

Request for Determination of Applicability

17 Pye Brook Lane
Boxford, Massachusetts

December 17, 2019

Applicant:

Stacey & Matthew Ovanes
17 Pye Brook Lane
Boxford, MA 01921

Prepared By:

Williams & Sparages LLC
189 North Main Street, Suite 101
Middleton, MA 01949
Ph: 978-539-8088
Fax: 978-539-8200
www.wsengineers.com

W&S Project No:

BOXF-0037





WPA Form 1- Request for Determination of Applicability

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

A. General Information

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. Applicant:

Stacey Ovanes

Name

sovanes@hotmail.com

E-Mail Address

17 Pye Brook Lane

Mailing Address

Boxford

City/Town

MA

State

01921

Zip Code

(781) 608-6054

Phone Number

Fax Number (if applicable)

2. Representative (if any):

Williams & Sparages LLC

Firm

Greg J. Hochmuth

Contact Name

ghochmuth@wsengineers.com

E-Mail Address

189 North Main Street

Mailing Address

Middleton

City/Town

MA

State

01949

Zip Code

(978) 539-8088

Phone Number

Fax Number (if applicable)

B. Determinations

1. I request the Boxford Conservation Commission make the following determination(s). Check any that apply:

- a. whether the **area** depicted on plan(s) and/or map(s) referenced below is an area subject to jurisdiction of the Wetlands Protection Act.
- b. whether the **boundaries** of resource area(s) depicted on plan(s) and/or map(s) referenced below are accurately delineated.
- c. whether the **work** depicted on plan(s) referenced below is subject to the Wetlands Protection Act.
- d. whether the area and/or work depicted on plan(s) referenced below is subject to the jurisdiction of any **municipal wetlands ordinance** or **bylaw** of:

Boxford

Name of Municipality

- e. whether the following **scope of alternatives** is adequate for work in the Riverfront Area as depicted on referenced plan(s).



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C. Project Description

1. a. Project Location (use maps and plans to identify the location of the area subject to this request):

17 Pye Brook Lane	Boxford
Street Address	City/Town
30	block 2, lot 2
Assessors Map/Plat Number	Parcel/Lot Number

b. Area Description (use additional paper, if necessary):

Existing patio area behind the existing dwelling. Area of proposed activities is within the 200 foot Riverfront Area of Pye Brook as well as the 100 foot wetland buffer zone from Bordering Vegetated Wetlands.

c. Plan and/or Map Reference(s):

Plan to Accompany a Request for Determination of Applicability	December 17, 2019
Title	Date
_____	_____
Title	Date
_____	_____
Title	Date
_____	_____

2. a. Work Description (use additional paper and/or provide plan(s) of work, if necessary):

To construct an outdoor fireplace on the back of an existing brick chimney as well as a new wood staircase and landing, outdoor grill and kitchen on the surface of an existing paver patio.



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C. Project Description (cont.)

b. Identify provisions of the Wetlands Protection Act or regulations which may exempt the applicant from having to file a Notice of Intent for all or part of the described work (use additional paper, if necessary).

310 CMR 10.02(2)(b)2.e. allows the conversion of lawn to uses accessory to residential structures such as decks, sheds, patios, pools, etc. provided the activity, including material staging and stockpiling is located more than 50 feet from the mean annual high-water line within the Riverfront Area, Bank or from Bordering Vegetated Wetland, whichever is farther, and erosion and sedimentation controls are implemented during construction. The proposed activities are on an existing paver patio that is greater than 50 feet from the BVW and Mean Annual High Water from Pye Brook.

3. a. If this application is a Request for Determination of Scope of Alternatives for work in the Riverfront Area, indicate the one classification below that best describes the project.

- Single family house on a lot recorded on or before 8/1/96
- Single family house on a lot recorded after 8/1/96
- Expansion of an existing structure on a lot recorded after 8/1/96
- Project, other than a single family house or public project, where the applicant owned the lot before 8/7/96
- New agriculture or aquaculture project
- Public project where funds were appropriated prior to 8/7/96
- Project on a lot shown on an approved, definitive subdivision plan where there is a recorded deed restriction limiting total alteration of the Riverfront Area for the entire subdivision
- Residential subdivision; institutional, industrial, or commercial project
- Municipal project
- District, county, state, or federal government project
- Project required to evaluate off-site alternatives in more than one municipality in an Environmental Impact Report under MEPA or in an alternatives analysis pursuant to an application for a 404 permit from the U.S. Army Corps of Engineers or 401 Water Quality Certification from the Department of Environmental Protection.

b. Provide evidence (e.g., record of date subdivision lot was recorded) supporting the classification above (use additional paper and/or attach appropriate documents, if necessary.)

See attached plan from 1973.



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D. Signatures and Submittal Requirements

I hereby certify under the penalties of perjury that the foregoing Request for Determination of Applicability and accompanying plans, documents, and supporting data are true and complete to the best of my knowledge.

I further certify that the property owner, if different from the applicant, and the appropriate DEP Regional Office were sent a complete copy of this Request (including all appropriate documentation) simultaneously with the submittal of this Request to the Conservation Commission.

Failure by the applicant to send copies in a timely manner may result in dismissal of the Request for Determination of Applicability.

Name and address of the property owner:

Stacey & Matthew Ovanes

Name

17 Pye Brook Lane

Mailing Address

Boxford

City/Town

MA

State

01921

Zip Code

Signatures:

I also understand that notification of this Request will be placed in a local newspaper at my expense in accordance with Section 10.05(3)(b)(1) of the Wetlands Protection Act regulations.

Signature of Applicant

Date

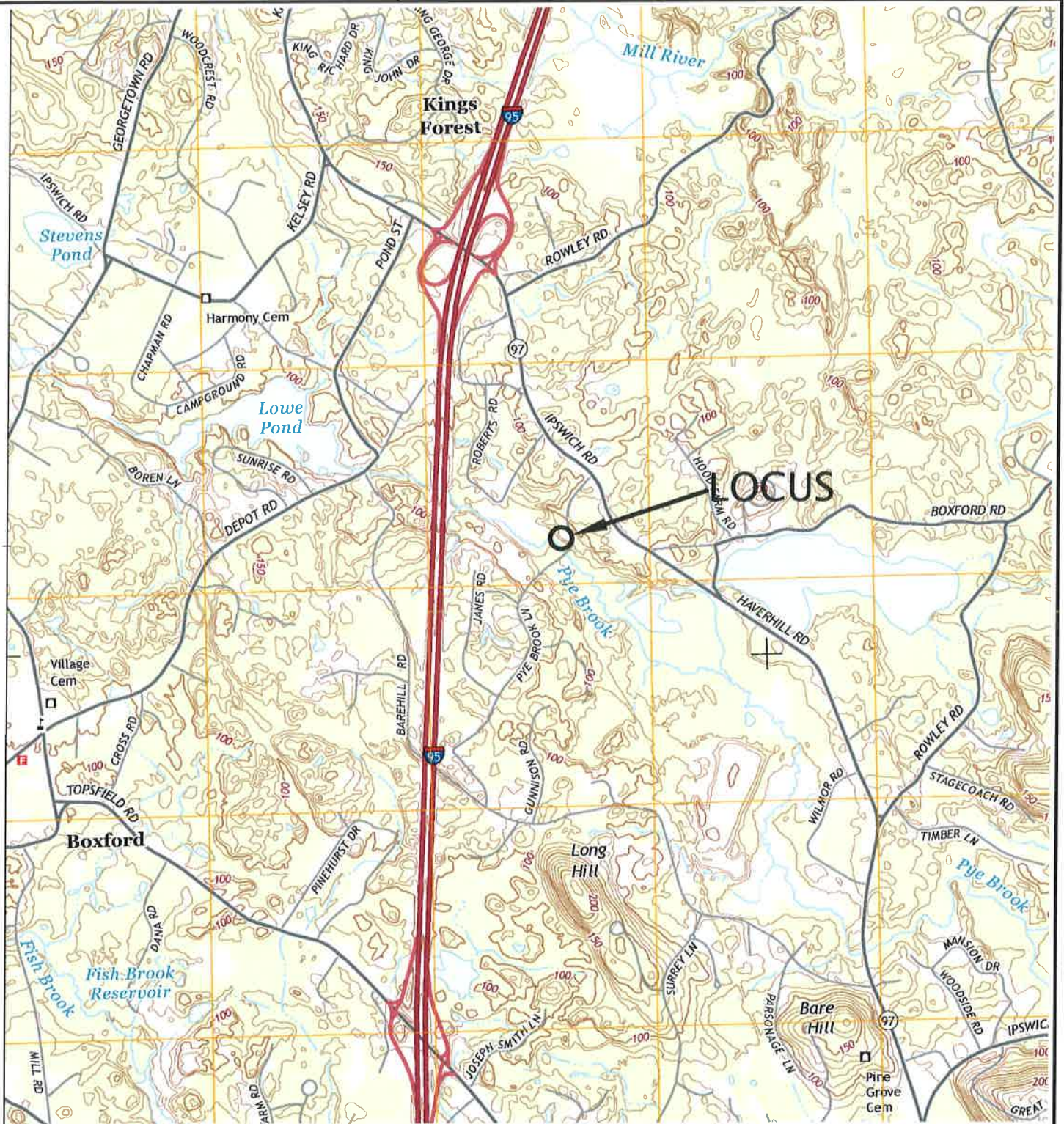
Signature of Representative (if any)

Date

WILLIAMS & SPARGES
CIVIL ENGINEERING &
LAND SURVEYORS



189 NORTH MAIN STREET
SUITE 101
MIDDLETON, MA 01949
PHONE: (978) 539-8088
FAX: (978) 539-8200



UNITED STATES GEOLOGIC SURVEY MAP
GEORGETOWN, MASS QUAD
SCALE: 1:25,000 (metric contours)

LOCUS MAP
#17 PYE BROOK ROAD
BOXFORD, MA 01921



Introduction:

The property, 17 Pye Brook Lane, is bound to the east by Pye Brook Lane, the south by Pye Brook and to the north and west by residential properties and identified on the Town of Boxford assessors map as Map 30, Block 2, Parcel 2. The lot as it currently stands was created in 1973 and according to the assessors records the dwelling was constructed in 1979.

The property is developed with a single family dwelling, tennis court and swimming pool. Pye Brook, a perennial stream, is located along the southerly property line. The 200 foot Riverfront Area (RA) from the mean annual high water line of Pye Brook encompasses the majority of the subject property. In addition to the RA, the is also an extensive Bordering Vegetated Wetland (BVW) that borders on Pye Brook as well as Bordering Land Subject to Flooding (BLSF) that is associated with a Zone A 100 year flood plain according to FEMA.

On June 18, 2015 an Order of Conditions, (OOC), DEP File Number 114-1205, was issued for the construction of an addition to an existing dwelling and for landscape improvements. The project was completed during the winter of 2015.

On February 8, 2016 an additional OOC, DEP File Number 114-1221, was issued for the construction of an in-ground swimming pool and additional landscaping improvements. The project was completed in 2017.

On June 20, 2016 an Amended OOC was issued to allow the railroad tie retaining wall behind the dwelling to be replaced with a gravity block wall within the same footprint. This work was completed in 2017.

On November 26, 2019 an Enforcement Order (EO) was issued by the Boxford Conservation Commission for the Construction of a patio under an expired Order of Conditions, and construction of an outdoor fireplace without authorization within jurisdictional areas.

The EO required the following:

1. The contractor shall bring the work to an interim point of completion on or before December 5, 2019 and secure all materials pending the issuance of a permit by the Conservation Commission.
2. Attend the Conservation Commission meeting scheduled for December 5, 2019 to report on compliance with this EO.
3. Submit an after the fact permit with the Conservation Commission by December 19, 2019.

Upon receiving the EO the contractor brought the work to an interim point of completion before December 5, 2019 and contacted the conservation department for an inspection.

On December 5, 2019 the contractor and a wetland scientist from Williams & Sparages LLC

attended the conservation meeting to update the Conservation Commission and discuss the permitting that would be required for the activities. It was determined at the meeting that a Request for Determination of applicability would be required for the project.

It appears that the contractor was not aware that the Order of Conditions (OOC) had expired in June of 2019. The contractor also assumed that the work on the fireplace and outdoor grill would be covered under the OOC that he assumed was still active. It is important that a building permit was issued for the construction of the fireplace and that the contractor was not aware that it also required approval from the Conservation Commission. Based on our conversation with the contractor it appears that this was an honest oversight on their part.

Proposal:

The applicant has filed a Request for Determination of Applicability for the after-the-fact permitting associated with the construction of an outdoor fireplace, grill and log storage area over an existing paver patio. A new wood staircase and landing is also proposed off the dwelling as well as the re-construction of the paver patio that was dismantled to construct the fireplace.

The patio is proposed to be constructed in the same general area as the existing patio and at no point will it be located closer than 30 feet to the closest resource area. The Minimum Setback Distance Chart in §375-98 of the Wetland Protection Regulations requires "other structures required a building permit (e.g., house, garage, deck, pool, structures for seasonal use, etc.) to be located 75 feet from BVW's and 100 feet from Rivers.

§375-98B.(1) presumes that alterations listed in the minimum setback distance chart below and closer than the stated setbacks, will result in alteration of the wetland resource area.

§375-98B.(2) states that the presumption is rebuttable and may be overcome only for the conversion of lawn or other significantly altered land to a structure requiring a building permit when said structure is accessory to an existing single-family dwelling or a structure for seasonal use legally in existence as of May 19, 1994 (the original issue date of these regulations), or when a wetlands permit application was filed for said single-family dwelling or a structure for seasonal use on or before May 19, 1994, provided mitigation would be sufficient to protect resource area values, by a finding by the Commission, supported by a preponderance of the credible evidence, showing that the work proposed within the buffer zone, closer than the tabulated minimum setback distances, will not result in the alteration of any wetlands resource area. The burden for overcoming this presumption is upon the applicant; however, the Commission may include consideration of credible evidence from any source presented at a public meeting or public hearing in weighing the preponderance of the credible evidence. The proposed design shall comply as much as possible with the minimum setback distances specified in the Minimum Setback Distance Chart.



The dwelling was built in 1979 and the outdoor fireplace is proposed off the rear of the existing chimney in an attempt to tie the proposed fireplace to the existing chimney. The outdoor grill and wood storage area is proposed as closet to the dwelling as possible over an existing paver patio surface. There are no other practicable alternatives that would allow the activities to be located outside of the specified setbacks. The proposed fireplace, grill and wood storage area should have no impact on the resource areas or their ability to protect the interests in the act and bylaw.

Erosion Controls:

Erosion Controls in the form of 12-inch diameter staked mulch sock are installed and will remain in place until all work on site is stable. The approximate location of the proposed erosion controls are shown on the accompanying RDA plan.



AFFIDAVIT OF SERVICE

Under the Massachusetts Wetlands Protection Act

(To be submitted to the Massachusetts Department of Environmental Protection and the Conservation Commission when filing a Request for Determination of Applicability)

I, Gregory J. Hochmuth, hereby certify under the pains and penalties of perjury that on December 17, 2019 I gave notification to abutters in compliance with the second paragraph of Massachusetts General Law Chapter 131, Section 40, and the DEP Guide to Abutter Notification dated April 8, 1994, in connection with the following matter:

A Request for Determination of Applicability was filed under Massachusetts Wetlands Protection Act and Boxford Wetlands Protection Bylaw by Stacey & Matthew Ovanes with the Boxford Conservation Commission on December 17, 2019 for property located at 17 Pye Brook Lane.

The form of the notification, and a list of the abutters to whom it was given and their addresses, are attached to this Affidavit of Service.


Name

12/17/2019
Date

**TOWN OF BOXFORD
ABUTTER LIST**

PARCEL # 30-2-2 - 17 PYE BROOK LANE - CONSERVATION COMMISSION 250'

PARCEL ID	PARCEL ADDRESS	OWNER 1	OWNER 2	MAILING ADDRESS	CITY/TOWN	STATE	ZIP CODE
26-02-19	20 HARRIS RD	LUNA DAPHNE A TR	CHAMBERLAIN FAMILY IRR TR	20 HARRIS RD	BOXFORD	MA	01921
26-02-20	12 HARRIS RD	PARISIS ELENI	PARISIS SARANTIS	12 HARRIS RD	BOXFORD	MA	01921
26-02-26	11 PYE BROOK LN	BHIDE PRADEEP G	SPERLINGA ELAINE	11 PYE BROOK LN	BOXFORD	MA	01921
30-01-10	PYE BROOK LN	DYER GEORGE W	ROBERTA D DYER	216 HAVERHILL RD	TOPSFIELD	MA	01983
30-01-11	12 PYE BROOK LN	KORIS NICHOLAS D	KORIS LISA	12 PYE BROOK LN	BOXFORD	MA	01921
30-01-12	10 PYE BROOK LN	VIVIANI DEBORAH C		10 PYE BROOK LN	BOXFORD	MA	01921
30-01-03-A	37C PYE BROOK LN	GIUGLIANO JOSEPH	GIUGLIANO MICHELINA	37C PYE BROOK LN	BOXFORD	MA	01921
30-01-09	28 PYE BROOK LN	DONOHUE PAUL J TE	DONOHUE MARCIA I	28 PYE BROOK LN	BOXFORD	MA	01921
30-02-01	13 PYE BROOK LN	WOODRUFF DAVID A	WOODRUFF DENISE C S	13 PYE BROOK LN	BOXFORD	MA	01921
30-02-02	17 PYE BROOK LN	OVANES MATTHEW T	OVANES STACEY L	17 PYE BROOK LN	BOXFORD	MA	01921
30-02-03	27 PYE BROOK LN	OCONNELL CAROLINE		27 PYE BROOK LN	BOXFORD	MA	01921
30-02-04-A	31 PYE BROOK LN	WHEADON AMY C		31 PYE BROOK LN	BOXFORD	MA	01921
30-02-05-A	37B PYE BROOK LN	MILLER MICHAEL G JR	MILLER LAUREN L	37B PYE BROOK LN	BOXFORD	MA	01921

CERTIFIED COPY



December 5, 2019

DONOHUE PAUL J TE
DONOHUE MARCIA I
28 PYE BROOK LN
BOXFORD, MA 01921

DYER GEORGE W TE
ROBERTA D DYER
216 HAVERHILL RD
TOPSFIELD, MA 01983

KORIS NICHOLAS D
KORIS LISA
12 PYE BROOK LN
BOXFORD, MA 01921

WHEADON AMY C
31 PYE BROOK LN
BOXFORD, MA 01921

O'CONNELL CAROLINE
27 PYE BROOK LN
BOXFORD, MA 01921

MILLER MICHAEL G JR TE
MILLER LAUREN L
37B PYE BROOK LN
BOXFORD, MA 01921

PARISI ELENI
PARISI SARANTIS
12 HARRIS RD
BOXFORD, MA 01921

BHIDE PRADEEP G
SPERLINGA ELAINE
11 PYE BROOK LN
BOXFORD, MA 01921

WOODRUFF DAVID A
WOODRUFF DENISE C S
13 PYE BROOK LN
BOXFORD, MA 01921

OVANES MATTHEW T TE
OVANES STACEY L
17 PYE BROOK LN
BOXFORD, MA 01921

LUNA DAPHNE A TR
CHAMBERLAIN FAMILY IRR TR
20 HARRIS RD
BOXFORD, MA 01921

GIUGLIANO JOSEPH
GIUGLIANO MICHELINA
37C PYE BROOK LN
BOXFORD, MA 01921

VIVIANI DEBORAH C
10 PYE BROOK LN
BOXFORD, MA 01921

421
1974

LOT 10A
N36°14'20"E
134.94
dh N59°20'20"E
169.84
63.61

LOT 32
351°59'45"E
498.40

LOT 31A
Area Upland = 2.80 ± Ac.
Area Marsh = 0.91 ± Ac.
Total Area = 3.71 ± Ac.

LOT 30A
Area Upland = 1.06 ± Ac.
Area Marsh = 1.21 ± Ac.
Total Area = 2.27 ± Ac.

LOT 30B
Area Upland = 1.06 ± Ac.
Area Marsh = 1.21 ± Ac.
Total Area = 2.27 ± Ac.

LOT 30C
Area Upland = 1.06 ± Ac.
Area Marsh = 1.21 ± Ac.
Total Area = 2.27 ± Ac.

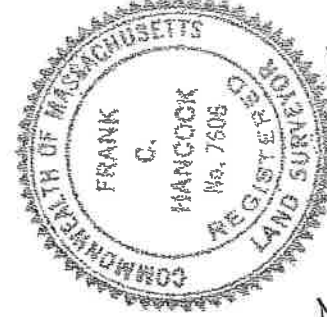
LOT 30D
Area Upland = 1.06 ± Ac.
Area Marsh = 1.21 ± Ac.
Total Area = 2.27 ± Ac.

LOT 30E
Area Upland = 1.06 ± Ac.
Area Marsh = 1.21 ± Ac.
Total Area = 2.27 ± Ac.

LOT 30F
Area Upland = 1.06 ± Ac.
Area Marsh = 1.21 ± Ac.
Total Area = 2.27 ± Ac.

Note: Being a revision of Lot's 30f 31, shown on a plan by Essex Survey Service dated Nov. 6, 1967, revised Aug. 14, 1968 and recorded at Essex South Registry of Deeds in Pl. Bk. 113, Pl. 15. Subject to all conditions so stated on above mentioned plan.

ESSEX REGISTRY OF DEEDS, SO. DIST. SALEM, MASS.
Received Sept. 30, 1974 with Deed:
Holman Realty, Inc. to
Charles Spoda
Rec. B. 6100 P. 377 Filed No. 421 1974
Attest
Leo H. Jordan
Registrar of Deeds



Frank Hancock

Plan of Land in BOXFORD

Property of
Holman Realty, Inc.

Scale: 1" = 100' March 7, 1973

ESSEX SURVEY SERVICE INC.
47 Federal Street, Salem

Approval under the Subdivision Control Law not required.
BOXFORD PLANNING BOARD

James E. [Signature]
[Signature]
[Signature]
[Signature]
Date: Mar. 7, 1973