

TOWN OF MENDON
ZONING BOARD OF APPEALS
20 MAIN ST.
MENDON, MA 01756



APPLICATION FOR (check one)

In accordance with Mendon Zoning By-Laws

SPECIAL PERMIT (M.G.L. Ch. 40, § 9)

VARIANCE (M.G.L. CH. 40, § 10)

This application must be completed, signed, and submitted with the filing fee by the petitioner or their representative in accordance with the Board's rules and regulations which can be found at www.mendonma.gov or in the Town Clerk's office.

1. **PETITIONER:** Includes Equitable Owner (purchaser on a purchase and sales agreement)

Name: Jorge A. Gamboni and Vilma E. Gamboni

Address: 7 Cape Road, Mendon, MA 01756

Phone: (617) 849-0906 Alt phone: _____

Email: emiliagamboni3@gmail.com

Petitioner is: (Check one) Tenant Agent Purchaser

2. **OWNER:** (If other than petitioner)

Name: _____

Address: _____

Phone: _____ Alt phone: _____

Email: _____

3. REPRESENTATIVE AUTHORIZATION:

If someone other than the owner or equitable owner is the petitioner, the owner or equitable owner must designate such representative below.

Name: _____

Address: _____

Phone: _____ Alt phone: _____

Email: _____

Relationship of representative to owner or equitable owner:

I/we hereby authorize _____, to represent my/our interests before the Board of Appeals with regards to this petition.

Signature of Owner or Equitable Owner

4. SUBJECT PROPERTY

Street Address: 7 Cape Road

Assessor's Map 14 Lot # 7

Zoning District (Check one) RR GR GB HB

Registry of Deeds where deed, plan, or both are recorded:

Worcester District Registry of Deeds

Book 59412 Page 216

This parcel was originally laid out and recorded on June 30, 1982



5. NATURE OF RELIEF REQUESTED

Article/Section Section 3.01(d)(iii) of Mendon Zoning By-Laws

Which allows/requires :

The Board of Appeals may authorize, under a Special Permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally changed, altered, enlarged or reconstructed; provided that such extension, structural change, alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming structure.

The specific relief we/I request is as follows:

Single Family Dwellings and Two Family Dwellings are not permitted in the Highway Business Zoning District. The Single Family Dwelling situated on the Property is a pre-existing non-conforming use. The Applicant seeks a Special Permit to change the use from Single Family Dwelling to Two Family Dwelling as shown on the Site Plan. The Board should grant a Special Permit because the change of use from Single Family Dwelling to Two Family Dwelling will not be substantially more detrimental to the neighborhood than the existing Single Family Dwelling.

6. EVIDENCE TO SUPPORT GRANT OF VARIANCE

(ref. M.G.L. Ch. 40, § 10)

- A. Describe/demonstrate *unique/peculiar soil conditions, shape, or topography* of subject property. Describe how these conditions especially affect only the land or structures in question, how they are unique to the subject property, and do not affect generally the zoning district in which it is located.

B. Describe how you believe a hardship is caused by the unique/peculiar attributes of the soil conditions, shape, or topography of this subject property under a literal enforcement of the Zoning By-Laws? The hardship you describe must be related to the unique or peculiar attributes you have described above.


I/we herby certify under the pains and penalty of perjury that the information contained in this application is true and complete and the Town of Mendon will be held harmless by the undersigned from any claims or judgements resulting from any misinformation given herein.

I/we have read the Rules and Regulations of the Mendon Zoning Board of Appeals


Signature of Applicant

November 29, 2023

Date


Signature of Co-Applicant

November 29, 2023

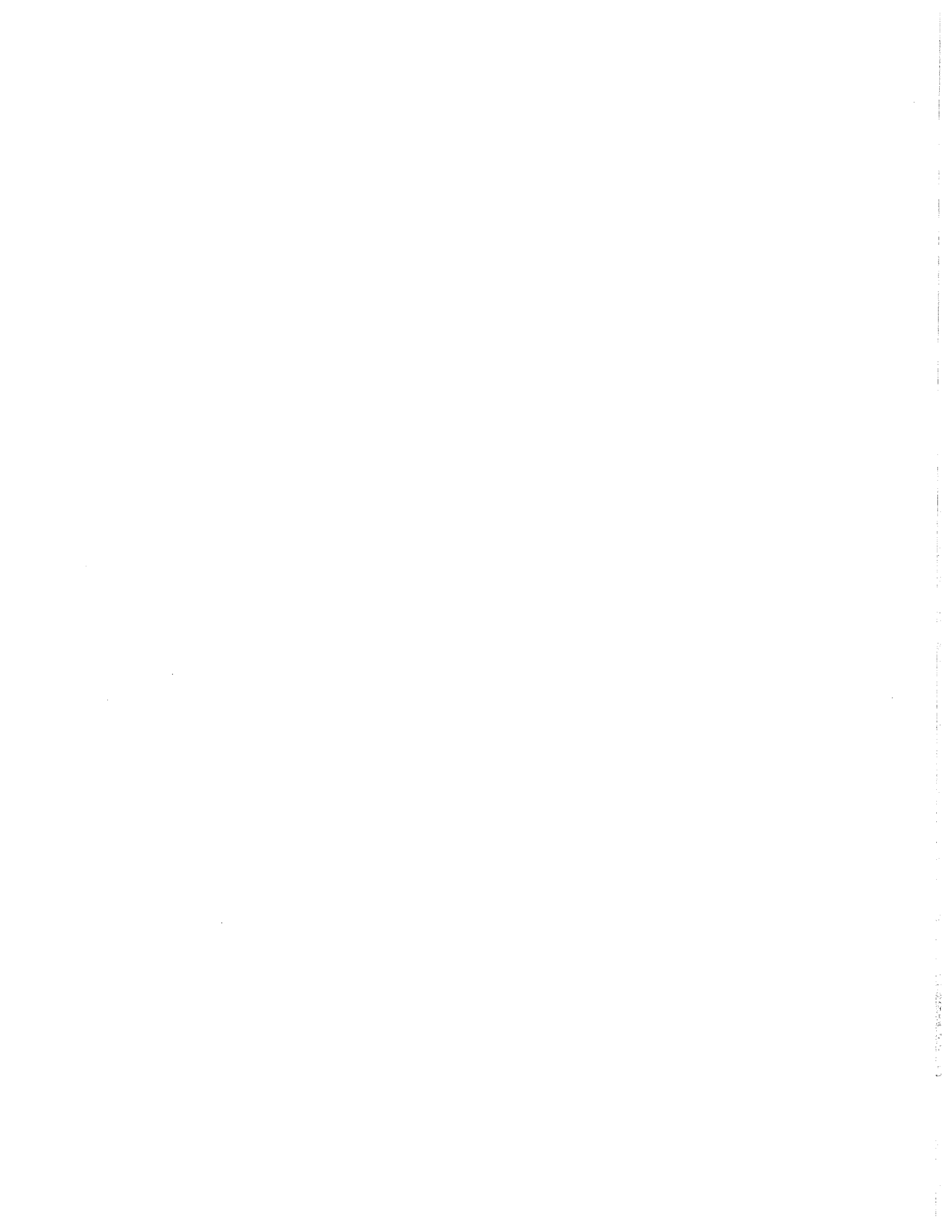
Date

Signature of Owner (if other than applicant)

Date

Signature of Equitable Owner

Date



Documents submitted

<input checked="" type="checkbox"/>	Completed variance application
<input type="checkbox"/>	Owner authorizations complete
<input checked="" type="checkbox"/>	Electronic copy of entire submission (via email or thumb drive)
<input checked="" type="checkbox"/>	6 collated copies of the entire submission and site plan(including uplands and abutters)
<input checked="" type="checkbox"/>	Certified abutters list from the Assessor's Office
<input checked="" type="checkbox"/>	4 sets of mailing labels
<input checked="" type="checkbox"/>	Copy of the Deed for the subject property
<input type="checkbox"/>	Copy of building permit application and/or any correspondence from the building department
<input type="checkbox"/>	Copy of any previous decisions on Special Permits or Variances for the subject property
<input type="checkbox"/>	Soil/geological studies, topographical maps, other support documentation

Petition, application, or appeal herein, including documents required listed under Rules and Regulations of the Mendon Zoning Board of Appeals, and filing fee of \$_____ received this date.

Town Clerk

Date





ALLEN ENGINEERING & ASSOCIATES, INC.

Civil Engineers, Surveyors
& Land Development Consultants

November 30, 2023

Mendon Zoning Board of Appeals
Mendon Town Hall
20 Main Street
Mendon, MA 01756

Re: Application for Special Permit, 7 Cape Road, Mendon, Massachusetts (the "Property")

Dear Zoning Board Members:

On behalf of Jorge A. Gamboni and Vilma E. Gamboni, we are pleased to submit an application and supporting materials for a Special Permit regarding the Property. The Property is known as Mendon Assessor's Parcel 14-114-7, and is also shown as "Lot 2" on a Plan of Land dated May 24, 1982 and recorded with Worcester District Registry of Deeds in Plan Book 497, Plan 53 (the "Recorded Plan").

An original and, where applicable, six (6) copies, of the following are provided herewith:

1. Cover Letter;
2. Special Permit Application;
3. Application Fee in the amount of \$350.00 payable to the Town of Mendon;
4. Special Permit Plan;
5. Architectural Plan;
6. Mendon Assessor's Map 14;
7. Deed;
8. Recorded Plan; and
9. Certified Abutters List.

Project Narrative

A. Introduction

Jorge A. Gamboni and Vilma E. Gamboni (the "Owner" and "Applicant") seek a Special Permit to construct an addition to the single family dwelling situated on the property known as 7 Cape Road, Mendon, Massachusetts (the "Property"), all as shown on plan of land entitled "Special Permit Plan of Land for 7 Cape Road, Mendon, MA 01568" dated November 27, 2023 (the "Special Permit Plan"). The Property is shown as "Lot 2" on the Recorded Plan, comprises a total of 2.23± acres, and is situated entirely within the Highway Business Zoning District. The Property is owned by Jorge A. Gamboni and Vilma E. Gamboni by Deed recorded with Worcester District Registry of Deeds in Deed Book 59412, Page 216.

As shown on the Recorded Plan and on the Special Permit Plan, situated on the Property is a single family dwelling (the "Dwelling") and a garage (the "Garage"). The Dwelling is a pre-existing nonconforming use. Also situated on the Property are a driveway, parking area, and related improvements. The Property is served by municipal water and an individual septic system. A new septic system was recently approved and installed as shown on a plan entitled "Sewage Disposal System – Construction

Record, 7 Cape Road, Assessor's Plat 14, Lot 114-7, Mendon, MA" dated March 31, 2023 and prepared by DiPrete Engineering, a copy of which is on file with Mendon Board of Health.

As shown on the Special Permit Plan, the Property, the existing and proposed setbacks to the Dwelling and the Garage comply with the minimum dimensional requirements of the Highway Business Zoning District with one exception: the Property lacks sufficient frontage (the Property has 143.35 feet of frontage on Cape Road, 200 feet of frontage is required). The Property is therefore a pre-existing nonconforming lot.

B. The Proposed Construction

As shown on a plan entitled "Gamboni Family, 7 Cape Road, Mendon, MA 01568" dated November 4, 2019 and prepared by Rod Rivera C/S & Designer (the "Architectural Plan"), the Applicant proposes to connect the existing Dwelling to the Garage with additional habitable space. The result will effectively convert the Dwelling to a two family dwelling. Neither single family dwellings nor two family dwellings are permitted in the Highway Business Zoning District. As set forth in email correspondence from Mendon Building Commissioner and Zoning Enforcement Officer John Erickson to the Applicant on or about July 13, 2023, "The proposed plans show the house being converted from single family use to 2 family. This is a change of use and for that to take place a Special Permit must be issued by the zoning board of appeals."

G.L. c. 40A, §6, ¶1 provides, in relevant part:

Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

The Mendon Zoning Bylaw (the "Bylaw"), at Article III, Section 3.01(d)(iii), provides:

The Board of Appeals may authorize, under a special permit, a non-conforming use of a building, structure, or land to be extended, or a non-conforming building to be structurally changed, altered, enlarged or reconstructed; provided that such extension, structural change, alteration, enlargement, or reconstruction shall not be substantially more detrimental to the neighborhood than the existing non-conforming use or non-conforming structure.¹

The Applicant seeks a Special Permit pursuant to G.L. c. 40A, §6 and Article III, Section 3.01(d)(iii) of the Bylaw to allow the extension, alteration and enlargement of the Dwelling as shown on the Architectural Plan and the change of use to a two family dwelling.

¹ Mendon Zoning Bylaw, Article III, Section 3.01(d)(iii) (Non-Conforming Uses and Structures)



C. Evidence to Support the Grant of the Special Permit

Pursuant to G.L. c. 40A, §6 and Article III, Section 3.01(d)(iii) of the Bylaw, the Zoning Board of Appeals (the "Board") may authorize the extension, alteration and enlargement of the Dwelling as shown on the Architectural Plan, if it finds that the alteration and enlargement is not *substantially more detrimental to the neighborhood* than the existing non-conforming Dwelling.

Extending, altering and enlarging the Dwelling, and changing its use to a two family dwelling does not result in a different impact and will not be substantially more detrimental to the neighborhood than the existing non-conforming Dwelling. The two family dwelling will not cause substantially more detrimental impacts, such as traffic, parking demand, or noise, for example. A two family dwelling is not substantially different or a substantially more intense land use than a single family dwelling. Because the neighborhood surrounding the Property is a mixture of residential and commercial land uses, a two family dwelling is consistent with the character and nature of the neighborhood.

The proposal will create one additional unit of residential housing. The modest addition of one unit of residential housing will serve the local and regional need for residential housing without unduly taxing the infrastructure or services of the Town of Mendon. The yearly tax revenue provide by an additional unit of residential housing will also be a social, economic, and community benefit to the Town of Mendon.

Access to the Property will be from Cape Road and will remain unchanged. The minor additional traffic generated by the addition of a single unit of residential housing will not meaningfully affect the traffic flow or safety of Cape Road in the vicinity of the Property. The proposal requires no specific parking or loading requirements beyond what is normally attendant to a two family dwelling.

Because the Dwelling, as extended, altered and enlarged as shown on the Architectural Plan, will be served by an enlarged individual septic system and municipal water, the proposal will not impact existing utilities or public services. Impact on Police department and Fire department services will be no greater than those needed for a typical single-family dwelling.

The extended, altered and enlarged Dwelling (as shown on the Special Permit Plan) will conform to all of the dimensional requirements of the Highway Business Zoning District of the Bylaw. Accordingly, the extended, altered and enlarged Dwelling will be consistent with the density and character of the neighborhood. Because the extended, altered and enlarged Dwelling will be set back from the side lot line a distance that conforms to the Bylaw and is generally consistent with the side yard setbacks of many of the dwellings in the neighborhood, the extended, altered and enlarged Dwelling will not be substantially more detrimental than the existing dwelling to the neighborhood.

No cultural or historical resources are known to exist on the Property. Extending, altering and enlarging the Dwelling will not require that any wetland resource areas be filled or altered. Accordingly, the proposal will not adversely affect the cultural, historic resources of the Town of Mendon, or natural environment.

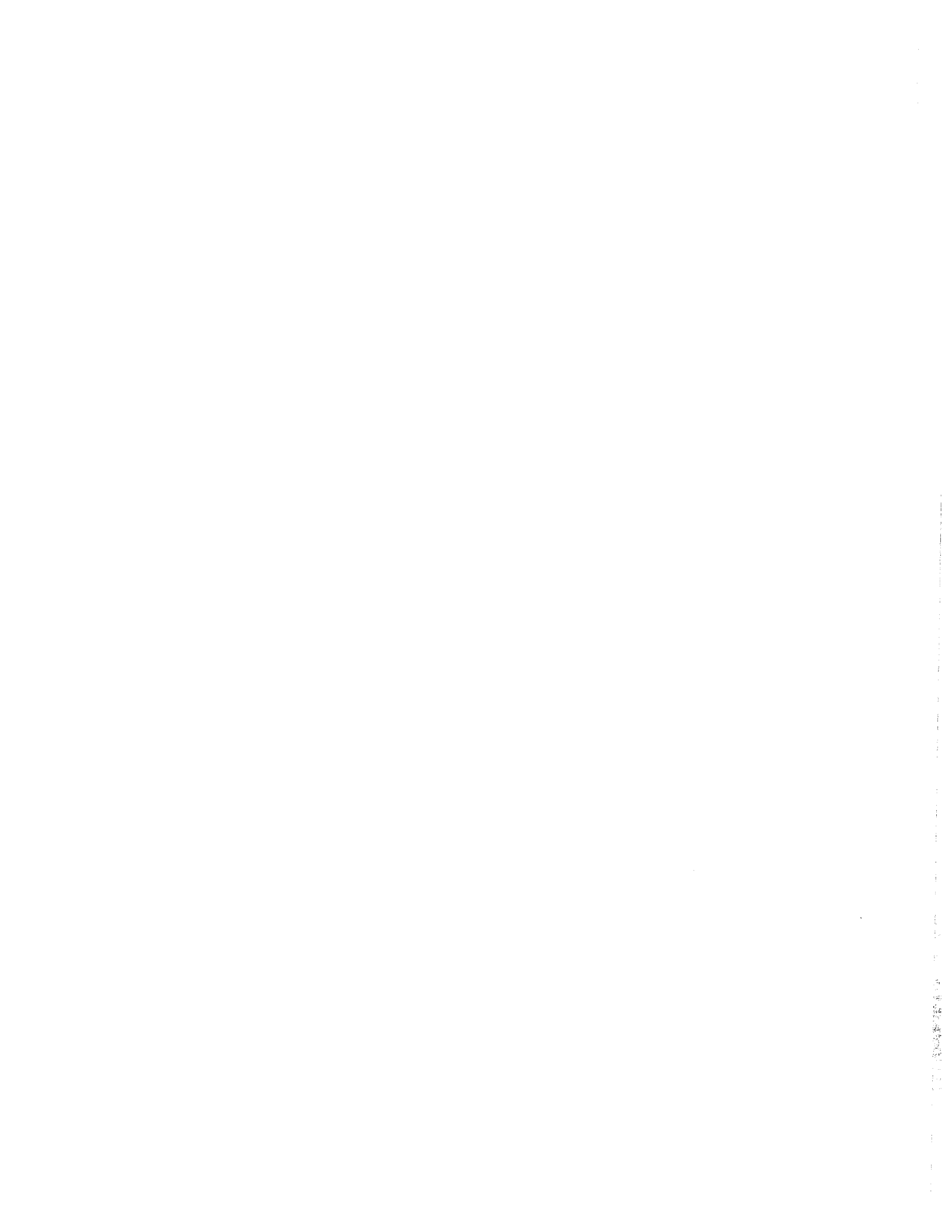
For all of the reasons set forth above, the Applicant respectfully requests that the Board issue a Special Permit pursuant to G.L. c. 40A, §6 and Article III, Section 3.01(d)(iii) of the Bylaw to allow the

extension, alteration and enlargement of the Dwelling as shown on the Architectural Plan and the change of use to a two family dwelling.

Sincerely,
Allen Engineering & Associates, Inc.

A handwritten signature in black ink, appearing to read "W. Robert Knapik", with a long horizontal flourish extending to the right.

W. Robert Knapik



of



2018 00097999

Bk: 59412 Pg: 216

Page: 1 of 4 09/17/2018 12:21 PM WD

MASSACHUSETTS EXCISE TAX
Worcester District ROD #20 001
Date: 09/17/2018 12:21 PM
Ctrl# 187536 10221 Doc# 00097999
Fee: \$1,564.08 Cons: \$343,000.00

QUITCLAIM DEED

Property Address: 7 Cape Road, Mendon, MA 01756

Grantor: Bethany Community Church, a Massachusetts Charitable corporation with a usual place of business located at 15 Cape Road, Mendon, Worcester County, MA 01756,

for consideration paid and in full consideration of **Three Hundred Forty-Three Thousand Dollars and 00/100 (\$343,000.00)**, hereby grant to

Grantee: Jorge A. Gamboni and Vilma E. Gamboni, As Husband and Wife, tenants by the entirety, of 41 Indian Lake Parkway, Worcester, Worcester County, MA 01605

with quitclaim covenants

the land in **Mendon** being described as follows:

A certain tract or parcel of land situated on the westerly side of Cape Road in said Mendon, Massachusetts, being shown as Lot 2 on a plan entitled, "Plan of Land in Mendon, Mass. Property of: Rene T. and Nettie P. Morel" Scale 30 feet to an inch, dated May 24, 1982 by Guerriere & Halnon, Inc., Engineering and Land Surveying, 326 West Street, Milford, Mass., said plan being recorded in Worcester Registry of Deeds, Plan Book 497, Plan 53 and being more particularly bounded and described according to said plan as follows:

BEGINNING at a point on the westerly side of Cape Road at land now or formerly of Stanley E. and Edith L. Tuttle, said point being the southeast corner of the land herein described;

THENCE S. 75 degrees 43' 13" W., 607.68 feet by said Tuttle land to land now or formerly of Frank R. and Jean H. Boyer;

THENCE N. 09 degrees 28' 25" W., 113.19 feet by said Boyer land to a drill hole at land now or formerly of Theodore Cohen, Trustee of H20 Trust;

THENCE N. 09 degrees 28' 57" W., by said Cohen land, 69.54 feet to a point at Parcel "A" as shown on said plan;

4

4
PR

THENCE N. 79 degrees 30' 48" E., by said Parcel "A" and land now or formerly of Stanley and Genevieve E. Gardner, 587.59 feet to an iron pin set on the westerly side of Cape Road;

THENCE S. 16 degrees 42' 33" E., by the westerly side of Cape Road, 143.35 feet to the point of beginning.

Being the same premises conveyed to the herein named grantor(s) by deed recorded with the Worcester County Registry of Deeds in Book 51109, Page 21.

In witness thereof, Bethany Community Church has caused its authorized signatory to sign its name and behalf seal this 14 day of September, 2018.

Bethany Community Church

Philip L. McCutchen

By: Philip L. McCutchen
Its President

COMMONWEALTH OF MASSACHUSETTS

Worcester County, ss

On this 14 day of September, 2018, before me, the undersigned notary public, personally appeared Philip L. McCutchen, President, proved to me through satisfactory evidence of identification, which were Driver's License; State ID; Passport; Other Government Issued ID; Other _____, (or personally known to me), 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 on behalf of Bethany Community Church.

[Signature]
Notary Public:
My Commission Expires:



CHRISTOPHER M. CROWLEY
Notary Public
Commonwealth of Massachusetts
My Commission Expires
May 15, 2020

In witness thereof, Bethany Community Church has caused its authorized signatory to sign its name and behalf seal this 14 day of September, 2018.

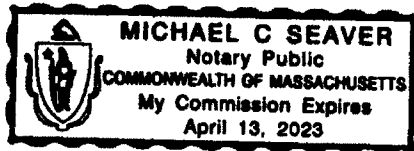
Bethany Community Church

Scott Pfeffer
By: Scott Pfeffer
Its Treasurer

COMMONWEALTH OF MASSACHUSETTS

Worcester County, ss

On this 14 day of September, 2018, before me, the undersigned notary public, personally appeared Scott Pfeffer, Treasurer, proved to me through satisfactory evidence of identification, which were Driver's License; State ID; Passport; Other Government Issued ID; Other _____, (or personally known to me), 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 on behalf of Bethany Community Church.



Michael C Seaver
Notary Public: Michael C Seaver
My Commission Expires: April 13, 2023