

Atty Ernest P Pettinari 10/92  
Conveyancer Acct Clients Funds  
52 Dilla St Ph. 508-473-1070  
Milford, MA 01757



MILFORD FEDERAL BANK  
MILFORD, MASSACHUSETTS 01757

004988  
53-7132/2113

DATE 12/02/2020

PAY TO THE ORDER OF Town of Mendon

\$ \*\*250.00

Two Hundred Fifty and 00/100\*\*\*\*\*

DO NOT WRITE

Town of Mendon

Memo

Filing Fee - Alcardi, Tim - ZBA - Hartford Aven



AUTHORIZED REPRESENTATIVE

⑈004988⑈ ⑆211371324⑆ 023620225⑈

Atty Ernest P Pettinari

004988

**RECEIVED**

By Ellen Agro at 10:26 am, Dec 03, 2020

Atty Ernest P Pettinari

004988

**ERNEST P. PETTINARI**  
**ATTORNEY AT LAW**  
Mailing Address: 52 DILLA STREET  
Email Address: ernie@fplaw.net  
**MILFORD, MASSACHUSETTS 01757**

TELEPHONE  
(508) 473-1070

FACSIMILE  
(508) 358-8188

**DELIVERED BY HAND - DECEMBER 3, 2020**

December 2, 2020

Ms. Ellen Agro, Town Clerk  
Town Hall - 20 Main Street  
Mendon, MA 01756

Re: Petition for Variance  
Timothy J. Aicardi  
5 Hartford Avenue West  
Mendon, MA

Dear Ms. Agro:

Enclosed please find six (6) copies of a Petition for Variance regarding the above referenced property along with the following:

1. Six (6) copies of a certified list of abutters;
2. Three (3) copies of labels re: above;
3. Six (6) copies of the Variance Plan;
4. Six (6) copies of the Deed and P&S Agreement to the premises;
5. The Variance Petition and Plan in PDF form in zip drive; and
6. A check in the amount of \$250.

Please forward the Petition to the Zoning Board of Appeals so that a hearing may be scheduled as soon as possible.

Very truly yours,

Ernest P. Pettinari

EPP/jat  
Encl.

Subject Property:

TOWN CLERK'S STAMP

TOWN OF MENDON  
BOARD OF APPEALS

P.O. Box 2  
Mendon, MA 01756

Petition for Zoning Variance

under M.G.L. Ch. 40A, § 10 and Mendon Zoning By-Laws Section IX, item 2

*This application form must be completed, signed and submitted with the filing fee by the petitioner or his/her representative in accordance with the Board's rules and regulations as supplied with this application by the Town Clerk.*

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

Name: Timothy Aicardi

Address: 18 Pleasant Street Mendon, MA 01756

Telephone #: Days: (508) 400-4001 Evenings: (508) 400-4001

Petitioner is Owner  Tenant  Agent/Attorney

Purchaser on a purchase and sales agreement.

2. OWNER: if other than petitioner:

Name: Randi Nuttall

Address: 43 Mowry Street, Mendon, MA

Telephone #: Days: \_\_\_\_\_ Evenings: \_\_\_\_\_

3. REPRESENTATIVE AUTHORIZATION:

If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the petitioner, the owner or equitable owner must designate such representative below:

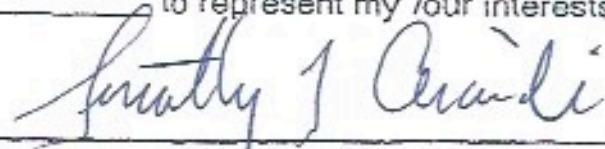
Name of Representative: Ernest P Pettinari

Address of Representative: 52 Dilla Street Milford, MA 01757

Telephone #: Days: (508) 473-1070 Evenings: \_\_\_\_\_

Relationship of representative to owner or equitable owner Attorney

I/we hereby authorize Atty Ernest P Pettinari to represent my /our interests before the Board of Appeals with regards to this Petition



Must be signed by Owner or Equitable Owner

Subject Property:

TOWN CLERK'S STAMP

TOWN OF MENDON  
BOARD OF APPEALS

P.O. Box 2  
Mendon, MA 01756

Petition for Zoning Variance

under M.G.L. Ch. 40A, § 10 and Mendon Zoning By-Laws Section IX, item 2

*This application form must be completed, signed and submitted with the filing fee by the petitioner or his/her representative in accordance with the Board's rules and regulations as supplied with this application by the Town Clerk.*

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2. OWNER: if other than petitioner:

Name: Randi Nuttall

Address: 43 Mowry Street, Mendon, MA

Telephone #: Days: \_\_\_\_\_ Evenings: \_\_\_\_\_

3. REPRESENTATIVE AUTHORIZATION:

If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the petitioner, the owner or equitable owner must designate such representative below:

Name of Representative: Ernest P Pettinari

Address of Representative: 52 Dilla Street Milford, MA 01757

Telephone #: Days: (508) 473-1070 Evenings: \_\_\_\_\_

Relationship of representative to owner or equitable owner: Attorney

I /we hereby authorize Atty Ernest P Pettinari to represent my /our interests before the Board of Appeals with regards to this Petition

Must be signed by Owner or Equitable Owner

**3. SUBJECT PROPERTY:**Street Address 5 Hartford Avenue WestAssessor's Map: 11 Lot # 141-5-0 Zoning District General Residential [GR]Registry of Deeds where deed, plan, or both are recorded:  
Worcester District Registry of DeedsDeed Recording: Book 32561 Page 303This parcel was originally laid out and recorded on Nov 1954**4. NATURE OF RELIEF REQUESTED:**Variance from article/section Article II, Dimensional Regulations of the Mendon Zoning By-Laws,

Which requires

In Section 2.01 (Table 1) Minimum lot size of 60,000 square feet and Lot Frontage of 200 feet.

The specific relief I/we request is described as follows:

The subject premises are 43,612 square feet in area and possess Lot Frontage of 150 feet. Petitioner seeks a Variance from those requirements to facilitate the development of the parcel and construction of a single family residence thereon, which residence would conform to all other dimensional requirements of said Section 2.01, Table 1 except for Lot Area and Lot Frontage.

**5. EVIDENCE TO SUPPORT GRANT OF VARIANCE**

(ref: M.G.L. Chap. 40A, § 10):

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

The premises consist of a parcel of land, rectangular in shape and measuring approximately 150 feet by 293 feet. The premises, in toto, contain 43,612 square feet of land and exist in a lot laid out more than 65 years ago. The premises are located on Hartford Avenue West in Mendon, and are consistently

150 feet in width. The premises run from the sideline of Hartford Avenue West in a northerly direction, for nearly 300 feet, creating a narrow, evenly rectangular lot. A residence could be constructed on the lot in total conformity to and compliance with all outstanding front, side and rear yard setbacks set forth in Section 2.01 (Table 1) of the Zoning Bylaw. In the absence of the requested relief, the premises cannot be utilized consistently with their purpose and their current zoning designation, i.e. single-family residential.

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.

The lot is functionally useless without the variance relief requested. The narrow, shape and overall layout of the property effects a substantial hardship in that the literal enforcement of the By-law would make the full use of the premises impossible. The premises would make a suitable location for a single family residence. Denial of the requested relief will make that impossible. The fact that the lot was originally laid out prior to enactment of the Mendon Zoning Bylaw supports the argument that the Bylaw's provisions may appropriately be modified to facilitate the use of the property for its original purpose. The property has been in the owner's family for more than 65 years and the use of the premises by their proposed sale to the equitable owner and his development and construction of a modest and reasonable residence, it is respectfully submitted, is a significantly preferable result than literal enforcement of the Bylaw which would force the premises to remain in their current state and reduce their value to the Owner and their tax valuation to the community.

I/we hereby certify under the pains and penalty of perjury that the information contained in this Application is true and complete and that 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 received a copy of the Rules and Regulations of Mendon Zoning Board of Appeals.

*[Handwritten Signature]*

December 2, 2020

Signature of Applicant

Date

*By: ERNEST P. PETRUCCI  
ATTY*

Signature of Co-Applicant

Date

Signature of Owner if other than Applicant

Date

Signature of Equitable Owner

Date

\*\*\*\*\*

OFFICE OF TOWN CLERK

MENDON, MASSACHUSETTS

Exhibits submitted:

- Variance Application completed
- Owner authorizations completed.
- 11 Copies of Site Plan (per Board Rules & Regulations)
- Certified Abutters List from Assessors' Office(s)
- Copy of Deed for subject Property
- Copy of Building Permit Application and/or any correspondence from Building Dept.
- Copy of any previous decisions on Special Permits or Variances for the subject property
- Soil / geological studies, topographical maps, other documentation to support petition

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

Town Clerk

Date



13

TOWN OF MENDON  
BOARD OF ASSESSORS  
20 Main Street  
MENDON, MA 01756  
508-473-2738  
508-478-8241 (Fax)  
e-mail: jberthold@mendonma.gov

**REQUEST FOR ABUTTERS**

Date: 11/05/2020

Name: Randi Nuttall Sr.

Company: \_\_\_\_\_

Address: 43 Mowry St. Mendon, MA

Phone Number: 508-478-3781 Email address: none

Owner of Subject Property: Randi Nuttall Sr <sup>43 mowry</sup>

Address of subject property: 5 Hartford Ave. Mendon

Map: 11 Street Code: 141 Parcel: 005

Number of feet from subject required: 300  
(if left blank, 300' will be utilized)

Check here for mailing labels Number of sets: 1

Board for which abutters are requested: ZBA

Fees: \$1.00 per name on the abutters list - \$1.00 per sheet of labels

\*The Board of Assessors reserves 10 working days to provide all certified lists of abutters. This list is valid for 30 days from the date of certification.

12/30/23  
32561  
303





**TOWN OF MENDON**

*BOARD OF ASSESSORS*

20 MAIN STREET

MENDON, MA 01756

508-473-2738

508 478-8241 (Fax)

e-mail: [assessor@mendonma.gov](mailto:assessor@mendonma.gov)

*November 5, 2020*

*PROPERTY LOCATION(S): 5 Hartford Avenue West  
Mendon, Massachusetts  
Assessor's Map #11-141-5*

*PROPERTY OWNER(S): Randi W. Nuttall, Sr.*

*OWNER(S) ADDRESS: 43 Mowry Street  
Mendon, MA 01756*

*RECORDED: Worcester Registry of Deeds  
December 30, 2003  
Book #32561  
Page #303*

*The attached 300' abutter's list is true and accurate to the best of our knowledge.*

*Sincerely,*

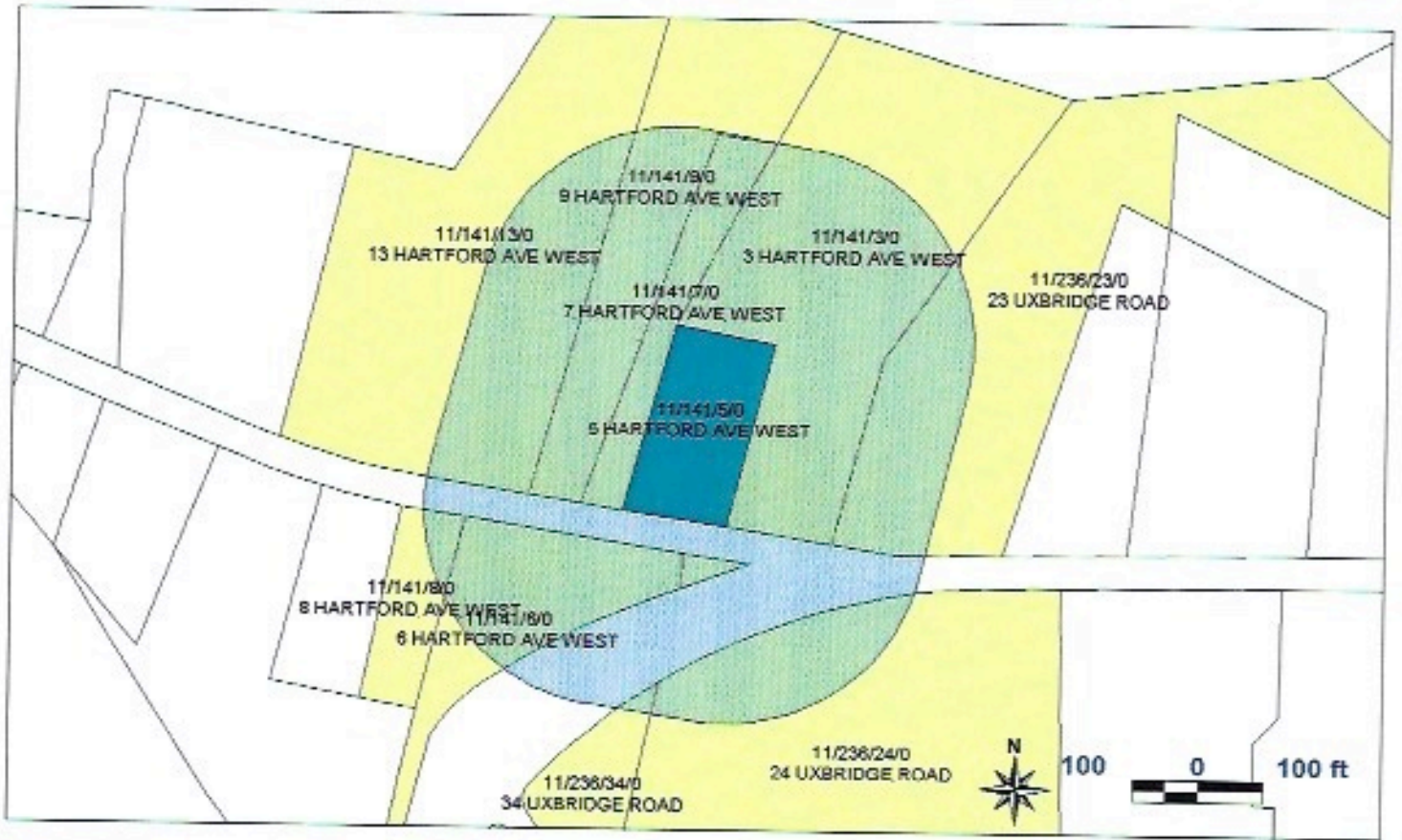
*Jean M. Berthold, MAA*

*Principal Assessor*

*Attachment*

TOWN OF MENDON, MA  
 BOARD OF ASSESSORS  
 20 Main Street, Mendon, MA 01756

Abutters List Within 300 feet of Parcel 11/141/5/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	St	ZipCd/Country
744	11-141-3-0-R	RANDOR PAUL A	3 HARTFORD AVE WEST	3 HARTFORD AVE WEST	MENDON	MA	01756
745	11-141-5-0-R	NUTTALL RANDI W SR	5 HARTFORD AVE WEST	43 MOWRY STREET	MENDON	MA	01756
746	11-141-8-0-R	LEDOLIX THEODORE J & MAJESSIA L	8 HARTFORD AVE WEST	61 HARTFORD AVE WEST	MENDON	MA	01756
747	11-141-7-0-R	NUTTALL RANDI W SR	7 HARTFORD AVE WEST	43 MOWRY STREET	MENDON	MA	01756
748	11-141-8-0-R	SMITH JESSICA L & RANDY	8 HARTFORD AVE WEST	8 HARTFORD AVE WEST	MENDON	MA	01756
749	11-141-9-0-R	NUTTALL RANDI W SR	9 HARTFORD AVE WEST	43 MOWRY STREET	MENDON	MA	01756
752	11-141-13-0-R	MATHEWSON JANYCE ANN (ESTATE)	13 HARTFORD AVE WEST	11 PROVIDENCE STREET	MENDON	MA	01756
857	11-238-23-0-R	HAZARD WILLIAM J (ESTATE) NIO QUIRK JAMES M & JOHN E JR	23 UXBRIDGE ROAD	23 UXBRIDGE ROAD	MENDON	MA	01756
858	11-238-24-0-R	FRANKLIN OFFICE PARK REALTY CO	24 UXBRIDGE ROAD	P O BOX 444	MENDON	MA	01756-0444
859	11-238-25-0-R	FRANKLIN OFFICE PARK REALTY CO	25 UXBRIDGE ROAD	P O BOX 444	MENDON	MA	01756-0444
867	11-238-34-0-R	ROCKWOOD WILLIAM M JR & CAROL A	34 UXBRIDGE ROAD	34 UXBRIDGE ROAD	MENDON	MA	01756

11-141-3-0

RANDOR PAUL A  
3 HARTFORD AVE WEST  
MENDON, MA 01756

11-141-5-0

NUTTALL RANDI W SR  
43 MOWRY STREET  
MENDON, MA 01756

11-141-6-0

LEDoux THEODORE J  
& MARSHA I.  
6 HARTFORD AVE WEST  
MENDON, MA 01756

11-141-8-0

SMITH JESSICA E & RANDY  
8 HARTFORD AVE WEST  
MENDON, MA 01756

11-141-13-0

MATHEWSON JANYCE-ANN (ESTATE)  
11 PROVIDENCE STREET  
MENDON, MA 01756

11-236-23-0

QUIRK JAMES M & JOHN E JR  
23 UXBRIDGE ROAD  
MENDON, MA 01756

11-236-24-0

FRANKLIN OFFICE PARK REALTY CO  
P O BOX 444  
MENDON, MA 01756-0444

11-236-34-0

ROCKWOOD WILLIAM M  
JR & CAROL A  
34 UXBRIDGE ROAD  
MENDON, MA 01756

ROCKWOOD WILLIAM M  
JR & CAROL A  
34 UXBRIDGE ROAD  
MENDON, MA 01756

11-236-34-0

FRANKLIN OFFICE PARK REALTY CO  
P O BOX 444  
MENDON, MA 01756-0444

11-236-24-0

QUIRK JAMES M & JOHN E JR  
23 UXBRIDGE ROAD  
MENDON, MA 01756

MATHEWSON JANYCE-ANN (ESTATE)  
11 PROVIDENCE STREET  
MENDON, MA 01756

SMITH JESSICA E & RANDY  
8 HARTFORD AVE WEST  
MENDON, MA 01756

11-236-23-0

11-141-13-0

LEDoux THEODORE J  
& MARSHA I.  
6 HARTFORD AVE WEST  
MENDON, MA 01756

NUTTALL RANDI W SR  
43 MOWRY STREET  
MENDON, MA 01756

11-141-8-0

RANDOR PAUL A  
3 HARTFORD AVE WEST  
MENDON, MA 01756

11-141-6-0

11-141-5-0

11-141-3-0

I, RANDI W. NUTTALL SR. EXECUTOR OF THE ESTATE OF STANLEY E. NUTTALL  
of 43 Mowry Street Mendon, Worcester  
County, Massachusetts,

being ~~un~~married, for consideration paid, and in full consideration of less than one hundred dollars  
(\$100.00)  
grants to RANDI W. NUTTALL SR.

of 43 Mowry Street, Mendon, Mass. 01756

with quitclaim covenants

PARCEL I.

including in Mendon on the Northerly side of Hartford Avenue West, a Worcester  
County Highway in said Mendon and being shown on a plan of land entitled:

"Plan of Land sold by William J. Hazard, Mendon, Massachusetts, November  
1954, Scale 1"=40' P. J. Brennan, Surveyor, Uxbridge, Massachusetts, said  
deed recorded in Worcester District Registry of Deeds Plan Book 217, Plan 123  
BEGINNING: at a stake in the Northerly line of said Hartford Avenue at the  
Southeasterly corner of the granted premises and at other land of the  
Grantors:

THENCE: Running North 70° 00' W. 150 feet along said Hartford Avenue to land  
now or formerly of one Nuttall;

THENCE: turning and running along said Nuttall land and a stone wall N. 28°  
00' E. 300 feet to a corner of a wall at other land of the grantor;

THENCE: turning and running along other land of said grantor and along a  
stone wall S. 70° 00' E. 150 feet to a stake at other land of the  
grantor;

THENCE: turning and running along other land of said grantor S. 28° 00'  
W. 300 feet to the point of beginning. Containing 1.02 acres more or  
less.

For grantor's titles see deed of Francis A. Irons to Viola Nuttall  
dated May 9th 1958 and recorded at Worcester County Registry of deeds  
at Book 3939 Page 16. ALSO see Estate of Viola Nuttall at Worcester  
Registry of Probate at # 90 P 1871 E1. ALSO see estate of Stanley  
E. Nuttall at Worcester Registry of Probate at # 03P0857 EP 1.

PARCEL II.

The land in the Westerly part of said Mendon bounded and described  
as follows:

BEGINNING: At the Southeast corner of the premises at a corner of  
Walls on the Northerly side of the Hartford Turnpike (so called)

THENCE: N. 27° 45' E. with the wall to a corner of walls 300 feet  
bounding Easterly on land of K. A. Campbell.

THENCE: N 42° 15' E. 310 feet with the line of an old fence to a  
stake and stones.

THENCE: N 61° W 79 feet to a stake and stones

THENCE: same course 60 feet to a stake in the swamp;

THENCE: S 27° 45' W. 600 feet to a mark on the wall. at said  
Turnpike the four last lines bounding on land of grantors.

THENCE: S. 64° 15 E. 60 feet with said wall and Turnpike to place  
of beginning. Containing one acre be the same more or less.

For Grantor's title see deed of John V. Saunders and  
James A. Mathewson to Viola Nuttall dated June 12 1926  
and recorded at Worcester County Registry of Deeds at  
Book 2407 Page 22. ALSO see Estate of Viola Nuttall at  
Worcester Registry of Probate at # 90 P 1871 E1. ALSO see  
estate of Stanley E. Nuttall at Worcester Registry of Probate  
at # 03P0 857 EP 1.

PARCEL III

The land in the Westerly part of said Mendon Bounded and described  
as follows:

BEGINNING:

At the Southwest corner of the premises on the Northerly  
line of the Hartford Turnpike (so called)

THENCE: N 27° 45' with the grantee's land to the Northerly line

THENCE: S. 36° E. with said line to land of K. A. Campbell

THENCE: S 42° 15 W with said Campbell's land to the grantee's  
N E corner.

THENCE: N. 61° W. 139 feet to the grantee's N. W. Corner.  
(\*Individual — Joint Tenants — Tenants in Common.)

HARVEY FRANK  
ATTORNEY AT LAW  
SUITE 305  
6 BEACON STREET

Worcester, Massachusetts 02108  
TEL. 523-2000

WJ

## PURCHASE AND SALE AGREEMENT

From the office of  
Ernest P. Pottineri  
52 Dilla Street  
Mittord, MA 01757  
508-473-1070  
emie@plaw.net

### 1. PARTIES

This Agreement is made and entered into on this \_\_\_\_ day of MAY, 2020, by and between RANDI W. NUTTALL, of 43 Mowry Street, Mendon, Worcester County, Massachusetts 01756 (*hereinafter called the Seller*), who agrees to sell, and TIMOTHY J. AICARDI, of 18 Pleasant Street, in said Mendon, Worcester County, Massachusetts 01756 (or his nominee) (*hereinafter called the Buyer*), who agrees to buy, upon all the terms and conditions hereinafter set forth, that parcel of real estate as is described as follows:

### 2. DESCRIPTION

A certain parcel of land on Hartford Avenue West, Mendon, Worcester County, Massachusetts as said parcel is shown on a plan entitled "Proposed House Randi Nuttall, 5 Hartford Ave West, Mendon, MA", said plan dated February 29, 2020 and appended to this Agreement as Exhibit A. Said parcel is a portion of the property described in a deed to Seller, recorded at Worcester Deeds in Book 32561, Page 303. Subject locus containing 43,612± square feet of land, according to said plan.

### 3. IMPROVEMENTS

The Premises is raw land and no improvements shall be present.

### 4. DEED

The said premises are to be conveyed by a good and sufficient quitclaim deed running to and for the benefit of the Buyer, or to the nominee designated by the Buyer by written notice to the Seller no later than seven (7) days prior to the date when the deed is to be delivered as is hereinafter provided, and such deed shall be sufficient to convey to the buyer good, marketable and clear record title to the premises, free of encumbrances except those specifically enumerated herein; specifically excepting:

- (a) Provisions of existing building code statutes or rules and regulations and zoning ordinances;
- (b) Such taxes for the year current at the time of closing as are not then due and payable;
- (c) Any lien for municipal betterments assessed after date of this agreement.
- (d) Easements, restrictions and reservations of record, if any, so long as the same do not prohibit or materially interfere with the proposed use of said premises as a single family dwelling.

Notwithstanding anything to the contrary herein contained, the premises shall not be considered to be in compliance with the title provisions of this agreement unless:

- (e) No building, structure or improvement, including, but not limited to, any driveways, garages, and septic systems and wells, if any, of any kind belonging to any other person or entity shall encroach upon or under the premises, except pursuant to a validly recorded indefeasible easement;
- (f) The premises have vehicular and pedestrian access to public way or ways approved by the Planning Board; and
- (g) Title to the premises are insurable, for the benefit of the BUYER, by a title insurance company reasonably acceptable to BUYER, in a fee owner's policy of title insurance, at normal premium rates in the American Land Title Association form currently in use, subject to those printed exceptions of title normally included in the "jacket" to such form or policy and the standard so-called "Schedule B" exceptions, and exceptions permitted by the Title Insurance Company under Clause 4 to the above; it is provided further that in the event of a title matter for which a title insurance company is willing to issue a so-called "clean" policy or provide "affirmative coverage" over a known defect or problem, the BUYER may elect to accept same but shall not be required to do so, and shall have the right, at the option of the BUYER, to deem title to the premises defective and unmarketable and not in compliance with the title provisions of this agreement.

5. PLANS

If said deed refers to a plan necessary to be recorded therewith the Seller shall deliver such plan with the deed in form adequate for recording or registration.

6. REGISTERED TITLE

In addition to the foregoing, if the title to said premises is registered, said deed shall be in form sufficient to entitle the Buyer to a Certificate of Title of said premises, and the Seller shall deliver with said deed all instruments, if any, necessary to enable the Buyer to obtain such Certificate of Title.

7. PURCHASE PRICE

The agreed purchase price for said premises is ONE HUNDRED THOUSAND and 00/100 DOLLARS (\$100,000.00), of which

\$ 1,000.00	to be paid as a deposit upon execution of P&S;
	are to be paid in accordance with a Promissory Note (in the form substantially similar to that attached hereto as Exhibit One) and First Mortgage from Buyer, in favor of Seller, which shall be
\$ 99,000.00	executed and delivered at the time of delivery of the Seller's Deed.
\$100,000.00	Total

#### 8. TIME FOR PERFORMANCE

Such Deed is to be delivered at a mutually agreed upon time and date within ten business days of the lapse of any applicable final appeal period following grant of a building permit for the construction of one single family residence on the subject premises, but in no event later than October 31, 2021. In the event that BUYER determines that the necessary permits may issue, but cannot reasonably be obtained within the eighteen month period described in this paragraph this Agreement, SELLER agrees to grant a thirty-day extension of said period. All further extensions shall be at the further negotiation of the parties. It is agreed that the Buyer shall utilize all due diligence in securing such zoning variances and permits as may be necessary to the issuance of said building permit. Buyer shall be liable for the costs incurred in connection with all engineering, legal, application and other fees which may become necessary in prosecution of Buyer's duly diligent request for such necessary zoning and building permits. It is agreed that Buyer shall be deemed to have exercised such due diligence so long as the Buyer shall make such applications to the Mendon Planning Board and/or Zoning Board of Appeals and/or Building Inspector within sixty days of the date of this Agreement. In the event that, despite Buyer's due diligence, such building permit shall not be so obtained, Seller shall be entitled to retain the deposit of \$1,000.00 tendered upon the execution of this Agreement, Buyer shall be entitled to keep any and all engineering plans, calculations or related materials, and this Agreement shall be terminated.

The parties acknowledge that, at the time of the execution of this Agreement, a State of Emergency exists in the Commonwealth of Massachusetts and elsewhere due to the prevalence of the so-called COVID-19 Virus. Because it is currently unknown how long such State of Emergency will prevail, and because all state and local offices are presently closed, the parties further acknowledge that said State of Emergency will bear on timing for all municipal and other approvals contemplated in the scope of this Agreement. Accordingly, the parties hereby agree that all such periods of due diligence will be extended so as to accommodate any reasonably necessary delay as may be reasonably occasioned by the said State of Emergency.

#### 9. POSSESSION AND CONDITION OF PREMISES

The Premises is raw land. Full possession of said premises, is to be delivered at the time of the delivery of the deed, said premises to be then (a) in the same condition as they now are, and (b) not in violation of said building and zoning laws; and (c) in compliance with provisions of any instrument referred to in clause 4 hereof. The BUYER shall be entitled personally to enter upon and inspect said premises during the due diligence period and prior to the delivery of the deed in order to facilitate any engineering or other professional determinations as may be necessary or appropriate to completion of the Buyer's due diligence described in the preceding paragraph.

#### 10. EXTENSION TO PERFECT TITLE OR MAKE PREMISES CONFORM

If the SELLER shall be unable to give title or to make conveyance, or to deliver possession of the premises, all as herein stipulated, or if at the time of the delivery of the Deed the premises do not conform with the provisions hereof, then the SELLER shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or to make the said premises conform to the provisions hereof, as the case may be, in which event the SELLER shall

give written notice thereof to the BUYER at or before the time for performance hereunder, and thereupon the time for performance hereof shall be extended for a period of not more than thirty (30) days, as is reasonably required only.

**11. FAILURE TO PERFECT TITLE OR MAKE PREMISES CONFORM**

If at the expiration of the extended time the SELLER has failed to so remove any defects in title, in spite of using reasonable efforts to do so, deliver possession or make the premises conform as the case may be, all as herein agreed, then any payments made under this Agreement shall be forthwith refunded without interest and all other obligations of all parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto.

**12. BUYER'S ELECTION TO ACCEPT TITLE**

The BUYER shall have the election, at either the original or any extended time for performance, to accept such title as the SELLER can deliver to the said premises in their then condition and to pay therefore the purchase price without deduction, in which case the SELLER shall convey such title.

**13. ACCEPTANCE OF DEED**

The acceptance and recording of a Deed by the BUYER as the case may be, shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said Deed.

**14. USE OF MONEY TO CLEAR TITLE**

To enable the SELLER to make conveyance as herein provided, the SELLER may, at the time of delivery of the deed, use the purchase money or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed or, in the case of discharged of mortgages held by conventional banks or other institutional mortgage lenders or releases of municipal liens, betterments, or assessments, if any, to be paid from the SELLER's proceeds at closing pursuant to written payoff statements, in accordance with local conveyancing practices.

**15. INSURANCE**

Until the delivery of the Deed, the SELLER shall maintain insurance on said premises as follows:

*As presently insured. Risk of any loss to remain with Seller until recording of the deed.*

**16. ADJUSTMENT OF UNASSESSED AND ABATED TAXES**

Taxes for the then current fiscal year shall be apportioned, as of the day of performance of this agreement and the net amount thereof shall be added to or deducted from, as the case may be, the purchase price payable by the BUYER at the time of delivery of the deed.

**17. ADJUSTMENT OF UNASSESSED AND ABATED TAXES**

If the amount of said taxes is not known at the time of the delivery of the deed, they shall be apportioned on the basis of the taxes assessed for the preceding fiscal year, with a reapportionment as soon as the new tax rate and valuation can be ascertained; and, if the taxes which are to be apportioned shall thereafter be reduced by abatement, the amount of such



abatement, less the reasonable cost of obtaining the same, shall be apportioned between the parties, provided that neither party shall be obligated to institute or prosecute proceedings for an abatement unless herein otherwise agreed.

#### 18. BROKER'S FEE

Seller shall be responsible for the payment of a brokers' fee/ commission to Mendon Area Real Estate, Inc., the sole broker associated with this transaction, as agreed between Seller and said Mendon Area Real Estate upon the delivery of Seller's deed described in paragraph 7, above. Each party hereto hereby represents and certifies that such party has not contacted, spoken to, or otherwise dealt with any real estate broker other than those named in this clause 18, in connection with this transaction and that, to the best of each such party's knowledge and information, no brokerage commission will be due as a result of this transaction except as stated in this clause 18, and hereby agrees to indemnify the other against any claim, loss, or liability for a real estate broker's fee which may arise.

Commented [61]: Has the seller entered into an agreement with Mendon Area Real Estate? If so, do you know the terms?

#### 19. BROKER(S) WARRANTY

Mendon Area Real Estate, Inc. hereby certifies that it is currently a licensed real estate broker, in good standing, in the Commonwealth of Massachusetts.

#### 20. DEPOSIT

All deposits made hereunder shall be held by MENDON AREA REAL ESTATE, INC. as escrow agent, subject to the terms of this agreement and shall be duly accounted for at the time for performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain the deposit pending instructions mutually given by the parties or receipt of a final court order.

#### 21. BUYER'S DEFAULT DAMAGES

If the BUYER shall fail to fulfill the BUYER'S agreements herein, all deposits made hereunder by the BUYER shall be retained by the SELLER as liquidated damages and that shall be the SELLER'S sole and exclusive remedy at law and in equity.

#### 22. LIABILITY OF TRUSTEE, SHAREHOLDER, BENEFICIARY, etc.

If the SELLER or BUYER executes this agreement in a representative or fiduciary capacity, only the principal or the estate represented shall be bound, and neither the SELLER or BUYER so executing, nor any shareholder or beneficiary of any trust, shall be personally liable for any obligation, express or implied, hereunder.

#### 23. WARRANTIES AND REPRESENTATIONS

The BUYER hereby states and acknowledges that the BUYER is purchasing the within described property in upon the BUYER's own personal inspection thereof, that no representations have been made to the BUYER by the SELLER or the SELLER's agents or representatives as to the condition of said property or its suitability for particular uses; and that the BUYER is purchasing said property in its present "as is" condition and as otherwise provided in this Agreement without any obligation on the part of the SELER to make any changes or alterations.

It is provided further that all of SELLER's representations under this Agreement, if any, are made based on the SELLER's actual knowledge, and without conducting any independent investigation or inquiry, and are not intended to imply or create any obligation for the SELLER to take additional actions or more further inquiry with regard to any topics contained within this Agreement or elsewhere, including but not limited to, documents to be executed in conjunction with the closing. Furthermore, any such representations shall not constitute a representation or warranty against the existence of such conditions about which Seller has no knowledge, nor a representation or warranty against the discovery or occurrence of such conditions after the closing. The BUYER acknowledges that the BUYER has conducted or have had an opportunity to conduct physical inspections of the property with licensed inspectors and that the BUYER is relying on the BUYER's inspectors and not the Seller for information about the property.

#### 24. CONSTRUCTION OF AGREEMENT

This instrument, executed in multiple counterparts, is to be construed as a Massachusetts contract, is to take effect as a sealed instrument, setting forth the entire contract and understanding among the parties, is binding upon and inures to the benefit of the parties hereto and their respective heirs, devisees, executors, administrators, successors and assigns and may be canceled, modified or amended only by written instrument executed by both the SELLER and the BUYER. If two or more persons are named herein as BUYER their obligations hereunder shall be joint and several. The captions and marginal notes are used only as a matter of convenience and are not to be considered a part of this agreement or to be used in determining the intent of the parties to it.

#### 25. ADDITIONAL PROVISIONS.

A. The SELLER represents that the SELLER has no actual knowledge, without independent investigation, that there are underground oil storage tanks or related apparatus (including piping) for fuel oil, waste oil or other petroleum products located on or under the Premises. The SELLER further represents that the SELLER has no actual knowledge, without independent investigation, of the removal of such tanks or apparatus from the Premises nor of any releases into the soil from any such tanks or apparatus.

B. Any title matter which is the subject of the title standards and practices of the Massachusetts Real Estate Bar Association at the time for the delivery of the deed shall be governed by said title standards and practices to the extent applicable.

C. The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER's lender, closing agent, or any title insurance company insuring the BUYER's title to the premises, including, without limitation, certifications and documents relating to: (a) parties in possession of the premises; (b) the creation of mechanics' or materialmen's liens; (c) closing disclosures, settlement statements, and other financial affidavits and agreements as may reasonably be required by the BUYER's lender or closing agent; (e) the citizenship and residency of the SELLER as required by law; and (f) information required to permit the closing agent to report the transaction to the Internal Revenue Service. Notwithstanding the foregoing, it is acknowledged and agreed that the SELLER shall not execute a survey affidavit.

D. The SELLER hereby agrees to indemnify the BUYER for any damages, loss, costs, or expenses, including without limitation actual attorney's fees, incurred by the BUYER by reason of mechanics or materialmen liens asserted against the premises for labor and/or materials or for rental equipment, appliances or tools furnished, in the erection, alteration,

repair or removal of a building, structure or other improvement of the premises for the SELLER. The provision of this clause 25D shall survive the delivery of the deed.

E. Buyer's performance of Buyer's obligations hereunder are expressly subject to the Buyer's receipt of a building permit for construction of a single-family residence upon the premises. The parties acknowledge that this contingency contemplates the Buyer's necessary acquisition of a Variance or other zoning relief from the Zoning Board of Appeals of the Town of Mendon, Massachusetts. The parties acknowledge that the current state of emergency which prevails in the Commonwealth of Massachusetts may impact the timing of proceedings by the Town of Mendon. To the extent that such should be the case, the parties agree that all dates for performance shall be adjusted.

F. The terms and provisions of Addendum A, attached hereto and executed contemporaneously herewith, are incorporated by reference herein.

SELLER:  
Randi W. Nuttall

BUYER:  
Timothy J. Alcardi

Randi W. Nuttall

Timothy J. Alcardi

#### Addendum A

This Addendum modifies, amends and changes the Purchase and Sale Agreement and supersedes the same to the extent set forth herein. In the event there are any conflicts between the Purchase and Sale Agreement and this Addendum, this Addendum shall control.

1. Buyer and Seller hereby acknowledge that they have been offered the opportunity to seek and confer with qualified legal counsel of their choice prior to signing this agreement and throughout this transaction.
2. Pursuant to Paragraph 10 of the Purchase and Sale Agreement, the following language shall be added at the end of the paragraph "In no event shall the Seller be obligated in excess of \$5,000.00 to cure title, exclusive of the payment of mortgages or voluntary liens."
3. This agreement supersedes all prior agreements and other understandings between the parties and represents the complete and full agreement of the parties hereto. All prior offers and agreements between the parties with respect to the transactions contemplated hereby and any such prior offers or agreements are null and void.
4. In order to facilitate the execution of such documents extending the time for performance of any event or notice that may be given under this agreement, each undersigned hereby authorizes his or her respective attorney to assent and execute on that party's behalf, any agreement extending the time for performance of any event or of any notice that may be given under this agreement.
5. All notices required or to be given hereunder shall be in writing and deemed duly given when placed in the USPS -certified mail, postage prepaid, via overnight delivery service, or sent via facsimile with confirmation of receipt, or sent by electronic mail, during regular business hours, delivered addressed as follows:

If to SELLER:

Ernest P. Pettinari  
52 Dilla Street  
Milford, MA 01757  
Phone: 508-473-1070  
Fax: 508-478-4420  
emie@plaw.net

And

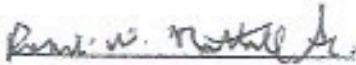
If to Buyer:

David L. Bertonazzi  
188 Main St., 3<sup>rd</sup> floor  
Milford, MA 01757  
Phone: 508-473-4811  
FAX (508) 473-4192  
dlb@hsmlawpc.com

or to such other address or addresses as may from time to time be designated by either party by written notice to the other.

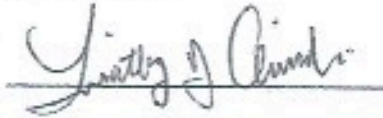
6. This Agreement supersedes any and all other oral or written agreements made prior hereto by and between any or all of the parties hereto with respect to the transaction contemplated hereby, including, without limitation, any offer to Purchase Real Estate, and all of such prior agreements are hereby made void and without recourse to the parties hereto.
7. In order to facilitate the execution of documents necessary to extend the time for the performance of any event or the delivery of any notice that may be given under this agreement, each party hereto hereby authorizes, on that party's behalf, that party's respective attorney to execute on that party's behalf any agreement extending the time for performance of any event or any notice that may be given under this agreement. It is provided further that faxed or electronically transmitted scans of documents shall be considered the same as the original for purposes of this agreement.

Randi W. Nuttall



SELLER

Timothy J. Aicardi



BUYER(s)

EXTENSION TO PURCHASE AND SALE AGREEMENT

DATED OCTOBER 16, 2020

SELLER: Randi W. Nuttall

BUYER: Timothy J. Aicardi and/or North Pond LLP

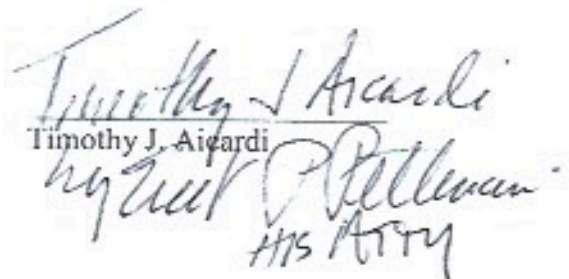
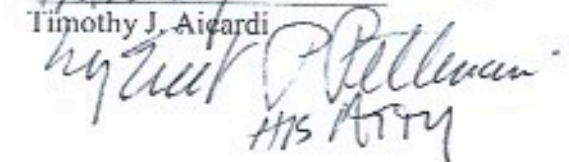
PROPERTY: Hartford Avenue West, Mendon, MA

The parties hereby agree to confirm the closing date set forth in Paragraph 8 of the above-referenced agreement on the above-referenced matter, now scheduled for no later than October 31, 2020, shall be extended to an extended date of on or before January 31, 2021 time being of the essence of this Agreement. All other terms and conditions of the above-referenced Agreement to remain in full force and effect.

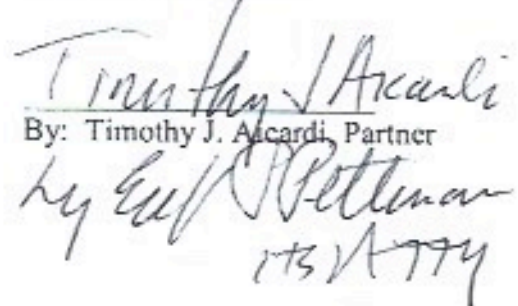
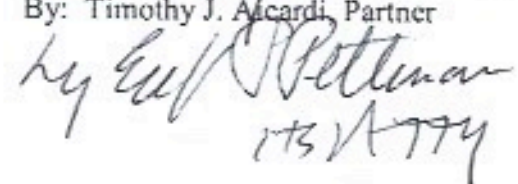
SELLER

BUYER

  
Randi W. Nuttall

  
Timothy J. Aicardi  
by  ATTORNEY

NORTH POND, LLP

  
By: Timothy J. Aicardi, Partner  
by  ATTORNEY