

TOWN OF WEYMOUTH
TOWN CLERK'S OFFICE

2021 JUN 24 PM 3:33

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

TO BE COMPLETED BY STAFF

Case Number: 3455 Town Clerk Stamp

Submittal Accepted: Monica Kennedy Date 6/24/21
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: #94 & #96 Prospect Hill Drive

Assessor's Map Sheet, Block, & Lot: Assessors Lots 3-4-30 & 31

Zoning District: Residence District R-1 Overlay District: n/a

(#94) - Prospect Hill, LLC Lynne A. Barnes
OWNER OF RECORD (S) (print&sign): (#96) - Lynne A. Barnes Living Trust Lynne A. Barnes
(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: 96 Prospect Hill Drive, Weymouth, MA 02191

Norfolk County Registry of Deeds Book and Page No. _____

Or registered in Land Registration Office under Certificate No. #184835 & #191592

NAME OF APPLICANT (S) (print&sign): Lynne A. Barnes Lynne A. Barnes HARTY E. BARNES

Applicant's Address: 96 Prospect Hill Drive, Weymouth, MA 02191

Contact Information: Email mbarnes@barnesbuildings.com Phone 617-908-6173

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

NAME & AFFILIATION OF REPRESENTATIVE: Paul Seaberg, Grady Consulting LLC

Address: 71 Evergreen Street, Suite 1, Kingston MA 02364

Contact Information: Email paul@gradyconsulting.com Phone 781-585-2300

NAME OF ENGINEER AND / OR ARCHITECT: Paul Seaberg, Grady 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.

Lynne A. Barnes HARTY E. BARNES 6/3/2021
Applicant / Petitioner - Date (sign & print)
Lynne A. Barnes Lynne A. Barnes 6/3/2021

NATURE OF REQUEST

Application is for: X Special Permit Variance Amendment Other:

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

Relief is sought from Table 1, Schedule of District regulations, for Minimum Lot Area, Minimum Lot Width, and Minimum Side Yard for the proposed land swap. A special permit is requested in accordance with section 120-40 Extension or change by special permit.

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):

The property at #94 Prospect Hill Drive, Assessors Lot 3-4-30, consists of a 7,467 sf lot with an existing single family dwelling. There is a paved driveway and deck on the rear of the house. The footprint of the existing house is 1,073 sf.

The property at #96 Prospect Hill Drive, Assessors Lot 3-4-31, consists of a 21,228 sf lot with an existing single family dwelling. There is a concrete driveway and deck on the rear of the house with a patio below. The footprint of the existing house is 2,009 sf. In addition, there is an existing inground pool, shed, and dock in the rear of the property.

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

The two properties, #96 and #94 Prospect Hill Drive, consist of four Land Court lots 30, 31, 118 and 119 on Land Court Plan #17562B and #17562H. #96 Prospect Hill Drive consists of Lots 31, 118 and 119. #94 Prospect Hill Drive consists of Lot 30. The applicant seeks to convey Lot 118 and a portion of Lot 119 to #94 Prospect Hill Drive. As proposed, #94 Prospect Hill Drive will consist of Lots 30, 118 and a portion of Lot 119 shown as Lot 127 on the ANR plan. #96 Prospect Hill Drive will consist of Lots 31 and a portion of Lot 119 shown as Lot 128 on the ANR plan.

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).

The use of the two properties is single family residential use and is proposed to be the same. This is an allowed use in the Residence R-1 district according to section 120-11 Permitted uses.

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).

Conservation Commission - Order of Conditions (Proposed dock) issued 1/29/2007 Certificate #148351

Conservation Commission - Certificate of Compliance (Proposed dock) issued 12/17/2007 Certificate #148351

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

The two properties, #94 and #96 Prospect Hill Drive, are currently non-conforming due to insufficient lot area and lot width. #94 Prospect Hill Drive consists of 7,467 sf, required 25,000 sf. #96 Prospect Hill Drive consists of 21,228 sf, required 25,000 sf. The lot width for both #94 and #96 consists of 58.78 ft, required 120 ft. In addition, the existing structure at #96 Prospect Hill Drive is non-conforming due to the side setback of 9.8', required 10'.

The applicant seeks to convey land from #96 to #94 Prospect Hill Drive. As proposed #96 will be 10,620 sf and #94 will be 18,076 sf. The proposed change in area shall not be substantially more detrimental than the existing non-conforming use to the neighborhood as it improves the insufficiencies of lot area for the overall site. There are no changes to the non-conforming lot width and side setback.

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		Single Family Dwelling	Single Family Dwelling
Lot Area / Size (Sq. Ft.)	25,000 sf	#94 - 7,467 sf #96 - 21,228 sf	#94 - 18,076 sf #96 - 10,620 sf
Dwelling Units	1	1	1
Frontage (ft.)	40 ft	#94 - 54.50 ft #96 - 54.50 ft	#94 - 54.50 ft #96 - 54.50 ft
Lot Width (ft.)	120 ft	#94 - 58.78 ft #96 - 58.78 ft	#94 - 58.78 ft #96 - 58.78 ft
Front Yard Setback (ft.)	18 ft	#94 - 42.3 ft #96 - 23.8 ft	#94 - 42.3 ft #96 - 23.8 ft
Front Yard Setback (ft.) – corner lots	n/a	n/a	n/a
Side Yard Setback (ft.)	10 ft	#94 - 12.5 ft #96 - 9.8 ft	#94 - 12.5 ft #96 - 9.8 ft
Side Yard Setback (ft.)	10 ft	#94 - 10.8 ft #96 - 11.7 ft	#94 - 10.8 ft #96 - 11.7 ft
Rear Yard Setback (ft.)	24 ft	#94 - 41.6 ft #96 - 67.4ft	#94 - 136+/- ft #96 - 67.4ft
Height (ft.) & # of Stories	35 ft & 2.5 Stories	#94 - 18.6 ft/1.5 Stories #96 - 28.1 ft/2.5 Stories	#94 - 18.6 ft/1.5 Stories #96 - 28.1 ft/2.5 Stories
Lot Coverage	30%	#94 - 14.4% #96 - 9.5%	#94 - 6.4% #96 - 18.2%
Off-Street Parking Spaces	1.5 spaces	#94 - 2 spaces #96 - 6 spaces	#94 - 2 spaces #96 - 6 spaces
Off-Street Loading Spaces	n/a	n/a	n/a
Parking Setback	n/a	n/a	n/a
Accessory Structure Setback	5 ft	#94 - n/a #96 - 12.2 ft	#94 - 12.2 ft #96 - n/a
Landscaping	n/a	n/a	n/a
Floor Area Ratio	n/a	n/a	n/a
Signage	n/a	n/a	n/a
Other:	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, the site consists of existing single family homes which is an allowed use within the zoning district. There is no proposed change in use.

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

No, the site consists of existing single family homes which is an allowed use within the zoning district. There is no proposed change in use. There is no proposed change to the existing structures at this time.

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

No, there are no proposed changes to the existing site that would increase the potential for nuisance or serious hazard to vehicles or pedestrians.

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

There are no proposed changes to the existing use, therefore, no changes to facilities, utilities, and other public services.

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

There are no proposed changes to the existing use, therefore, no changes to the public convenience and welfare.

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 two properties, #94 and #96 Prospect Hill Drive, are currently non-conforming due to insufficient lot area and lot width. #94 Prospect Hill Drive consists of 7,467 sf, required 25,000 sf. #96 Prospect Hill Drive consists of 21,228 sf, required 25,000 sf. The lot width for both #94 and #96 consists of 58.78 ft, required 120 ft. In addition, the existing structure at #96 Prospect Hill Drive is non-conforming due to the side setback of 9.8', required 10'.

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

The existing single family home (#96) was built in 1938 according to assessors records.

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.

There were no zoning requirements at the time the structure was built as it pre-dates 1969.

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

There are no proposed changes to the existing non-conforming structure.

The applicant seeks to convey land from #96 to #94 Prospect Hill Drive. As proposed #96 will be 10,620 sf and #94 will be 18,076 sf. The proposed change in area shall not be substantially more detrimental than the existing non-conforming use to the neighborhood as it improves the insufficiencies of lot area for the overall site.

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

There are no proposed changes to the existing structures or off street parking areas.

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:

There are no proposed changes to the existing non-conforming structure.

The applicant seeks to convey land from #96 to #94 Prospect Hill Drive. As proposed #96 will be 10,620 sf and #94 will be 18,076 sf. The proposed change in area shall not be substantially more detrimental than the existing non-conforming use to the neighborhood as it improves the insufficiencies of lot area for the overall site.

QUITCLAIM DEED

We, MARTIN E. BARNES III and LYNNE A. BARNES, of 96 Prospect Hill Drive, Weymouth, MA 02191 for consideration paid, the sum of Ten (\$10.00) Dollars, grant to PROSPECT HILL, LLC, of 96 Prospect Hill Drive, Weymouth, MA 02191, with quitclaim covenants A MASSACHUSETTS LLC,

The land in WEYMOUTH in the County of Norfolk and said Commonwealth, bounded and described as follows:

SOUTHWESTERLY	by the Northeasterly line of Prospect Hill Drive, shown on the plan hereinafter referred to, fifty four and 50/100 (54.50) feet;
NORTHWESTERLY	by lot numbered 29, shown on said plan, one hundred seven and 98/100 (107.98) feet;
NORTHEASTERLY	by Lot E, shown on said plan, eighty and 29/100 (80.29) feet; and
SOUTHEASTERLY	by lot numbered 31, shown on said plan, one hundred eighteen (118) feet.

Said parcel is shown as lot numbered 30 on a plan drawn by Russell H. Whiting, Civil Engineer, dated April 25, 1940, as approved by the Land Court, filed in the Land Registration Office as No. 17562^B, a copy of a portion of which is filed in the Norfolk Registry District with Certificate No. 25084, Sheet 1, Book 126.

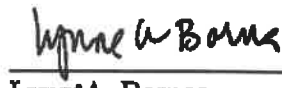
The above described land is subject to and has the benefit of an agreement to restrict as set forth in a deed given by the Bradley Park Development, Inc. to Earl A. Beatty, dated June 18, 1940, duly recorded in Book 2283, Page 47.

For title see Deed of Mary C. Quinn dated March 31, 2015, filed with the Norfolk Registry District as Document No. 1,325,869 as shown on Certificate of Title No. 190537.

Property Address: 94 Prospect Hill Drive, Weymouth, MA 02191
+ grantee: 96 Prospect Hill Drive Weymouth 02191

Witness our hands and seals this 5th day of August, 2015.


Martin E. Barnes, III

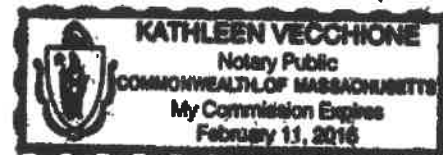

Lynne A. Barnes

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this August 5th, 2015, before me, the undersigned notary public, personally appeared Martin A. Barnes, III, proved to me through satisfactory evidence of identification, which was [] Mass. driver's license or [☒ personally known], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.


Notary Public: Kathleen Vecchione
My Commission Expires: 2/11/2016

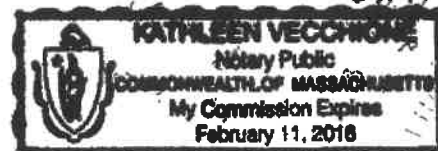


COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss.

On this August 5th, 2015, before me, the undersigned notary public, personally appeared Lynne A. Barnes, proved to me through satisfactory evidence of identification, which was [] Mass. driver's license or [☒ personally known], to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.


Notary Public: Kathleen Vecchione
My Commission Expires: 2/11/2016



MASSACHUSETTS QUITCLAIM DEED

We, Lynne A. Barnes and Martin E. Barnes III for consideration paid, and in full consideration of One and 00/100 Dollars (\$1.00) grant to Lynne A. Barnes, Trustee of the Lynne A. Barnes Living Trust, u/d/t January 2, 2008 of 96 Prospect Hill Drive, Weymouth, Norfolk County, Massachusetts, reserving a life estate to the grantors, Lynne A. Barnes and Martin E. Barnes III, with quitclaim covenants the following property located in Norfolk County, Massachusetts.

SEE EXHIBIT "A" ATTACHED HERETO AND MADE PART HEREOF

Lynne A. Barnes and Martin E. Barnes III shall during their lifetimes and during the lifetime of the survivor of them; during which time both of them, or the survivor, shall have the exclusive right to occupy the property, to lease, let or license the same, and shall be entitled to all rents, profits, or other income generated from the property, including the income from the proceeds of any sale of the property, equally or all to the survivor, but without the right to partition. During their joint lifetimes, and during the lifetime of the survivor of them, both of them, or the survivor, shall bear the cost of all insurance, maintenance, fees, charges, and expenses relating to the property and shall pay all taxes assessed or imposed with respect thereto.

Witness our hands and seals this 9th day of July, 2012

Lynne A. Barnes
Lynne A. Barnes

Martin E. Barnes III
Martin E. Barnes III

PROPERTY ADDRESS: 96 Prospect Hill Drive, Weymouth, MA 02191


* SEE TRUST CERT. PURSUANT TO MGL c.184 sec 35
Norfolk Land Court Doc # 1168552.

COMMONWEALTH OF MASSACHUSETTS

Norfolk, ss:

July 9, 2012

Then personally appeared the above-named Lynne A. Barnes and Martin E. Barnes III and after providing Driver's Licenses as identification, acknowledged, before me, the foregoing statement to be true and correct and their free act and deed.


Notary Public:

Return To:
Coletti & O'Connor, LLC
1400 Hancock St., 8th Floor
Quincy, MA 02169

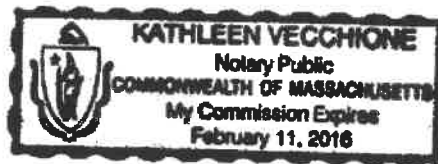


EXHIBIT A

PARCEL ONE

That certain parcel of land situate in WEYMOUTH in the County of Norfolk, Commonwealth of Massachusetts, bounded and described as follows:

Southwesterly by the Northeasterly line of Prospect Hill Drive, shown on plan filed with Certificate No. 25084, fifty four and 50/100 (54.50) feet;

Northwesterly by lot numbered 30, shown on a plan filed with Certificate No. 25084, about one hundred eighteen (118) feet;

Westerly by lot numbered 118, shown on plan filed with Certificate No. 63893, about one hundred eighteen (118) feet;

Northerly by the mean high water mark of Weymouth Fore River;

Easterly by the end of a Driftway, shown on said plan filed with Certificate No. 63893, and by land now or formerly of Amaziah E. Nevens et al, about one hundred seventy six (176) feet;

Southeasterly by lot numbered 120, shown on said plan filed with Certificate No. 63893, and by lots numbered 33 and 32, shown on said plan filed with Certificate No. 25084, one hundred forty seven and 29/100 (147.29) feet.

Said parcel comprises lots numbered 31 on a plan drawn by Russell H. Whiting, Civil Engineer, dated April 25, 1940, as approved by the Land Court, filed in the Land Registration Office as No. 17562B, a copy of a portion of which is filed in Norfolk Registry District with Certificate No. 25084, Sheet 1, Book 126; and lot numbered 119 on a plan by Perkins Engineering Associates, dated April 22, 1959, as approved by the Land Court, filed in the Land Registration Office as No. 17562H, a copy of a portion of which is filed in Norfolk Registry District with Certificate No. 63893, Sheet 2, Book 320.

Said lot numbered 119 is subject to any and all public rights legally existing in and over the same below mean high water mark.

Said lot numbered 119 is subject also to the restriction as set forth in Document No. 187541, expiring on December 7, 1986, and to the rights as set forth in said Document.

The above described land is subject to, and has the benefit of, an agreement to restrict as set forth in a deed given by Bradley Park Development Inc. to Earl A. Beatty, dated June 18, 1940, duly recorded in Book 2283, Page 47.

PARCEL TWO

That certain parcel of land situate in WEYMOUTH in the County of Norfolk and said Commonwealth, bounded and described as follows:

Northerly by the mean high water mark of Weymouth Fore River;

Easterly by lot numbered 119, as shown on plan hereinafter referred to, about one hundred eighteen (118) feet; Southwesterly by lot numbered 30, as indicated on said plan, eighty and 29/100 (80.29) feet;

Northwesterly, twenty six (26) feet; and

Westerly, about fifty five (55) feet, by lot numbered 117, as shown on said plan. Said parcel is shown as lot numbered 118 on a plan by Perkins Engineering Associates, dated April 22, 1959, as approved by the Land Court, filed in the Land Registration Office as No. 17562H, a copy of a portion of which is filed in Norfolk Registry District with Certificate No. 63893, Sheet 2, Book 320.

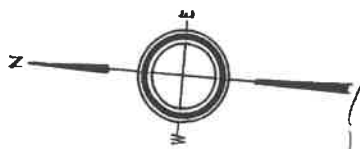
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The above described land is subject to any and all public rights legally existing in and over the same below mean high water mark.

The above described land is subject also to the restriction as set forth in Document No. 187541, expiring on December 7, 1986, and to the rights as set forth in said Document.

Subject to and with the benefit of all rights, rights of way, easements, appurtenances, reservations, and restrictions of record, insofar as the same are in force and applicable.

For title see Deed filed with the Norfolk County District of Land Court as Document No. 12578191, Certificate of Title No. 184803.



Weymouth

FORE RIVER

HILL

PROSPECT

DRIVE

(40' wide)

33

31

30

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27

26

25

24

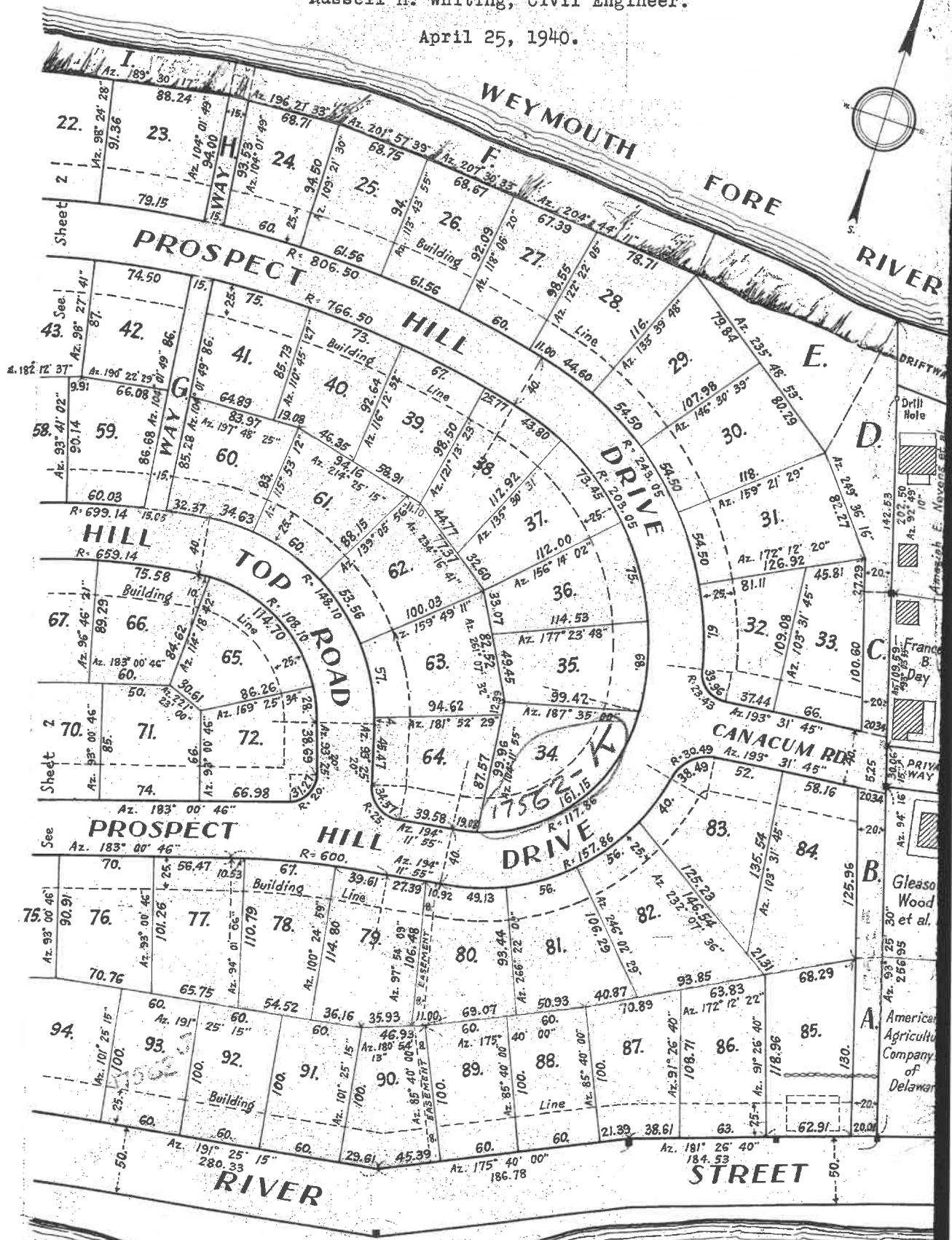
Prospect Hill

17562B
SHEET 1

SUBDIVISION PLAN OF LAND IN WEYMOUTH

Russell H. Whiting, Civil Engineer.

April 25, 1940.



Separate certificates of title may be issued
for lots 2 to 99 incl. & lots G & H as shown hereon
and on Sheet 2
By the Court

Charles L. Smith

WEYMOUTH

BACK RIVER

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
JULY 1, 1940.
Scale of this plan 90 feet to 1 inch