management Agency maps, the major improvements on this property fall in as area designated as ZONE: X

COMMUNITY PANEL No. 25021C0229E  
EFFECTIVE DATE: 7/17/2012

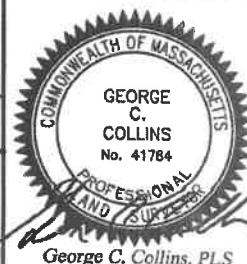
## REFERENCES

DEED REF: 28705/79  
PLAN REF: 30278/586

NOTE: To show an accurate scale this plan must be printed on legal sized paper (8.5" x 14")

The permanent structures are approximately located on the ground as shown. They either conformed to the setback requirements of the local zoning ordinances in effect at the time of construction, or are exempt from violation enforcement action under M.G.L. Title VII, Chapter 40A, Section 7, and that are no encroachments of major improvements across property lines except as shown and noted hereon.

This is not a boundary or title insurance survey. This plan should not be used for construction, recording purposes or verification of property lines.



# PLAN OF LAND

SHOWING

## PROPOSED DECK

AT

### 176 LAKE SHORE DRIVE

IN

### WEYMOUTH, MASS.

PREPARED BY:

## NEPONSET VALLEY SURVEY ASSOC., INC.

95 WHITE STREET  
QUINCY, MASS.  
JANUARY 26, 2023

SCALE 1" = 20'

N/F  
STEPHEN G. & MAUREEN WHITE  
PARCEL ID: 26-341-10  
166 LAKE SHORE DRIVE

N/F  
DANIEL KENNEDY  
PARCEL ID: 30-341-12  
186 LAKE SHORE DRIVE

LOTS 47 & 48A  
A=7,600 S.F. ±

WHITMAN'S  
POND



JAMES L. NABSTEDT PLS No. 39693

