

**BOARD OF SELECTMEN AGENDA**  
MONDAY, JANUARY 8, 2018  
SELECTMEN MEETING 7:00 P.M.  
SELECTMEN'S CONFERENCE ROOM TOWN OFFICES, 3<sup>rd</sup> FLOOR

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**REGULAR MEETING – BOARD OF SELECTMEN – Selectmen Conference Room**

- I. Call to Order– 7:00 P.M.
- II. Opening Ceremonies – 7:00 P.M.
  - A. Moment of Silence/Pledge of Allegiance
- III. Communications/Announcements/Liaison Reports – 7:05 P.M.
- IV. Citizens Petitions and Presentations – 7:10 P.M.
- V. Televising Special Town Meeting – 7:15 P.M.

Board of Selectmen to discuss and consider to vote to televise Special Town Meeting.
- VI. 2018 Special Town Meeting Warrant Review – 7:25 P.M.
  - A. Board to discuss and consider voting on the following Private Warrant Articles:
    - Article 8 – Amend Town of Andover's Zoning Map Industrial 1 District Dascomb Rd
    - Article 9 – Posting of Board Decisions on the Town Website
    - Article 10 – Post Closure Use of Ledge Rd. Landfill
    - Article 11 – Allowed Planned Development in ID2 Zoning District
    - Article 12 – Dascomb Road Project – Planned Development Masterplan
    - Article 13 – Date of Town Elections – Home Rule Legislation
  - B. Board to discuss and consider voting on the following Warrant Articles:
    - Article 1 – Intermunicipal Agreement with the Town of North Reading for Potable Water Service
    - Article 2 - Application of Bond Premium
    - Article 3 – Collective Bargaining Agreements with the International Association of Firefighter Local 1658 AFL-CIO
    - Article 4 – Prohibition of Marijuana Establishments
    - Article 5 – Amend Zoning Bylaw – Section 10.0 Definitions
    - Article 6 – Amend Zoning Bylaw – Appendix A Table Section 3.1.3 Table of Use Regulations
    - Article 7 – Wood Hill High Plain Accessibility Project

**Article 14** - Amend Zoning Bylaw – Dimensional Special Permit Section 7.9

VII. Regular Business of the Board – 9:00 P.M.

A. 27 - 45 Main Street – (5 minutes)

Channel Building Company will be erecting temporary staging for a renovation scheduled to occur at 27 – 45 Main Street. The staging is expected to be in place from approximately February 1, 2018 through December 31, 2018.

B. Update on the Dascomb Road Project – (10 minutes)

Dascomb Road Task Force will give the Board an update on the Dascomb Road Project.

C. Andover Companies License Agreement – (10 minutes)

Board of Selectmen to consider to vote to sign and accept the Andover Companies License Agreement.

VIII. Consent Agenda – 9:25 P.M.

A. **APPOINTMENTS** – (Town Manager)

**That the following appointments by the Town Manager be approved:**

DEPARTMENT/ COMMITTEE	NAME	POSITION	RATE/ TERM	DOH
<b>Commission on Disability</b>	<b>Kathleen Dolan</b>	<b>Member</b>	<b>3 year term</b>	
Police Dept.	Nicole M. Richards (v. Dowd)	Police Officer	\$66,544	12/17/17
Police Dept.	Thomas Paolera (v. R. Crimmins)	Patrolman	\$52,561	1/7/2018
Recreation Services	Brenda J. Afshin	Healthcare Consultant	\$500 stipend	12/4/17
Recreation Services	Ronald M. Wyner	Referee	\$60 hr.	12/11/17
Recreation Services	Rodolfo Tejada	Referee	\$60 hr.	12/11/17
Recreation Services	Andre Pinto	Youth Referee	\$11 hr.	12/11/17
Recreation Services	Patrick Corcoran	Referee	\$60 hr.	12/11/17
Youth Services	Julianna Pasho	AYS Counselor 2	\$11 hr.	12/8/17
Youth Services	Lauren Najarian	AYS Counselor 2	\$11 hr.	12/18/17

IX. Approval of Minutes from Previous Board of Selectmen Meetings - 9:30 P.M

November 27, 2017 (Regular Meeting) and December 4, 2017 (Regular Meeting)

X. Adjournment – 9:35 P.M.

*If any member of the public wishing to attend this meeting seeks special accommodations in accordance with the Americans with Disabilities Act, please contact Wendy Adams at 978-623-8210 or [wadams@andoverma.gov](mailto:wadams@andoverma.gov) in the Town Manager's Office.*

MEETINGS ARE TELEVISED ON  
COMCAST CHANNEL 22 AND VERIZON CHANNEL 45

**WARRANT**  
**THE COMMONWEALTH OF MASSACHUSETTS**  
**ESSEX, SS.**

To Either of the Constables of the Town of Andover

Greeting:

In the name of the Commonwealth you are hereby required to notify and warn the Inhabitants of said Town who are qualified to vote in Town Affairs to meet and assemble at the J. Everett Collins Center Auditorium, Andover High School, Shawsheen Road, in said Andover, on

**MONDAY, THE TWENTY NINTH DAY OF JANUARY, 2018**

At seven o'clock P.M. to act upon the following articles:

<b>ARTICLE 1</b>	<b>INTERMUNICIPAL AGREEMENT WITH THE TOWN OF NORTH READING FOR POTABLE WATER SERVICE</b>
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To see if the Town will vote to authorize the Board of Selectmen to enter into an Intermunicipal Agreement with the Town of North Reading for potable water for a term of up to 99 years on such terms and conditions that the Board determines are in the best interests of the Town; and further to see if the Town will authorize the Board of Selectmen to take any and all action necessary to effectuate such agreement including, but not limited to, petitioning the General Court for a special act authorizing said agreement, or take any other action relative thereto.

*On request of the Town Manager*

<b>ARTICLE 2</b>	<b>APPLICATION OF BOND PREMIUM</b>
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To see if the Town will supplement each prior vote of the Town that authorizes the borrowing of money to pay costs of capital projects to provide that, in accordance with Chapter 44 Section 20 of the Massachusetts General Laws, the premium received by the Town upon the sale of any bonds or notes thereunder, less any premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to pay project costs and the amount authorized to be borrowed for each such project shall be reduced by the amount of any such premium so applied, or take any action related thereto.

*On request of the Finance Director*

<b>ARTICLE 3</b>	<b>COLLECTIVE BARGAINING AGREEMENTS WITH THE INTERNATIONAL ASSOCIATION OF FIREFIGHTER LOCAL 1658 AFL-CIO</b>
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To see if the Town will vote to transfer from Free Cash and appropriate \$800,000.00 to fund the cost items for the collective bargaining agreements negotiated between the Town and Andover Fire Fighters Local 1658 for Fiscal 2015, Fiscal Year 2016, and Fiscal Year 2017, or take any other action thereto.

*On the request of the Board of Selectmen*

<b>ARTICLE 4</b>	<b>PROHIBITION OF MARIJUANA ESTABLISHMENTS</b>
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To see if the Town will vote to amend Article XII of the Town’s General Bylaws, Miscellaneous Bylaws, by adding after Section 48 the following new section:

**Section 49. Prohibition of Marijuana Establishments Not Medically Prescribed**

**(a) Prohibition**

Consistent with G.L. c. 94G, sec. 3(a)(2), all types of marijuana establishments as defined in G.L. c. 94G, sec. 1, including all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption, special events, and any other type of licensed marijuana-related businesses, but not to include a medical marijuana treatment center or registered marijuana dispensary as defined and regulated in Article VIII, Section 8.9 of the Town’s Zoning Bylaws, are prohibited in the Town of Andover.

**(b) Severability**

If any provisions, paragraphs, sentences, or clauses of this bylaw shall be held invalid for any reason, all other provisions shall continue in full force and effect.

**(c) Enforcement**

The penalty for violation of this bylaw shall be \$200 for each such violation. Each day of the violation shall constitute a separate offense. In addition to any other applicable remedy, violation of this bylaw may be enforced by noncriminal disposition in accordance with G.L. c. 40, sec. 21D. The Town Manager, Police Officers and the Building Inspector shall be enforcing persons.

And further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Andover Code of Bylaws, or take any other action relative thereto.

*On request of the Board of Selectmen*

<b>ARTICLE 5</b>	<b>AMEND ZONING BYLAW – SECTION 10.0 DEFINITIONS</b>
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To see if the Town will vote to amend the Andover Zoning Bylaw, Article VIII, §10.0 DEFINITIONS to include Marijuana Establishments and to read as follows:

**Marijuana Establishments** – shall mean all types of marijuana establishments as defined in G.L. C. 94G, sec. 1, including all marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers, on-site consumption, special events, and any other type of licensed marijuana related businesses, but not to include a medical marijuana treatment center or registered marijuana dispensary as defined and regulated in Article VIII, Section 8.9 of the Town’s Zoning Bylaws.

*On request of the Board of Selectmen*

<b>ARTICLE 6</b>	<b>AMEND ZONING BYLAW – APPENDIX A TABLE 1 Section 3.1.3 Table of Use Regulations</b>
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Amend APPENDIX A TABLE 1 Section 3.1.3 Table of Use Regulations to include 27. Marijuana Establishments and to read as follows:

	Residential Districts				Business Districts				Industrial Districts			
	SRA	SRB	SRC	APT	LS	OP	GB	MU	IG	IA	ID	ID2
27. Marijuana Establishments	N	N	N	N	N	N	N	N	N	N	N	N

And further that non-substantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Andover Code of By-laws, or take any other action related thereto.

*On request of the Board of Selectmen*

<b>ARTICLE 7</b>	<b>WOOD HILL HIGH PLAIN ACCESSIBILITY PROJECT</b>
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To see if the Town will vote to transfer from Free Cash and appropriate \$200,000 for the purpose of purchasing services and materials related to completing accessibility improvements at Wood Hill High Plain, including any other costs incidental and related thereto, or to take any other action related thereto.

*On request of the Town Manager*

<b>ARTICLE 8</b>	<b>AMEND TOWN OF ANDOVER’S ZONING MAP INDUSTRIAL 1 DISTRICT DASCOMB ROAD</b>
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To see if the town will amend the Town of Andover’s zoning map to rezone District ID2 on Dascomb Road back to its original ID District.

*On request of Connie Bassilakis and others*

<b>ARTICLE 9</b>	<b>POSTING OF BOARD DECISIONS ON THE TOWN WEB SITE</b>
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To require the Town to make available for public access on the Town website (<http://www.andoverma.gov/>) all decisions from the Zoning Board of Appeals and Conservation Commission (in a manner similar to the practice of the current Planning Board) as well as all public documents required to be made available under the Public Records Law, including but not limited to EIDRs (Environmental Impact and Design reviews), construction plans, traffic reports, planning or feasibility studies, and all communications received in whatever form by the Zoning Board of Appeals, Planning Board and/or Conservation Commission from residents and/or petitioners related to new and/or current applications submitted to such boards and/or commissions.

*On request of Jose Albuquerque and others*

<b>ARTICLE 10</b>	<b>POST CLOSURE USE OF LEDGE RD LANDFILL</b>
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To prohibit the use of any Town funds, including but not limited to the stabilization funds that were appropriated by the 2016 Town Meeting or any other appropriated but unspent funds of the Town, for any post closure use of the Ledge Road landfill property that would constitute or require the construction of any Department of Municipal Services Public Works and/or Plant & Facilities Material Handling Operations and/or any storage facility with the purpose of storing or warehousing any Town vehicles, equipment, materials or refuse on the Ledge Road landfill property unless and until the Town expressly authorizes the same pursuant to a specific warrant article appropriating such funds at a future Town Meeting.

*On request of Jose Albuquerque and others*

<b>ARTICLE 11</b>	<b>ALLOWED PLANNED DEVELOPMENTS IN ID2 ZONING DISTRICT</b>
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To see if the Town will amend the Zoning By-Law by making the following changes necessary to permit mixed use planned developments of a combination of business uses and age restricted residential uses by Special Permit and Town Meeting Approval in the Industrial 2 Zoning District (ID2).

Amend Section 7.2 by replacing all instances of:

- “Mixed Use District” with the following:
- “Mixed Use District and Industrial 2 District”

Amend Section 7.2.3 by adding the following at the end:

6. *Waivers.* The Planning Board may waive the dimensional requirements set forth in Section 7.2.3 for planned developments proposed in the Industrial 2 District in the interests of design flexibility and overall project quality if it finds that the project is consistent with the overall purpose and objectives of Section 7.2, or if it finds that such waiver will allow the project to achieve a high quality design incorporating a desired mix of open space, affordability, a mix of uses, and/or physical character.

Amend Section 7.2.7 Procedure by adding the following paragraph at the beginning:

In the Industrial 2 District, any proposal for a PD-MD or PD-MU must first be presented and to approved by Town Meeting. The proposal shall be in the form of a conceptual master plan containing the following:

- a. Project description, including proposed uses, size, location, zoning;
- b. Conceptual plans, including overall context plan and building elevations;
- c. Transportation improvements and mitigation measures;
- d. Utility improvements and mitigation measures;

- e. Traffic analysis;
- f. Fiscal Impact Analysis; and
- g. Impact thresholds which, if exceeded, would require the applicant to re-submit to Town Meeting for review and approval.

If the conceptual master plan is approved by Town Meeting, the applicant may proceed with an application for a special permit from the Planning Board. Minor changes to the design of the PD-MD or PD-MU as part of the Planning Board review process shall not require re-approval by Town Meeting. For purposes of this Section 7.2.7, minor changes shall mean any proposed change that does not exceed the impact thresholds set forth in the conceptual master plan.

Amend Section 7.2.8 Special Permit by adding the following at the end:

- 7. For planned developments in the Industrial 2 District, deed restriction, association bylaws or other suitable regulation shall be implemented to restrict occupancy of all dwelling units to have at least one resident 55 years of age or older, and no resident under the age of 18.

Amend Appendix A, Table 1 Section 3.1.3 – Table of Use Regulations, Key to symbols used in Table 1, by adding the following:

TM – Town Meeting

Amend Appendix A, Table 1 Section 3.1.3 – Table of Use Regulations, use category A.4.c., by replacing the “N” in the ID2 column with “TM/PB<sup>(a)</sup>”, as follows:

Use	ID2
A.4.c. Planned development, multifamily or mixed use (See section 7.2)	TM/PB <sup>(a)</sup>

Amend the following use categories in Appendix A, Table 1 Section 3.1.3 – Table of Use Regulations, by adding footnote “(b)” following the symbol in the ID2 column as follows:

Use	ID2
A.4.b. Multiple-dwelling (Apartment Building) (See Section 7.6.3)	N <sup>(b)</sup>
C.5. Banking establishment	BA <sup>(b)</sup>
C.16. Motel or hotel (See Section 4.1.5.1)	BA <sup>(b)</sup>
E.5. Public transportation station or terminal excluding airports	BA <sup>(b)</sup>
F.8. Temporary and seasonal placement of tables and chairs	N <sup>(b)</sup>

Amend Appendix A, Table 1 Section 3.1.3 – Table of Use Regulations by adding the following immediately following the Table of Regulations:

Exceptions and Special Requirements:

- (a) All dwellings for planned developments in the Industrial 2 District shall be age restricted to require at least one resident to have attained the age of 55 and no resident shall be under the age of 18.
  
- (b) Allowed by right in planned development, multifamily or mixed use, in ID2 zoning district.

*On request of Wendy L. Donohue and others*

<b>ARTICLE 12</b>	<b>DASCOMB ROAD PROJECT – PLANNED DEVELOPMENT MASTERPLAN</b>
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To see if the Town will approve the conceptual master plan for a Planned Development-Mixed Use in the Industrial 2 District at 146 Dascomb Road, in accordance with Section 7.2.7 of the Zoning By-Law. A copy of the Planned Unit Development Master Plan is on file at the Office of the Town Clerk.

And further that non-substantive changes to the numbering of this by-law be permitted in order that it be in compliance with the numbering format of the Andover Code of By-Laws, or take any other action related thereto.

*On request of Wendy L. Donohue and others*

<b>ARTICLE 13</b>	<b>DATE OF TOWN ELECTIONS – HOME RULE LEGISLATION</b>
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To see if the Town will vote to have the Town expeditiously submit a Home Rule Petition to the Massachusetts Legislature to have the Legislature grant to the Town of Andover permission to change the date that the Town of Andover holds its local elections to be on the Tuesday next after the first Monday in November, which will enable Town of Andover local elections to be held on the same statutory date that state and federal elections are held, provided that the Legislature may reasonable vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

*On request of Bob Pokress and others*

<b>ARTICLE 14</b>	<b>AMEND ZONING BYLAW – DIMENSIONAL SPECIAL PERMIT SECTION 7.9</b>
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To see if the Town will vote to amend the Zoning Bylaw Dimensional Special Permit Section 7.9 as follows:

**Add the following as §7.9.4.11:**

If a New Lot is to be created from the Parent Parcel, then the design of the new structure to be built on the New Lot shall be submitted to the Andover Preservation Commission, which shall review the design of the new structure, including factors relating to building massing, materials, siting, dimensions and setbacks as these factors relate to compatibility with the existing neighborhood. Approval of the design by the Andover Preservation Commission shall be required prior to the issuance of a building permit for the new structure.

**Add the following sentence after the existing text of §7.9.6.1:**

Such conditions shall provide that existing historic structures be secured and maintained in a good state of repair until such time as restoration work is commenced or it is moved to the Host Lot.

**Delete §7.9.6.3 and replace §7.9.6.3 in its entirety with the following:**

3. If the historic structure is to be moved to a Host Lot from another location, the following conditions shall be imposed:
  - (a) The Board of Selectmen of the Town of Andover shall approve the route and the timing of the movement of the building or structure.
  - (b) The existing historic structure shall be secured from the elements and maintained in a good state of repair until such time as it is moved to the new Host Lot.
  - (c) Prior to the meeting of the Board of Selectmen to approve the movement of the historic building or structure:
    - (i) The Applicant shall submit to the Inspector of Buildings and the Office of the Zoning Board of Appeals a statement, prepared and signed by a Structural Engineer licensed to practice in the Commonwealth of Massachusetts, affirming that the historic structure is in suitable condition to be moved. Such statement shall be signed and dated within fourteen days of the posting of the agenda for meeting of the Board of Selectmen at which the movement is to be approved.
    - (ii) The Preservation Commission shall approve, in writing, any changes to the historic structure that involve the removal of historic material if such changes have not been specifically authorized in the Zoning Board of Appeals' conditions of approval.
  - (d) If the historic structure is to be moved, the rights granted by the Special Permit, including, but not limited to, the right to subdivide the Parent Parcel and create any New Lots, shall be effective only upon the successful relocation of the historic structure and its placement on its new permanent foundation, with all temporary supporting structures removed, so that the building is supported only by its new permanent foundation.

- (e) Following the movement of the historic structure to its new location, the Applicant shall submit to the Inspector of Buildings and the Office of the Zoning Board of Appeals a statement, prepared and signed by a Structural Engineer licensed to practice in the Commonwealth of Massachusetts, affirming that the historic structure has been successfully moved and placed on its new foundation, with all temporary supporting structures, including cribbing and beams used in transit, removed, so that the building is supported only by its new permanent foundation. No building permits for any additional work shall be issued until such statement has been received and the relocated structure has been inspected by the Inspector of Buildings.
- (f) If the historic structure is not successfully relocated to its new location as provided above, the Special Permit shall be null and void and the Host Lot shall not be considered a buildable lot under the Zoning By-law. In the event that the historic structure is destroyed or damaged beyond repair prior to being moved successfully to its new location, the Special Permit shall be null and void.

**Delete §7.9.6.2 and replace §7.9.6.2 in its entirety with the following:**

2. If, in the event a fire, explosion or other catastrophic event, there is damage to the historic structure such that the historic structure cannot be repaired, then following the approval and recording of the Historic Preservation Restriction as provided for in §7.9.6.8 below, the owner may rebuild on the host lot, provided that the new structure does not contain more than the same interior floor area as the historic structure and meets one of the following requirements:
- a. The new structure is placed in the same footprint as that occupied by the historic structure; or
  - b. The new structure is built in conformity with the applicable front, side and rear setback requirements in effect at the time of rebuilding as set forth in Section 4.1.2 of the Zoning By-law (the "Table of Dimensional Requirements").

**Add the following as §7.9.6.2.c:**

If a new structure is to be built pursuant to either (a) or (b) above, the design of the new structure to be built shall be submitted to the Andover Preservation Commission, which shall review the design of the new structure, including factors relating to building massing, materials, siting, dimensions and setbacks as these factors relate to compatibility with the existing neighborhood. Approval of the design by the Andover Preservation Commission shall be required prior to the issuance of a building permit for the new structure.

**Add the following at the end of §7.9.6.8:**

No Certificate of Occupancy shall be issued until the Historic Preservation Restriction has been recorded pursuant to this section.

**Add the following as §7.9.7.3(c):**

A statement, prepared and signed by a Structural Engineer licensed to practice in the Commonwealth of Massachusetts, affirming that the historic structure is in suitable condition to be moved.

**Delete §7.9.7.1.c and replace §7.9.7.1.c in its entirety with the following:**

- c. The location and size of all existing and proposed structures or buildings on and adjacent to the proposed lot(s), and the distances between all existing and proposed structures or buildings;

**Delete §7.9.7.1.f and replace §7.9.7.1.f in its entirety with the following:**

- f. Existing and proposed topography (grading), including provisions for management and control of stormwater and surface runoff.

**Add the following as §7.9.7.7:**

Floor plans and exterior elevation drawings of the existing historic structure and any proposed additions or alterations thereto, including specification of materials to be used, sufficient to determine the impact of any proposed changes on the historic significance and architectural features of the historic structure.

And further that non-substantive changes to the numbering of this bylaw be permitted in order that it be in compliance with the numbering format of the Andover Code of Bylaws, or take any other action related thereto.

*On request of the Andover Preservation Commission*



## **Special Town Meeting Private Warrant Article**

**Subject Matter: To move the date that the Town of Andover holds its local elections so as to be held in conjunction with State and Federal elections in November.**

**To see if the Town will vote to have the Town expeditiously submit a Home Rule Petition to the Massachusetts Legislature to have the Legislature grant to the Town of Andover permission to change the date that the Town of Andover holds its local elections to be on the Tuesday next after the first Monday in November, which will enable Town of Andover local elections to be held on the the same statutory date that state and federal elections are held, provided that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.**

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### **Summary/Overview:**

**This Warrant Article is to have Town officials submit a Home Rule Petition to our State Legislature to have our Legislature grant to our town permission to change the date that we hold our local elections from March to the first Tuesday after the first Monday in November when we hold state and federal elections. This will enable Town of Andover local elections to be held on the the same date that state and federal elections are held rather than in March. The November election date is when numerous communities across the Commonwealth hold their local elections.**

**The benefits of making this change are at least threefold:**

- 1. The average turnout of voters for our local elections being held in March over the past ten years was 11 percent versus an average turnout of 82 percent for the state and federal elections that were held in November over that same ten year period. That represents over 17,000 MORE registered voters in Andover who voted in each of our state and national elections that were held in November than the number of people who voted in our local elections held in March. Changing the date of our local elections to be coincident with our state and federal election will result in significantly more representative local elections**

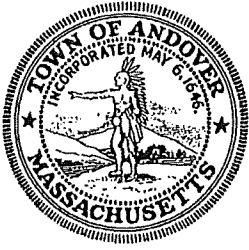
**than we have today given the huge differential in voter turnout in November versus March.**

- 2. Newly elected local officials get sworn in the day after the election. By holding our local elections in November, these newly elected officials will have 6 months to participate in the entire budget development process and prepare for all the votes and decisions they will be asked to make in advance of Annual Town Meeting, which are typically held in late April/early May, compared to the very brief 4 weeks they currently have to prepare for and take positions on the scores of budget and other major town issues prior to and at Town Meeting.**

**This additional 4 to 5 months time to work the issues is critically important given all the big price-tag budget items that are to be voted on at Town Meeting, all of which involve extensive deliberations by elected officials starting in November. With local elections currently being held in March, newly elected officials have missed over four months of critical budget deliberations that need to take place by elected officials between November and March that they will then be speaking to and taking positions on at Town Meeting in late April/early May.**

**Moving our local elections to November will enable newly elected officials to be full participants in the entirety of the budget development and deliberation process taking place during the 6 months leading up to Annual Town Meeting the following April/May.**

- 3. By moving our local elections to be concurrent with state and federal elections and piggyback with those elections in November, we will also save taxpayers the \$20,000 to \$22,000 we currently spend just for holding a separate local election in March during the even numbered years when state and federal elections are held that November.**



## Town of Andover

### Town Clerk's Office

36 Bartlet Street

Andover, MA 01810

978-623-8230

[townclerk@andoverma.gov](mailto:townclerk@andoverma.gov)

Lawrence J. Murphy,  
Town Clerk

December 29, 2017

Andrew Flanagan, Town Manager

Via: E-mail

Re: Special Town Meeting Warrant Article 13

Dear Andrew,

Bob Pokress has submitted a warrant article to move the date of the annual town election to November. I have certain reservations I would like to address.

Per state statute the biennial state election is held on the first Tuesday following the first Monday in November of even numbered years. By contrast cities hold their elections in November of odd numbered years and towns must hold their elections annually in February, March, April, May or June. The article proposes home rule legislation to move our town election to November to coincide with the biennial state election.

I reached out to my fellow clerks to see if any other municipality has done this. It appears that no other town has done so. I did learn that the Tewksbury Special Charter Commission considered this in 2011. It was not recommended in their final report. The recommendation was to keep the spring election date. I have been unable to find why it was not recommended to move the date of the election, but it may have been found to be unconstitutional. Article 89 of the Amendments to the Massachusetts Constitution is the Home Rule Amendment. Section 7 entitled "Limitations on Local Powers" reads in pertinent part "Nothing in this article shall be deemed to grant any city or town the power to (1) regulate elections other than those prescribed by sections 3 and 4..." Sections 3 and 4 have to do with calling elections for adoption of a town charter. Tewksbury was considering a town charter. The article in question by contrast calls for a petition to the state legislature for home rule legislation to move the election. I don't know if the Section 7 limitations would be construed to apply to home rule legislation.

Assuming that the proposal is found to be constitutionally permissible there are practical problems to be considered. As a practical matter we would have to hold two

simultaneous elections in even numbered years when there is a state election. This will require the use of two separate voting lists. Not every voter eligible to vote in the state election is eligible to vote in the town election. The so called "six month rule" permits voters who have moved from Andover to another Massachusetts community within six months of a state election to vote in Andover provided that they have not registered to vote anywhere else. The "six month rule" does not apply to town elections. This will also require the use of separate ballots.<sup>1</sup>

There is a statute permitting towns to hold their annual town elections on the same day as the Presidential Primary in a Presidential election year.<sup>2</sup> The statute requires the use of separate ballots. This has proven very problematic for communities which have opted for this. Confusion is common and reconciling the ballots distributed with the ballots actually cast near impossible; voters not interested in the local race will remove ballots from the polling place uncast or simply leave them in the voting booth where they can potentially be appropriated by another voter. In short security is difficult at best.

There would be some cost savings associated with moving the town election to November, at least for those even numbered years when there is a state election. But this would not result in dollar for dollar savings. We would need additional poll workers and administrative help to deal with the increased administrative burden of running simultaneous elections. And we would still have to bear costs associated with the town election, such as ballot printing and ballot tabulator programming.

For the foregoing reasons, my recommendation is that the article not be approved.

Very truly yours,

  
Lawrence J. Murphy  
Town Clerk

cc: Paul Salafia, Chair, Board of Selectmen  
John Mangiaratti, Deputy Town Manager  
Sheila Doherty, Moderator  
Thomas J. Urbelis, Esq.  
Bob Pokress

U:File17-2:Art13Ltr

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<sup>1</sup> Even if we could find a way to use one voter list it is highly unlikely we could get agreement to put our local races on the state ballot.

<sup>2</sup> MGL Ch. 53, Sec. 28

URBELIS & FIELDSTEEL, LLP  
155 FEDERAL STREET  
BOSTON, MASSACHUSETTS 02110-1727

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January 3, 2018

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Telecopier 617-338-0122

**By Electronic Mail**

Andrew Flanagan  
Andover Town Offices  
36 Bartlet Street  
Andover, MA 01810

RE: Special Town Meeting – Article 9

Dear Andrew:

You have asked me to respond to the following questions from Finance Committee

Member Margaret Kruse:

1. Is this article restricted to ZBA, ConsCom, and Planning Board (which are named in the article), or does the highlighted phrase about the Public Records Law make it apply to EVERY board and committee, large and small, of the Town?

**Response:**

The article refers to “all public documents required to be made available under the Public Records Law.” In my opinion, the foregoing phrase which Ms. Kruse highlighted in the article applies to every board and committee of the Town, including the School Committee, as well as to every department and employee of the Town including School Department employees. Each day the Town receives and creates many documents which fall within the purview of the Public Records Law, including hundreds of emails generated by and received by Town employees. There is no timeframe limitation in the article so in my opinion, the article also includes the thousands of documents which are currently in existence and in Town archives and storage which are sought to be placed upon the website.

2. Does the highlighted phrase mean that all emails between or by an (sp) board member (of affected boards) would need to be posted?

**Response:**

Yes, except for documents which fall within an exemption to the Public Records Law. Town personnel would have to review each of the thousands of documents to be placed on the website in order to determine if an exemption applies. The article does not state a timeframe of the requested documents so arguably this article applies to the thousands of emails on the Town's entire computer system and storage.

3. If approved, how soon would this article have to be implemented?

**Response:**


As written, it appears to take effect the day after the conclusion of the Special Town Meeting.

4. Do you know of anything else the FinCom should consider?

**Response:**

There is nothing in the article which informs Town Meeting of the time and personnel costs that would be necessary to comply with the article as written. For example, among the foregoing documents as described which would be posted on the website, the Planning Board and Building Department have decades of construction plans in their archives which would probably require a massive effort to place all of them on the website.

Very truly yours,

  
Thomas J. Urbelis

TJU/kmp

cc: Board of Selectmen (by email)  
Finance Committee (by email)  
Sheila Doherty (by email)  
John Mangiaratti (by email)  
Lawrence Murphy (by email)  
Donna Walsh (by email)

## FIRST AMENDMENT TO INTERMUNICIPAL AGREEMENT

This First Amendment (the “**Amendment**”) is made and entered into on October 2, 2017 by and between The Town of Andover, Massachusetts, a municipal corporation within the County of Essex, Commonwealth of Massachusetts, acting through its Board of Selectman (“**Andover**”) and the Town of North Reading, a municipal corporation within the County of Middlesex, Commonwealth of Massachusetts, acting through its Board of Selectman (“**North Reading**,” and together with Andover, the “**Parties**”). The Parties desire to amend the Intermunicipal Agreement (also known as the “Third Andover / North Reading Water Supply Agreement”) between the Parties, dated as of June 26, 2015 (the “**Agreement**”) as follows:

**Section 1.** Section 2.1A(1) is hereby amended and restated as follows:

Andover shall furnish (i) until June 30, 2019, subject to permitting, up to an annual average of 1.5 million gallons per day (MGD), and up to a maximum of 2.4 MGD; and (ii) thereafter, subject to permitting and any necessary infrastructure upgrade, up to an annual average of 1.75 MGD, and up to a maximum of 2.6 MGD to North Reading through interconnections identified in section 2.1(E) of this Agreement. The amount of water North Reading draws on a daily basis up to the amounts described herein shall be within its sole discretion, except in the case of a Force Majeure or a Water Drought Warning or Emergency event as described in section 2.2 of this Agreement.

**Section 2.** Section 3.1 (*North Reading Rate*) of the Agreement is hereby amended by deleting the rate for FY 19 and replacing and adding the following rates:

FY 19: 7/1/18-6/30/19: Andover rates tiered North Reading rate shall increase by 5% to \$3.59 per one hundred cubic feet (FY 18 rate of \$3.42 per one hundred cubic feet X 1.05)

FY 20: 7/1/19-6/30/20: Andover rates tiered North Reading rate shall be \$3.59 per one hundred cubic feet (same in FY 2020 as it is in FY 2019)

FY 21: 7/1/20-6/30/21: Andover rates tiered North Reading rate shall increase by 2.5% to \$3.68 per one hundred cubic feet (FY 20 rate of \$3.59 per one hundred cubic feet X 1.025)

**Section 3.** The following new Section 3.6 (*MWRA Reimbursement*) is hereby added to the end of Article 3:

A. Andover will reimburse North Reading’s costs already incurred in preparation for joining the Massachusetts Water Resources Authority (“**MWRA**”), up to \$953,000, which costs will be reimbursed by Andover through credits to North Reading’s water invoices, beginning on July 1, 2018 in the amount of \$93,500 annually, ending on the date North Reading executes a long term agreement with the MWRA. Such credits shall be applied on a monthly basis in the amount of \$7,791.66 per month, until North Reading executes a long term agreement with the MWRA or the total amount of credits equals \$953,000, whichever event occurs first. North Reading will provide

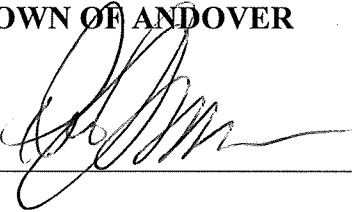
Andover with documentation reasonably acceptable to Andover for all such costs assumed.

**Section 4.** Section 4.8 (*Effective Date and Duration*) of the Agreement is hereby amended and restated as follows:

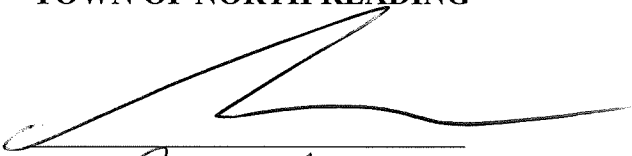

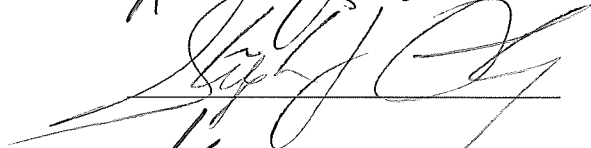
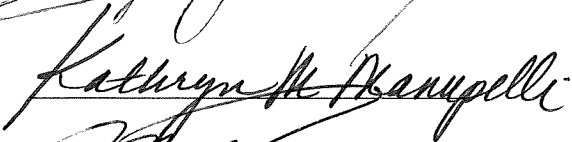
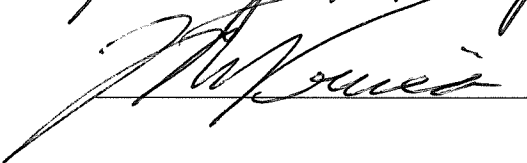
**4.8 Effective Date and Duration.** This Agreement shall be in full force and effect and shall be binding on North Reading and Andover for six (6) years from the effective date of July 1, 2014, unless sooner terminated in accordance with Section 4.10 of this Agreement or extended in accordance with this Section 4.8. Unless North Reading gives notice to Andover prior to November 1, 2019, this Agreement shall automatically renew for one additional one (1) year period from July 1, 2020 through June 30, 2021. Except as otherwise set forth in this Amendment, this Amendment shall not otherwise alter, modify or amend the Agreement. All other terms of the Agreement are hereby ratified and affirmed in all respects and shall continue in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be executed by their duly authorized representatives, on the date and year first above written.

**TOWN OF ANDOVER**

  
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**TOWN OF NORTH READING**

  
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**Whitehall-Manning House, 1915**  
**33 Porter Road**

**Whitehall-Manning House:  
An unsuccessful relocation**



## **Dimensional Special Permit-Historic Preservation Section 7.9**

- **Preserves historically significant homes threatened with demolition.**
- **Allows subdivision of a lot with an historically significant home or subdivision of another parcel where the historic home will be relocated as an incentive to the developer to preserve the building.**
- **The Town currently holds 13 historic preservation restrictions in perpetuity, a requirement of the Special Permit bylaw.**
- **The Zoning Board of Appeals reviews and approves these special permits.**

**Article 14:**  
**Amend Zoning Bylaw Dimensional Special Permit Section 7.9**

- 1. Require review and approval by the Preservation Commission of design of the new structure on the new lot for compatibility with the existing neighborhood.**
  
- 2. Require the historic building to be in sound condition prior to moving to insure the building's successful relocation as defined. Provide evaluation by structural engineer.**
  - 1. Provide documents sufficient to evaluate any proposed changes to the historic structure. Preservation Commission approval is required for changes involving removal of historic material not included in the ZBA Conditions of Approval.**
  
  - 1. Provide plans for control of storm water and surface runoff on the new site.**
  
  - 1. The Special Permit will be rendered null and void and the new lot unbuildable if the historic structure is not successfully relocated or is destroyed prior to being moved.**
  
  - 1. The Occupancy Permit will be issued only when the required historic preservation restriction has been filed with the Massachusetts Registry of Deeds.**



**TOWN OF ANDOVER**  
Andover Preservation Commission  
36 Bartlet Street  
Andover, MA 01810

December 28, 2017

Members of the Andover Board of Selectmen,

RE: Dimensional Special Permit – Historic Preservation Section 7.9  
Overview of Proposed Bylaw Amendments

The Dimensional Special Permit – Historic Preservation Section 7.9 has been used successfully since approval at the 2004 Town Meeting to preserve historically significant homes threatened with demolition. The Special Permit allows the subdivision of the parcel with the historic home or another parcel where the historic building will be moved as an incentive for the developer. The Town currently holds historic preservation restrictions in perpetuity on thirteen properties, a requirement of the Special Permit bylaw.

Due to an unprecedented event this summer that resulted in the destruction of a moved historic home, the Preservation Commission has determined that the Special Permit bylaw requires immediate refinement. The Commission voted unanimously to propose amendments to strengthen its effectiveness and process for presentation at the January 29, 2018 Special Town Meeting. The following points provide a brief overview of these amendments:

1. Require Preservation Commission review and approval of the design of a new structure on a new lot created from the Parent Parcel, including factors relating to building massing, materials, siting, dimensions and setbacks to insure compatibility with the existing neighborhood.
2. Require the historic building to be in sound condition prior to relocation, including an outline of all tasks to insure a successful relocation of the building.
3. Require floor plans and exterior elevation drawings of the existing historic structure with any proposed additions or alterations, including materials to be used, to evaluate any proposed changes to the structure's historic

significance and architectural features. Preservation Commission approval is required for any changes to the historic structure involving removal of historic material not specifically authorized in the Zoning Board of Appeals Conditions of Approval.

4. Provide plans for control of storm water and surface runoff on the new site.
5. The special permit will be rendered null and void and the new lot unbuildable if the historic structure is not successfully relocated or is destroyed prior to being moved.
6. The Inspector of Buildings will issue the Certificate of Occupancy only when the required Historic Preservation Restriction has been recorded with the Massachusetts Registry of Deeds.

We respectfully ask the Board of Selectmen to support the Preservation Commission and the proposed amendments to the Dimensional Special Permit – Historic Preservation Bylaw 7.9 at the upcoming Special Town Meeting. These amendments provide important protections for the Town and the surrounding neighborhood.

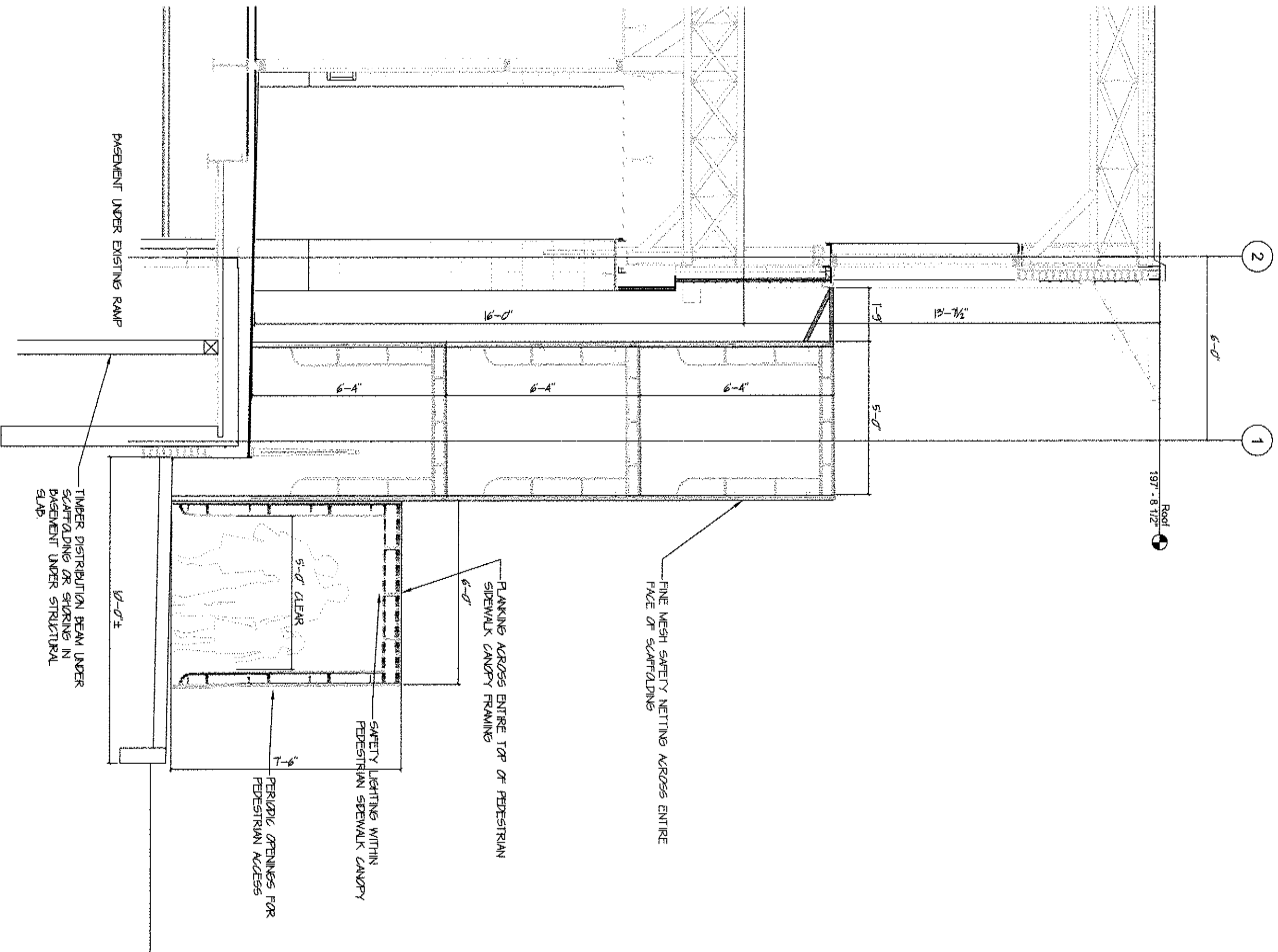
Sincerely,



Karen Herman, Chair  
Andover Preservation Commission

Andrew Flanagan, Town Manager  
John Mangiaratti, Deputy Town Manager  
Chris Clemente, Inspector of Buildings  
Lisa Schwarz, Senior Planner  
Preservation Commission





2

1

6'-0"

Roof  
197° - 8 1/2°

13'-1/2"

5'-0"

1'-9"

16'-0"

6'-4"

6'-4"

6'-4"

5'-0" CLEAR

PLANKING ACROSS ENTIRE TOP OF PEDESTRIAN SIDEWALK CANOPY FRAMING

FINE MESH SAFETY NETTING ACROSS ENTIRE FACE OF SCAFFOLDING

SAFETY LIGHTING WITHIN PEDESTRIAN SIDEWALK CANOPY

PERIODIC OPENINGS FOR PEDESTRIAN ACCESS

BASEMENT UNDER EXISTING RAMP

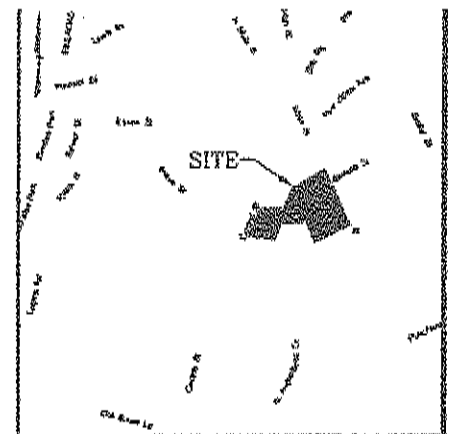
TIMBER DISTRIBUTION BEAM UNDER SCAFFOLDING OR STORING IN BASEMENT UNDER STRUCTURAL SLAB

10'-0" F

7'-6"

TYPICAL SECTION THRU FRONT WALL STAGING  
1/2" = 1'-0"

Early Feb.  
9-10 miles  
2 days to stage  
Close sidewalk.



LOCATION MAP  
(NOT TO SCALE)

**NOTES:**

- 1) ZONE GENERAL BUSINESS (GB) & SINGLE RESIDENCE A (SRA)
 

MIN. LOT SIZE	20	50'
MIN. LOT FRONTAGE	NONE	15.000 SQ. FT.
SETBACKS	NONE	115 FT.
FRONT	NONE	35 FT.
SIDE	NONE	20 FT.
REAR	NONE	20 FT.

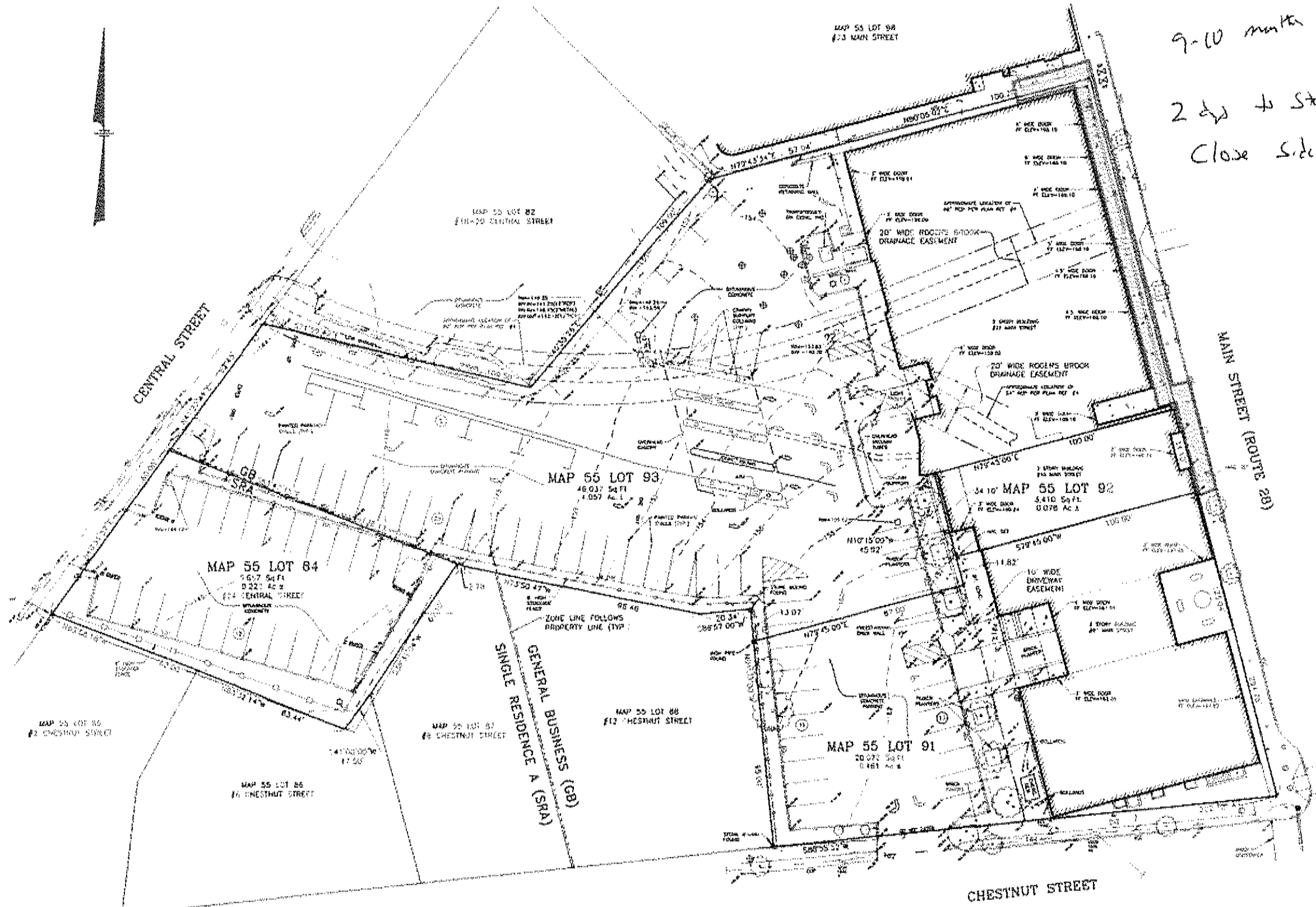
 REFER TO THE TOWN OF ANDOVER ZONING ORDINANCES FOR VERIFICATION, ADDITIONAL RESTRICTIONS AND PERMITTED USES.
- 2) LOCATION OF UNDERGROUND UTILITIES IS APPROPRIATE ONLY. ADDITIONAL UNDERGROUND UTILITIES OTHER THAN THOSE SHOWN MAY BE ENCOUNTERED.
- 3) ELEVATIONS SHOWN HEREON ARE ON NAD 1983. ONLY ELEVATIONS SHOWN ARE AT THE "TOE" OF CURB. CURBS ARE 0.50 ± HIGH.

**PLAN REFERENCES:**

- 1) NORTH ESSEX REGISTRY OF DEEDS (N.E.R.D.) PLAN #13300
- 2) N.E.R.D. PLAN #12337
- 3) N.E.R.D. PLAN #1309
- 4) N.E.R.D. PLAN #0406
- 5) N.E.R.D. PLAN #4513
- 6) N.E.R.D. PLAN #4231
- 7) N.E.R.D. PLAN BOOK 476 PAGE 060

**CERTIFICATIONS:**

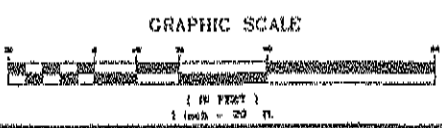
- 1) I CERTIFY THAT THIS SURVEY PLAN SHOWS THE PROPERTY LINES THAT ARE THE LINES OF EXISTING OWNERSHIPS AND THAT THE LINES OF STREETS AND WAYS SHOWN ARE THOSE OF PUBLIC OR PRIVATE WAYS ALREADY ESTABLISHED, THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.
- 2) I CERTIFY THAT THIS SURVEY AND PLAN CONFORMS TO THE ETHICAL, PROCEDURAL AND TECHNICAL STANDARDS FOR THE PRACTICE OF LAND SURVEYING IN THE COMMONWEALTH OF MASSACHUSETTS.
- 3) I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.



**LEGEND**

IRON PIN FOUND	WATER POLE
CONCRETE BOUND STAKE	CHAIN MARKER
ROCK/STONE BOUND STAKE	SEWER MARKER
DRILL HOLE FOUND	TELEPHONE MARKER
VERTICAL GRANITE CLAIM	EARTH BATH
BRICK/PAVEMENT CONCRETE LP CURBING	WATER LINE
OPENING STORAGE WAYS	WATER VALVE
DOUBLE SOLID YELLOW LINE	SEWER MAINLINE
SINGLE SOLID WHITE LINE	SEWER MAINLINE
DOUBLE WHITE LINE	SEWER LINE
IRON PIN FOUND	UNDERGROUND TELEPHONE LINE
OBSTRUCTION WELL	UNDERGROUND TELEPHONE AND TELEPHONE
TEST PIT	METLAND LINE
TEST BORING	SPOT ELEVATION
MEASUREMENT TEST	BOUNDARY EVIDENCE
TRAILLINE	

FOR REGISTRY USE



**OWNER OF RECORD:**  
TD BANK, N.A.  
2055 LIMESTONE ROAD  
WILMINGTON, DELAWARE 19805  
BOOK 11225 PAGE 157 (MERCEN)  
BOOK 478 PAGE 161 (LOT 91)  
BOOK 1841 PAGE 243 (LOT 92)  
BOOK 6458 PAGE 213 (PORTION OF LOT 93)  
BOOK 6798 PAGE 258 (PORTION OF LOT 93)  
BOOK 8498 PAGE 216 (LOT 84)



9/26/14

ANDREW FRANZER, P.E. DATE

**EXISTING CONDITIONS PLAN**

ASSESSORS MAP 55 - LOTS 84, 91, 92 & 93  
27, 45 & 61 MAIN STREET AND 24 CENTRAL STREET,  
ANDOVER, MASSACHUSETTS

PREPARED FOR:  
**TD BANK N.A.**  
305 SECOND AVENUE  
WALTHAM, MASSACHUSETTS 02451

At 5000 West Suite One  
Salem, New Hampshire 03079  
(603) 881-0720

**MHF Design Consultants, Inc.** ENGINEERS • PLANNERS • SURVEYORS

SCALE	1" = 20'	DATE	SEPTEMBER 26, 2014	PROJECT NO.	339913	SHEET NO.	1 OF 1
DRAWN BY	JAN	CHECKED BY	DMF	PROJECT NO.	339913	SHEET NO.	1 OF 1