



Town of Stockbridge Special Permit Application (6.1.2)

(\$200 Application Fee plus the cost of publication of notice of public hearing and postage costs paid by applicant prior to hearing)

Application for: Extension, Alteration, Reconstruction, or Change of Use of Nonconforming Structures, Uses and Lots per zoning bylaw section 6.1.2:

Application is hereby made to the **Board of Selectmen** by:

Applicant (name): David and Ruth Epstein

Applicant Signature: /s/ David Epstein by AHG /s/ Ruth Epstein by AHG

Applicant Mailing Address: c/o Alexandra H. Glover, Lazan Glover & Puciloski,
LLP, 785 Main Street, Great Barrington, MA 01230

Applicant phone and email: glover@lazanlaw.com

On the 25 day of October, 2023 for property shown on the Stockbridge

Assessors Map # 205, Lot # 38 Book 6938, Page 315, Zoning District R-2/
LPOD

Owner of property: David and Ruth Epstein

Owner's signature: /s/ David Epstein by AHG /s/ Ruth Epstein by AHG

Address of property: 17 Mahkeenac Terrace, Stockbridge, Massachusetts 01262

Mailing Address: 5516 Center Street, Chevy Chase, Maryland 20815

Description of property: Single-family home

Present use of property: Residential

Project Description: Construction of a 113 square foot raised wood deck

Appropriate Section of Zoning Bylaw: Section 6.1: Nonconforming Structures, Uses and Lots

Describe the reason you believe that the lot and/or structure to be in nonconformance with the current Zoning Bylaw: i.e. lacks frontage, lacks area square footage, height of structure, infringement on setbacks:

The lot has sub minimum frontage and area, and the house is located, in part, in the side setbacks to the north and south.

1. Attach six sets of scale drawings or prepared site plan with measurements showing the existing conditions and proposed changes, including location, size and height of proposed building.
2. Also attach six plot plans showing the locations of all structures and buildings with scaled measurements to all lot lines and between all structures,
3. along with a total of five copies of this application, **six complete sets of documents.**
4. Submit **digital plans** and application to: selectmen@stockbridge-ma.gov

All applications must be accompanied by seven complete sets of documents, all areas of the above form must be completed and submitted to the Town Clerk with the proper fee paid, or the application will be deemed to be incomplete and returned to the applicant.

PROJECT NARRATIVE (10/26/2023)

SPECIAL PERMIT – Section 6.1 Extension of Nonconforming Structure

David and Ruth Epstein

17 Mahkeenac Terrace, Stockbridge

Exhibits:

- A. USGS map of locus (p. 7)
- B. Assessor's Map (p. 9)
- C. Zoning Map (p. 11)
- D. Zoning Table (pp. 13-14)
- E. Deed to David and Ruth Epstein, recorded in the Berkshire Middle District Registry of Deeds in Book 6938, Page 315 on June 18, 2021 (pp. 16-18)
- F. Proposed Deck Site Plan, David & Ruth Epstein, 17 Mahkeenac Terrace, Stockbridge, MA, Foresight Land Services dated 8/29/23, Sheet No. SP-1 (p. 20)
- G. Existing & Proposed Floor Plans and Existing & Proposed Exterior Elevations, Epstein Residence, 17 Mahkeenac Terrace, Stockbridge, MA 01262, Pamela Sandler Architect, dated 6/30/23 (pp. 22-23)

1.0 PROJECT SCOPE

The applicants are David and Ruth Epstein, the deeded owners of the property. Applicants propose to add a small, above-grade deck to the existing single-family home. Ground construction will be limited to a single 6"x6" post on a concrete pier in existing lawn area, no closer to the lake than the current front line of the house, and no closer to the south side setback than the current sideline of the house.

The proposed deck is modest in size, 113 square feet. The deck floor will be permeable (wooden boards a full story above ground level). The size and the design of the deck will be consistent with, and less extensive than, decks on adjacent and nearby homes.

The property is within the R-2 zoning district and the existing structure is located within the Lake and Pond Overlay district (LPOD) as well as within Wetlands Protection Act (WPA) 100-foot buffer zone of the Bank of Stockbridge Bowl (the lake). Applicants have filed a Request for Determination of Applicability with the Conservation Commission and a special permit application with the Planning Board for work within the LPOD.

2.0 EXISTING CONDITIONS

The property contains approximately 0.59 acres on the east side of Stockbridge Bowl. The property has approximately 90 feet of frontage on Stockbridge Bowl and 90 feet frontage on Mahkeenac Terrace. The lot has a 30' grade change sloping gradually down toward the lake. The eastern portion of the lot is more level up to the road. Most of the lot is maintained as lawn interspersed with mature trees.

The lot is developed with two existing structures, a single-family home and a garage. The house is located approximately central to the parcel approximately 85 feet east of Stockbridge Bowl and 164 feet from Mahkeenac Terrace. There is an existing paved driveway that passes the garage and provides parking and access to the house. The garage is outside of the LPOD. The house is serviced by a well and town sewer.

3.0 ZONING

Dimensional Requirements

The parcel fronts on Mahkeenac Terrace and lies in the R-2 Residence zone. The lot is also located in the Lake and Pond Overlay District (LPOD) as it is within 150 feet of the high-water mark of Stockbridge Bowl. Both the lot and the house are preexisting non-conforming.

Again, the lot contains approximately 0.59 acres of land with approximately 90 feet of frontage. The R-2 District requires 2 acres and 250 feet of frontage, and thus the lot is nonconforming in size and frontage.

The existing house is set back 24' from the south sideline; 20' from the north sideline, and 85' from the lakefront high-water mark. The required side setback in the R-2 District is 35', and thus the house is located within both side setbacks. The proposed deck, to be located on the south side of the house, will not encroach any further into the south setback or into LPOD than the existing house.

The current structures conform to lot coverage requirements in the R-2 District and the LPOD, and the addition of the proposed deck would not increase the overall lot coverage, or the coverage in the LPOD, beyond what is permitted.

Please refer to the Zoning Table, attached as Exhibit D.

Section 6.1.2: Requirements for Extension, Reconstruction or Change in Use

The proposed deck is an extension or a residential pre-existing nonconforming structure. The Board of Selectmen may authorize a special permit for such an extension under Section 6.1 of the Stockbridge Zoning Bylaw.

Section 6.1.2, Requirements for Extension, Reconstruction or Change in Use, provides in relevant part:

The Board of Selectmen may authorize by special permit, any change, extension, alteration or reconstruction of a pre-existing nonconforming structure or use... If such change, extension, alteration or reconstruction will not be in greater nonconformity with open space, yard and off-street parking requirements or any other requirement of this bylaw, provided that the Selectmen find in accordance with Chapter 40A of the General Laws, that such extension, alteration, reconstruction will not be more detrimental than the pre-existing nonconforming structure or use to the neighborhood.

Under the Bylaw, the proposed deck is by definition “deemed not to be in greater nonconformity with open space and yard requirements” as it “is no closer to the lot line than the closest point of the existing structure and the resulting structure complies with the applicable maximum lot coverage requirement set forth in Section 5.5.” Section 6.1.2(c).

Thus, under Section 6.1.2, the sole question before this Board is whether the proposed deck is more detrimental¹ to the neighborhood than the current pre-existing nonconforming house. The proposed deck would have an area of a mere 113 square feet. The deck floor would have a permeable wooden floor located a full story above ground level and would be supported by a single post. No lighting (other than access lighting at the door leading to the deck for safety purposes) or landscaping is proposed. This deck, which would be accessed only from inside the house, would have a negligible impact, if any at all, on the neighborhood.

The proposed deck would not be more detrimental to the neighborhood than the existing house.

Section 6.3.6 Findings Required

Before granting a special permit, the Select Board, as special permit granting of authority, shall find that the proposed use:

¹ The standard set forth in the Zoning Act, M.G.L. c. 40A, §6, is whether the proposed change to the nonconforming structure is “substantially” more detrimental to the neighborhood. While this standard would appear to be more lenient than the language in the Stockbridge Zoning By-Laws, any distinction is irrelevant in this case because the proposed deck is so modest.

- a. *Is in compliance with all provisions and requirements of this Bylaw, and in harmony with its general intent and purpose;*

The proposed deck requires the following permits in order to be in compliance with all provisions and requirements of this Bylaw: This special permit under Section 6.1 and a special permit from the Planning Board for work in the LPOD. The Applicants have submitted a Request for Determination of Applicability to the Conservation Commission.

The small unenclosed deck, lit only as appropriate for safety purposes and supported by a single post, is proposed to be located within a corner of the existing structure and will not protrude beyond the side or rear of the existing dwelling. As such, the deck would be in harmony with the general intent and purposes of this Bylaw as set forth in Section 1.3.

- b. *it is essential or desirable to the public convenience or welfare at the proposed location;*

The proposed deck is more modest than many of the decks in the neighborhood and lake area. The deck would provide the homeowners with a small additional outdoor space with negligible impact on the neighborhood. Projects like the proposed deck that improve homes in Stockbridge with minimal impact on neighbors or the general public are desirable and have no negative aspect.

- c. *will not be detrimental to adjacent uses or to the established or future character of the neighborhood;*

As stated above, the small unenclosed deck, lit only as appropriate for safety purposes and supported by a single post, is proposed to be located within a corner of the existing structure and will not protrude beyond the side or rear of the existing dwelling. It would not be in any way detrimental to the adjacent uses or the character of the neighborhood now or in the future.

- d. *Will not create undue traffic congestion or unduly impair pedestrian safety;*

The proposed deck will not impact traffic or pedestrian safety in any way.

- e. *Will not overload any public water, drainage, or sewer system or any other municipal facility to such an extent that the proposed use of any existing use in the immediate area or in any other area of town will be unduly subjected to the hazards affecting public health, safety or general welfare.*

The existing house is serviced by town sewer and private well. The proposed deck will not impact any municipal facility and will use no new or additional municipal services.

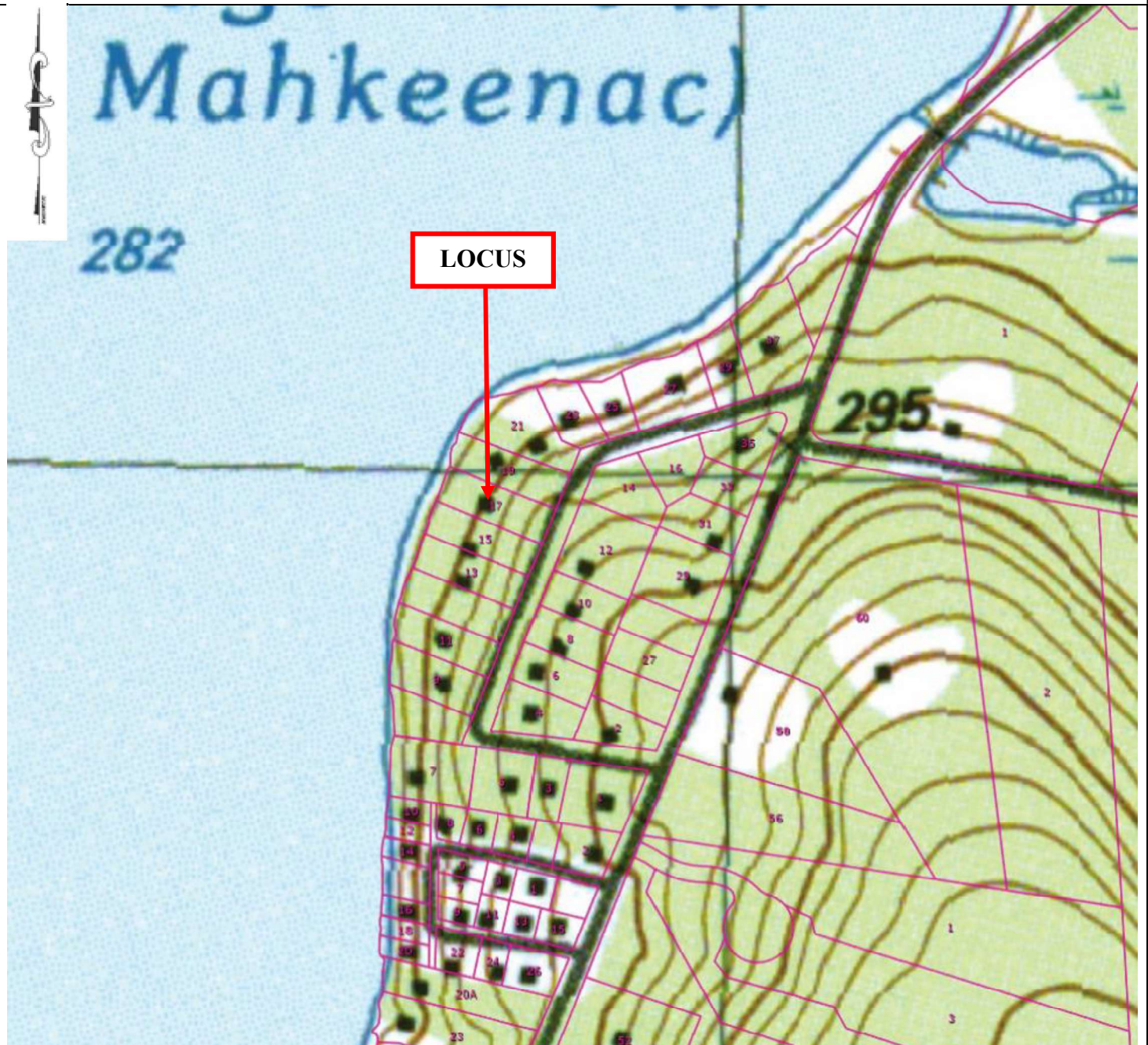
Submitted on behalf of David and Ruth Epstein by:

A handwritten signature in blue ink that reads "Alexandra Glover". The signature is written in a cursive, flowing style.

Alexandra H. Glover, Esq.
Lazan Glover & Puciloski, LLP
785 Main Street
Great Barrington, MA 01230
(413) 644-0200
glover@lazanlaw.com

EXHIBIT A

UNITED STATES GEOLOGICAL SURVEY MAP



N.T.S.

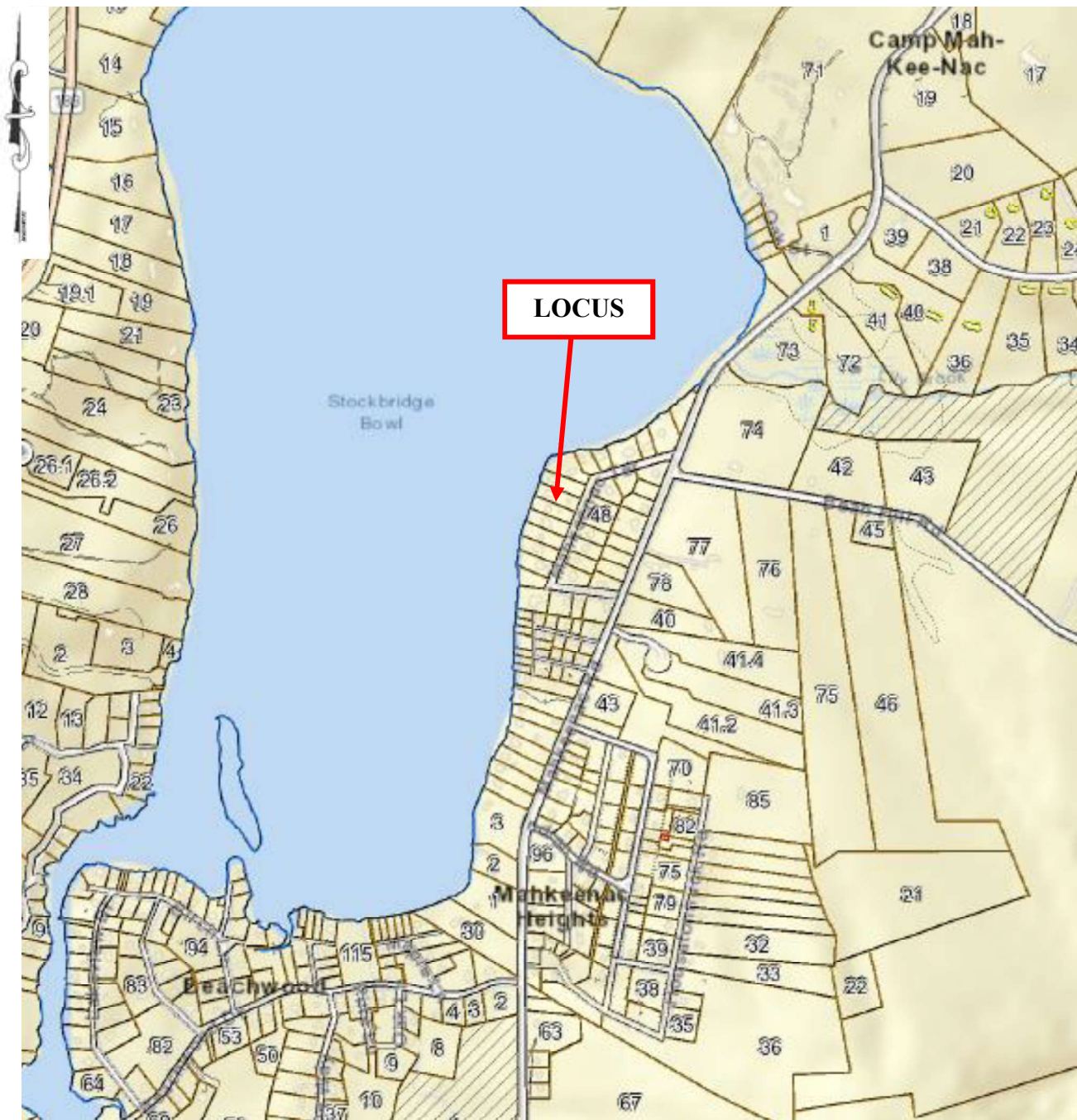
FORESIGHT LAND SERVICES, INC.
ENGINEERING • SURVEYING • PLANNING
1496 West Housatonic Street
Pittsfield, MA 01201

Figure 1
USGS Stockbridge QUAD, 1987 ed.
Source MASSGIS

17 Mahkeenac Terrace
Stockbridge, MA

EXHIBIT B

ASSESSOR'S MAP



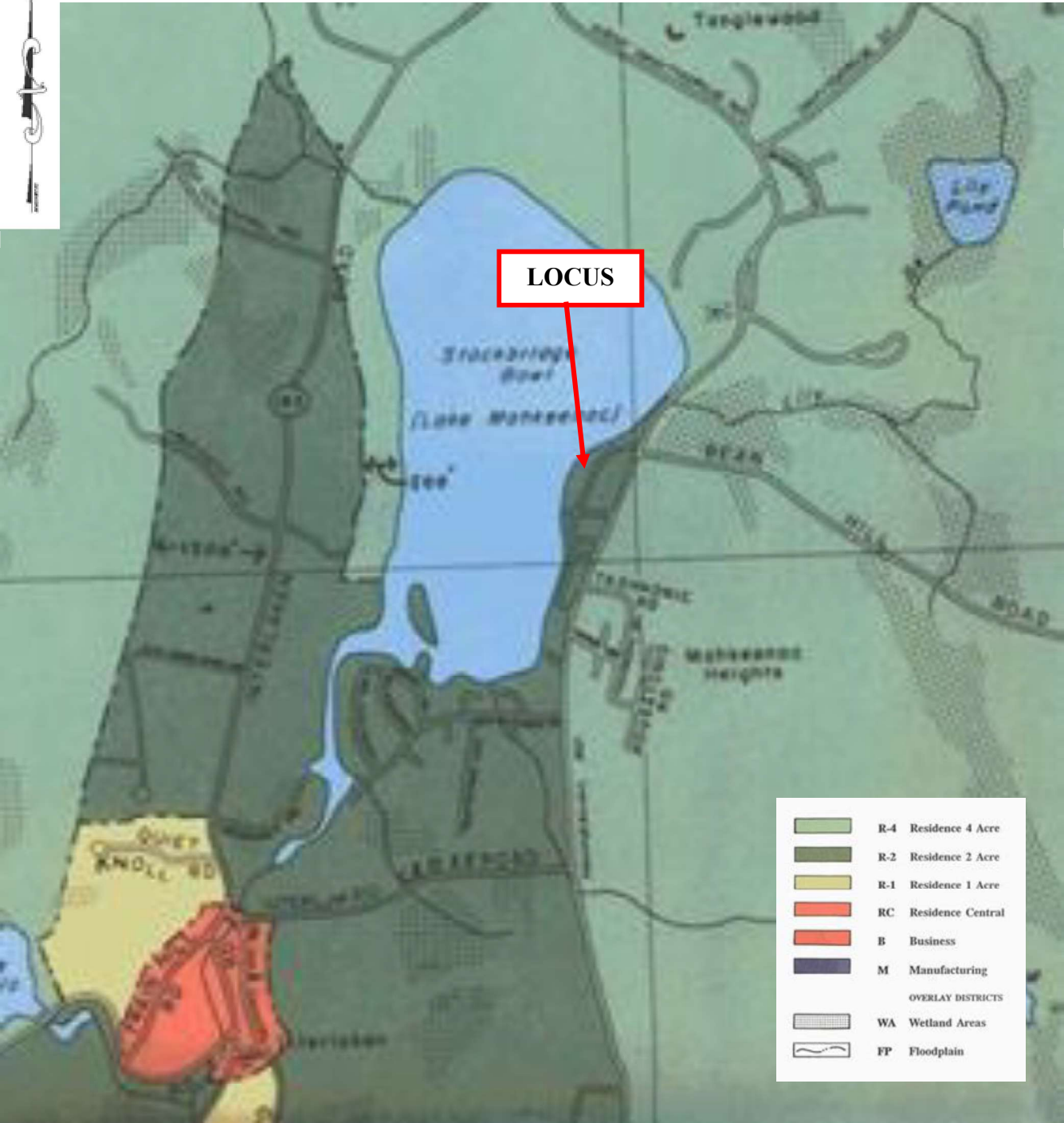
N.T.S.

FORESIGHT LAND SERVICES, INC.
ENGINEERING • SURVEYING • PLANNING
1496 West Housatonic Street
Pittsfield, MA 01201

Figure 5
Stockbridge
Map #205, Lot #38
Source: AxisGIS from Stockbridge Assessor's Site
17 Mahkeenac Terrace
Stockbridge, MA

EXHIBIT C

ZONING MAP



N.T.S.

FORESIGHT LAND SERVICES, INC.
ENGINEERING • SURVEYING • PLANNING
1496 West Housatonic Street
Pittsfield, MA 01201

Figure 6
Stockbridge Zoning Map
Source: Stockbridge Bylaws

17 Mahkeenac Terrace
Stockbridge, MA

EXHIBIT D

ZONING TABLES

EPSTEIN PROPERTY - 17 Mahkeenac Terrace, Stockbridge, MA 01262

SETBACKS AND HEIGHT

| ZONING SETBACKS | REQ. | EXISTING RESIDENCE | PROPOSED RESIDENCE |
|------------------------|-------------|---------------------------|-----------------------------|
| FRONT: EAST | 40' | 164' ± | NO CHANGE |
| SIDE: NORTH | 35' | 20' ± | NO CHANGE/ NONCONFORMING |
| SIDE: SOUTH | 35' | 24' ± | NO CHANGE/ NONCONFORMING |
| REAR: WEST | 35' | 85' ± | NO CHANGE |
| HEIGHT | 35' | <35' | NO CHANGE |

EXISTING LOT COVERAGE AND MASS, R-2 DISTRICT

| | COVERAGE ALLOWED, 10% | MASS ALLOWED, 20% |
|--|----------------------------------|------------------------------|
| EPSTEIN PROPERTY, TOTAL LOT SIZE: 25,700.4 (0.59 ACRES) | 2,570 SF | 5,140 SF |

| EXISTING – RESIDENCE | COVERAGE | MASS |
|---------------------------------|------------------------|-------------|
| FIRST FLOOR: | 1,421 SF | 1,421 SF |
| DECK & PORCH: | 50 SF | 50 SF |
| SECOND FLOOR: | 120 SF CANTILEVERED | 1,541 SF |
| BASEMENT: | 0 SF | 634 SF |
| GARAGE: | ±460 SF | ±460 SF |

| | | |
|---|--------------------|---------------------|
| TOTAL EXISTING AREA: | 2,050± SF | 4,100± SF |
| TOTAL PERCENTAGE: (ENTIRE LOT) | 8.0 % (Conforming) | 15.9 % (Conforming) |

PROPOSED LOT COVERAGE AND MASS, R-2 DISTRICT

| PROPOSED – RESIDENCE | COVERAGE | MASS |
|---------------------------------|------------------------|-------------|
| FIRST FLOOR: | 1,421 SF | 1,421 SF |
| DECK: | 162± SF | 162± SF |
| SECOND FLOOR: | 120 SF CANTILEVERED | 1,541 SF |
| BASEMENT: | 0 SF | 634 SF |
| GARAGE: | 460± SF | 460± SF |

| TOTAL PROPOSED | COVERAGE | MASS |
|---|--------------------|---------------------|
| TOTAL AREA: | 2,163± SF | 4,218 ± SF |
| TOTAL PERCENTAGE: (ENTIRE LOT) | 8.4 % (Conforming) | 16.4 % (Conforming) |

LOT COVERAGE AND MASS, LPOD

| | |
|--|-----------------|
| 15% COVERAGE ALLOWED IN THE LPOD | 2,085 SF |
| AREA OF LAKE & POND OVERLAY DISTRICT (LPOD) | ±13,900 SF |

| LPOD COVERAGE | EXISTING | | PROPOSED | |
|--|-----------------|--------------------|-----------------|---------------------|
| | AREA | PERCENT OF LPOD | AREA | PERCENT OF LPOD |
| HOUSE | 1,421 SF | 10.2 % | 1,421 SF | 10.2 % |
| DECK(S) – EXISTING AND PROPOSED | 50 SF | 0.4 % | 162± SF | 1.2 % |
| TOTAL | 1,471 SF | 10.6 % | 1,583± SF | 11.4 % (Conforming) |

EXHIBIT E



Bk: 6938 Pg: 315 Doc: DEED
Page: 1 of 3 06/18/2021 11:48 AM

KNOW ALL PERSONS BY THESE PRESENTS

WESTON HICKS AND ANN HICKS, a married couple, of Stockbridge, MA, for consideration paid of **THREE MILLION SIX HUNDRED THOUSAND (\$3,600,000.00) DOLLARS** grant to **DAVID EPSTEIN AND RUTH EPSTEIN**, Husband and Wife, as **TENANTS BY THE ENTIRETY**, and whose residential and post office address is 5516 Center Street, Chevy Chase, MD 20815, with **QUITCLAIM COVENANTS**, the property situated in the Town of Stockbridge, Berkshire County, Massachusetts, more particularly bounded and described as set forth in Schedule A attached and made a part hereof.

MASSACHUSETTS EXCISE TAX
Middle Berkshire ROD 001
Date: 06/18/2021 11:48 AM
Ctrl# 041307 09989 Doc# 00979182
Fee: \$16,416.00 Cons: \$3,600,000.00

Locus: 17 Mahkeenac Terrace, Stockbridge, MA

SCHEDULE A

The land in Stockbridge, Berkshire County, Massachusetts, bounded and described as follows:

Being lot numbered twelve (12) as shown on plan of Lake Mahkeenac Terrace, Stockbridge, Massachusetts, laid out by Mahkeenac Associates, Inc. July 8, 1952, A.J. Kohlhofer, Engineer, recorded in the Berkshire Middle District Registry of Deeds in Book 417-B, Page 145, together with all the right title and interest of the grantors in and to any land lying between the premises conveyed and low water mark of Lake Mahkeenac.

Said premises are subject to the easements and restrictions, insofar as the same are now in force and applicable with all of the rights and privileges contained in deed of Stanton J. McCroary, et ux, dated March 4, 1963, and recorded in Berkshire Middle District Registry of Deeds, Book 758, Page 434.

Subject to a Special Permit to Weston Hicks and Ann Hicks dated February 26, 2014 and recorded in said Registry in Book 5365, Page 216 on April 18, 2014.

As per M.G.L. c188 §13, the Grantors, under oath and subject to the pains and penalties of perjury, do hereby depose, state and certify that: (i) we release all rights of Homestead in the subject realty, (ii) that no spouse, no non-owner spouse, former spouse, or any other person resides in the home, and (iii) at the time of delivery of this deed, no spouse, former spouse, or any other person is entitled to claim the benefit of an existing estate of homestead.

Being the same premises conveyed to Weston Hicks and Ann Hicks by deed of Robert A. Yawitt and Phyllis S. Yawitt dated December 19, 2012 and recorded in the Berkshire Middle District Registry of Deeds at Book 5108, Page 60 on December 24, 2012.

This conveyance creates no new boundaries.

Real estate taxes for the current fiscal year have been apportioned between the parties hereto as of the date of delivery of this deed.

Witness our hands and seals this 2nd day of June, 2021.

Weston Hicks
Weston Hicks

Ann Hicks
Ann Hicks

COMMONWEALTH OF MASSACHUSETTS
BERKSHIRE, ss

On this 2^d day of June, 2021, before me, the undersigned notary public, personally appeared, **Weston Hicks and Ann Hicks**, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

Charles J. Ferris

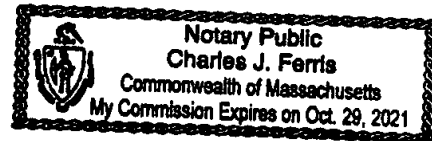
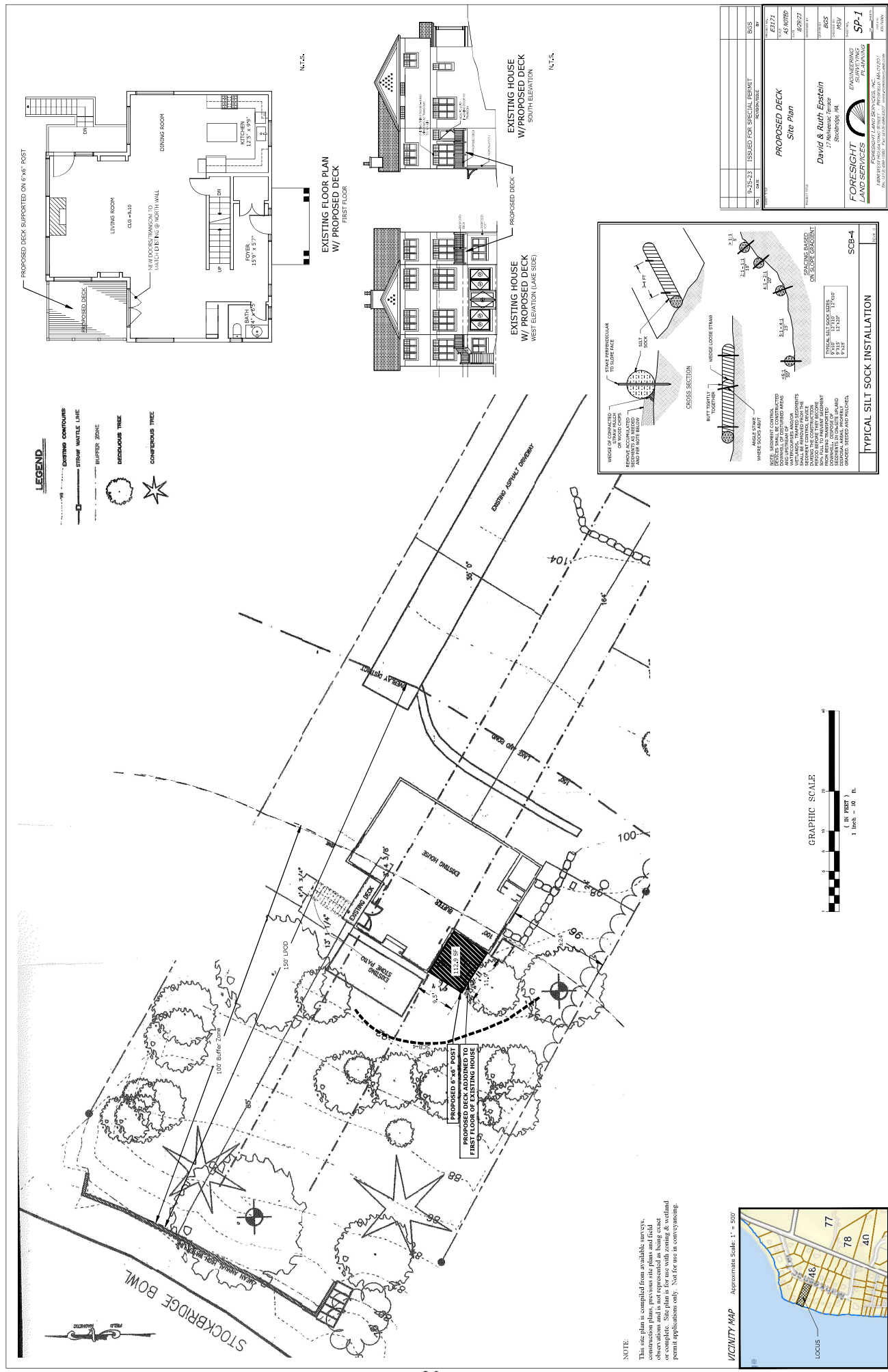
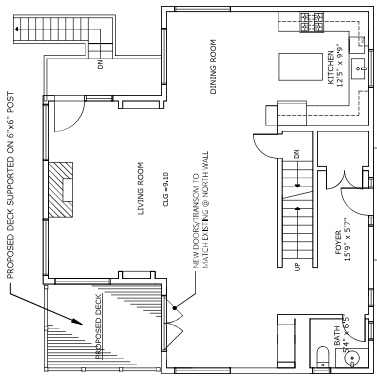


EXHIBIT F

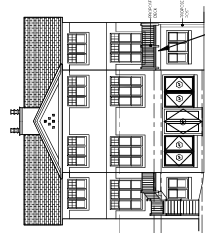


- LEGEND**
- EXISTING CONTOURS
 - STRAW BATTLE LINE
 - SLIPPED ZONE
 - DECIDUOUS TREE
 - CONIFEROUS TREE

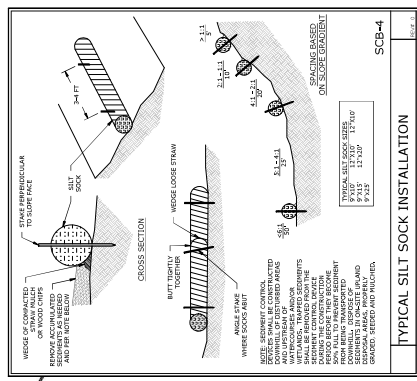
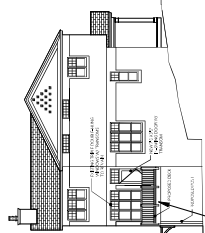
EXISTING FLOOR PLAN
W/ PROPOSED DECK
FIRST FLOOR



EXISTING HOUSE
W/ PROPOSED DECK
WEST ELEVATION (LARGE SIDE)



EXISTING HOUSE
W/ PROPOSED DECK
SOUTH ELEVATION



| | | | | |
|------------------|---------------------|---------------------------|--------------------|--------------------|
| DATE | 9-12-23 | ISSUED FOR SPECIAL PERMIT | BSS | SP-1 |
| BY | DAVID & RUTH EISEN | DESIGNED BY | DAVID & RUTH EISEN | DAVID & RUTH EISEN |
| PROJECT NO. | 2023-001 | PROJECT NAME | PROPOSED DECK | SP-1 |
| PROJECT LOCATION | STOCKBRIDGE, MA | PROJECT TYPE | RESIDENTIAL | RESIDENTIAL |
| PROJECT OWNER | DAVID & RUTH EISEN | PROJECT ADDRESS | 40 STOCKBRIDGE AVE | 40 STOCKBRIDGE AVE |
| PROJECT PHONE | 508-555-1234 | PROJECT FAX | 508-555-1234 | 508-555-1234 |
| PROJECT EMAIL | DAVID@DAVIDRUTH.COM | PROJECT WEBSITE | WWW.DAVIDRUTH.COM | WWW.DAVIDRUTH.COM |



NOTE:
This site plan is compiled from available surveys, construction plans, previous site plans and field observations and is not represented as being exact. It is intended for informational purposes only and should not be used for any other purpose without the prior written consent of the engineer. Not for use in surveying.

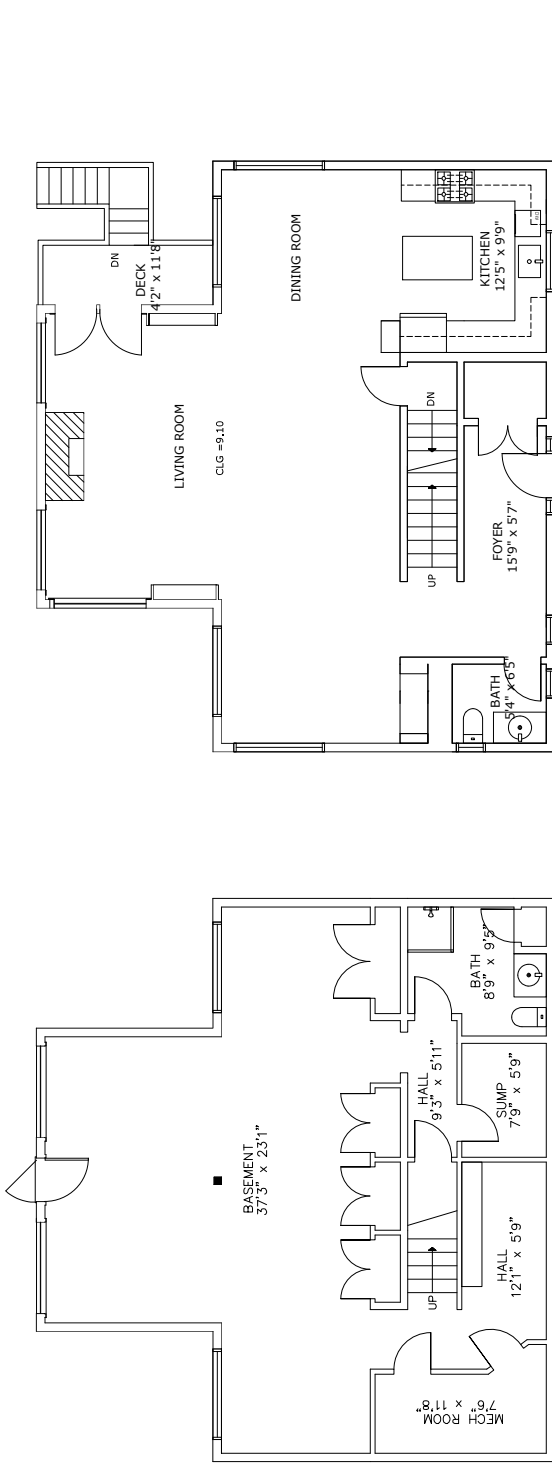
EXHIBIT G

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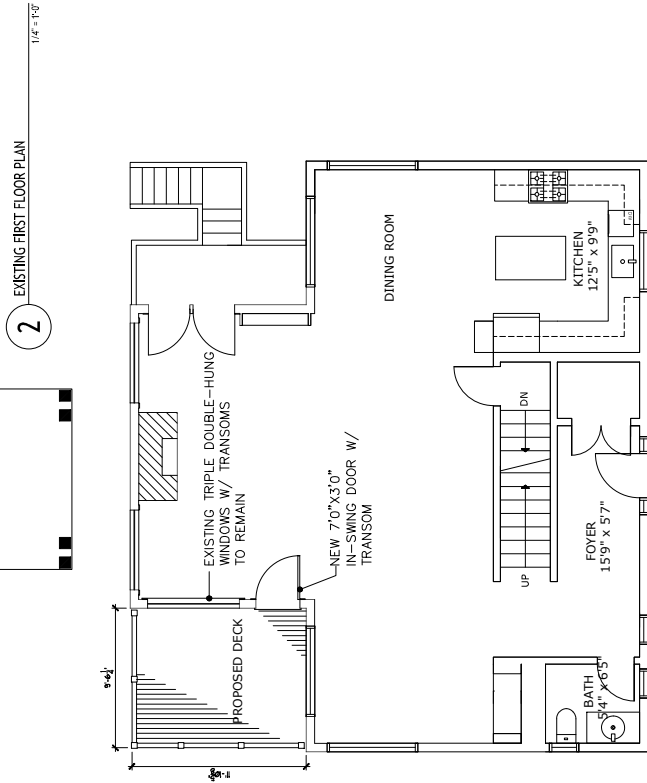
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|---|
| <p>Drawing Title:</p> <p>EXISTING & PROPOSED FLOOR PLANS</p> |
|---|

| | | |
|------------------|-----------|-------|
| Seal & Signature | Scale: | _____ |
| | Dater: | _____ |
| | Drawn By: | _____ |
| | | _____ |

Check By: _____
OPT. A

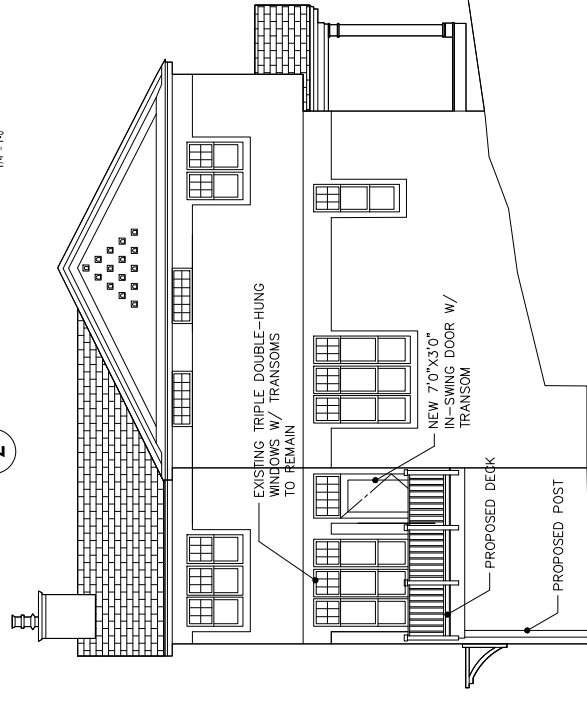
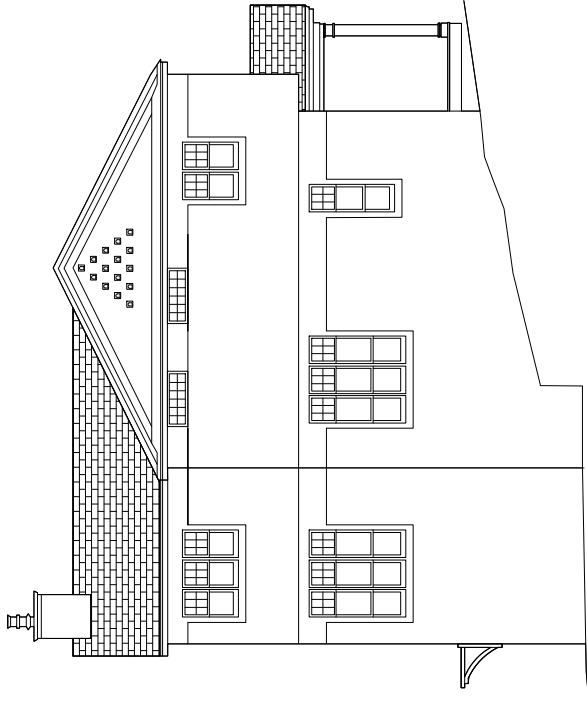
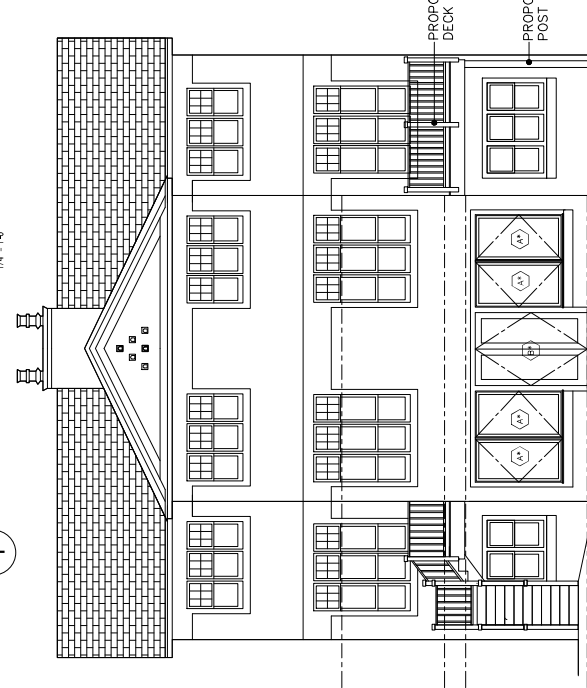
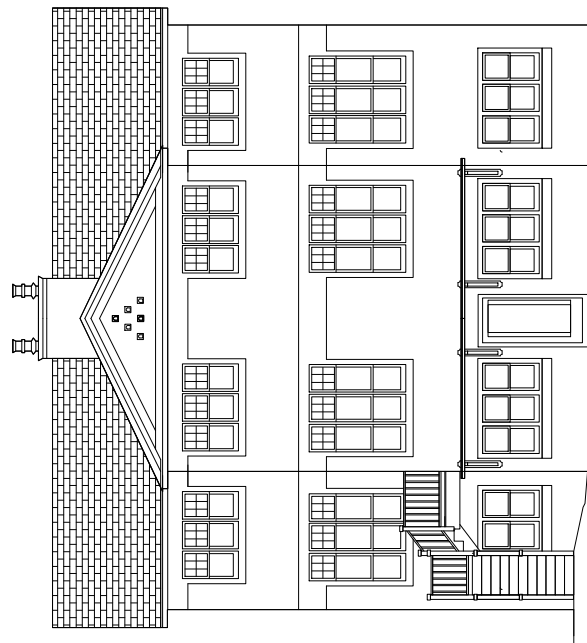


1 EXISTING BASEMENT FLOOR PLAN



PROPOSED BASEMENT FLOOR PLAN - OPTION A



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Boat Launches 2023

Total Launches 4,900

Launches of Power Boats 356 7%

Launches non-power Boats 4544 93%

| Local Town Boat Launches | | Local Towns % | Total All Launches % |
|---------------------------------|------|------------------|-------------------------|
| Stockbridge | 530 | 21 | 11 |
| Lenox | 1022 | 40 | 21 |
| Lee | 253 | 9 | 5 |
| Pittsfield | 349 | 13 | 7 |
| Dalton | 69 | 3 | 1 |
| GB | 74 | 3 | 1 |
| W. Stockbridge | 148 | 6 | 3 |
| Richmond | 112 | 4 | 2 |
| Total Local | | 2557 | |
| Total All | | 4900 | |

1. Last year we had about 6,000 launches
 2. This year 4900
- Reasons for less launches
3. Due to wet summer
 4. No Josh



Commonwealth of Massachusetts
Department of Fish and Game
100 Cambridge Street, Suite 620
Boston, Massachusetts
02114



Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

Thomas K. O'Shea
Commissioner

November 8, 2023

Stockbridge Select Board
Stockbridge Town Hall
P.O. Box 417
Stockbridge, MA 01262-0417

Dear Select Board Members:

The Massachusetts Department of Fish and Game (DFG) is considering the purchase the fee interest in land located in the Town of Stockbridge. This letter is intended to serve as written notice of the DFG's interest in acquiring this property.

The property under consideration contains 9 (+/-) acres of wildlife habitat. Enclosed is a locus Map Track No. 2024-1-5 that depicts the property in which the DFG is interested. The current use of the property is predominantly open space in its natural condition. If the acquired, DFG, working through its Divisions of Fisheries and Wildlife, will retain the property as open space, protect and manage the wildlife resources, and provide public access for passive outdoor recreational opportunities including wildlife observation, hunting, fishing and trapping.

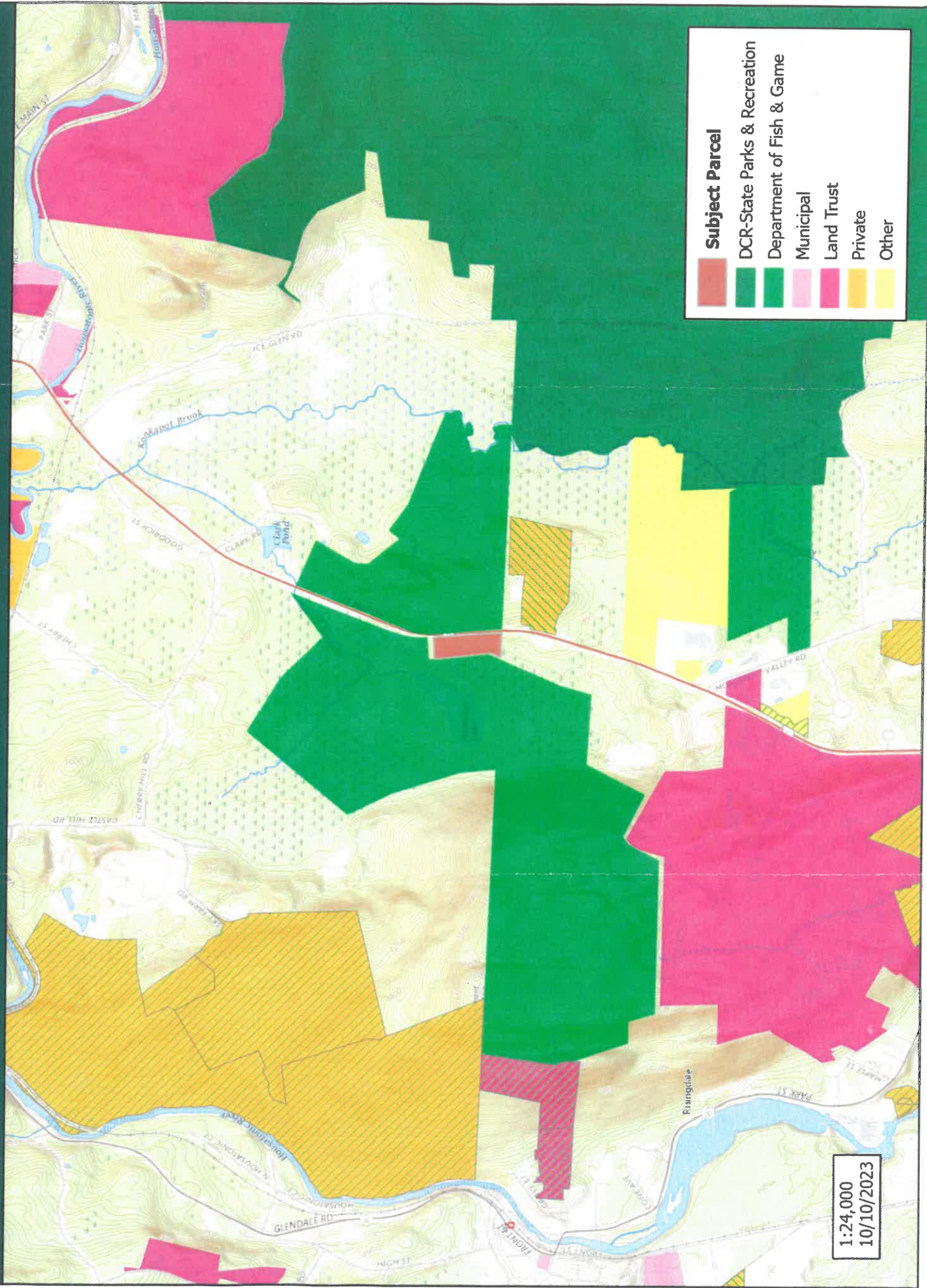
Payment of Property Taxes on DFG Fee Interest Acquisitions:

1. For DFG fee acquisitions completed from January 1 to June 30: Once acquired, DFG will pay the remaining real estate taxes on the property for that fiscal year, and the full real estate tax bill on that property the following fiscal year.
2. For DFG fee acquisitions completed from July 1 to December 30: Once acquired, DFG will pay the remaining real estate taxes on the property for that fiscal year.

Sincerely,

Peter J. Milanesi
Land Acquisition Agent
Massachusetts Division of Fisheries and Wildlife

Enclosures: Map Track No. 2024-1-5



Paint Stewardship Bills H.823, S.542, and S.551

Thank you for this opportunity to share information about the environmentally important Paint Stewardship legislation presently before our legislature for the 7th time. My name is Tom Irwin. I live at 54 Central Ave in Dalton, MA. I am a retired chemical engineer and physician who while a member of the Dalton Waste Management and Recycle Committee learned of Paint Stewardship during a tour of a NY Transfer Station. The concept seemed perfect and after visiting CT, VT, and NY to confirm the program was well received by retailers and residents, I became an advocate for this environmental legislation in MA and joined with 3 other concerned individuals.

Why is Paint Stewardship needed?

Massachusetts generates 5.9 million tons of trash annually but only has 3.2 million tons of annual trash incineration capacity. The remaining trash needs to be landfilled, but with only 5 active municipal landfills in Massachusetts and no new landfills planned, the majority of the remaining trash needs to be hauled out of state to places as far away as Ohio, western New York, and South Carolina. This is expensive and has a large carbon footprint. A Product Stewardship approach applied to waste streams such as paint, mattresses, plastics, and packaging, which are amenable to this approach, will help us begin decreasing this expensive burden.

What is Paint Stewardship?

Paint Stewardship is a program that allows residents to discard unwanted liquid Latex and Oil-based paints without cost at participating paint retail stores any day the stores are open. The retailers collect the returned paint in totes and when a tote is full call PaintCare, the non-profit created by paint manufacturers to manage the discarded paint. PaintCare then picks up the full tote and hauls it to a paint reprocessing plant where the returned paint is rebled and sold to entities like Restore and Habitat for Humanity. The Consumer's part is paying an extra fee of up to \$1 per gallon at time of purchase. The exception is Vermont where more paint is returned than expected based on amount purchased, likely the result of people from MA and NH, which has caused the fee to be increased to \$1.35 per gallon.

What benefits will our community see from Paint Stewardship?

1. It will be a service your residents will value. The desire to recycle rather than discard has resulted in between 30% and 60% of Latex returned to the Enfield, CT Sherwin Williams store coming from MA residents. Also notable, 92% of 735 MA residents dropping items off at the 7 HHW Days that I spoke with signed the petition encouraging their legislator to become a Bill co-sponsor. This suggests that 92% of your residents with unwanted paint, and likely there are many, would support this Bill.
2. Paint Stewardship begins addressing the solid waste issue by decreasing one category of waste going to our landfills.
3. It will also significantly decrease a toxic waste that occurs more often than we would like when oil-based paint is discarded inappropriately
4. It will present no cost to municipalities and will decrease HHW day costs, as demonstrated in our neighboring states of CT, RI, ME, VT and NY who have the law
5. It will decrease greenhouse gases generated by the paint industry by approximately 4%
6. And finally, it likely will be a model for future Product Stewardship legislation that will address additional items, including but not limited to mattresses, solar panels, and packaging.

Why hasn't Paint Stewardship passed previously?

The problem stems from there being between 6,000 and 7,000 Bills considered each legislative session. This compels consideration of cost savings, which for Paint Stewardship is only \$2M annually, and public demand, which for Paint Stewardship isn't sufficient as a result of too few people being aware of the law. While gathering over 3000 petition signatures in support of the law, my experience has been that less than 2% of Massachusetts residents had ever heard of the law.

Paint Stewardship Bills H.823, S.542, and S.551

Next Steps

Presently there are 27 representatives and 11 senators sponsoring or co-sponsoring the Paint Stewardship Bills, including all legislators from Berkshire County, which is good. However, when the Bill arrives at the Ways & Means Committee early next year, as it has 6 times previously, it will be important to have as many letters as possible from municipalities encouraging the Committee chairs to view the Paint Stewardship legislation favorably and send it to the legislative floor for a vote. Please consider adding your community's support for this future need with a resolution to the State legislature or completing the endorsement form electronically.

Paint Stewardship Summary

Bills: H.823 “An Act relative to paint recycling”
S.542 “An Act establishing safe paint stewardship”
S.551 “An Act relative to paint recycling”

Paint Stewardship laws have been passed in our neighboring states of ME, RI, CT, NY, VT, as well as 6 more states plus Washington D.C. and are working well there. These laws have language and responsibilities that all parties to the law – producers, retailers, consumers, and state government – support.

Key Benefits of Paint Stewardship:

1. Provides a service for constituents that they will value
2. Has no cost to municipalities or State government
3. Proven in other states for over a decade
4. Will significantly decrease the inappropriate discarding of toxic oil-based paint
5. Will decrease greenhouse gases generated by the paint industry by approximately 4%
6. Likely will be a model for future Product Stewardship legislation such as mattress
7. Begins addressing the solid waste issue by decreasing the total waste going to landfills by 1/2%

Notable features of Paint Stewardship:

1. Participation of Paint Retailers and Transfer Stations as a paint collection site is VOLUNTARY
2. There are no hidden fees: the fee can be specifically listed on the receipt as all other states allow and retailers in most states have done
3. All costs for hauling and reprocessing are covered by a fee of less than \$1/gallon, charged consumers at time of purchase. Consumers gladly pay the fee up front in return for the convenience when discarding paint.
4. People do not flock to other states to purchase paint to save the \$1 fee. They have not come flocking to Massachusetts from contiguous states to avoid paying the fee in their states. However, Mass residents DO go across borders to participating states for free recycling paid for by those states. This is not fair to our neighbors.
5. More than 80% of collected Latex can be rebled and sold to entities such as Habitat for Humanity and Restore, not discarded. Work is ongoing to increase domestic sales outlets.
6. Big box stores are not opposed to Paint Stewardship, they are neutral, although they typically don't sign up to be collection sites.
7. Small retailers in participating states LIKE the program once it gets going because:
 - It brings in foot traffic that might otherwise have gone to big box stores
 - Pick up of full containers is quite responsive: generally, 2-5 days
 - Consumers are appreciative
 - PaintCare will run paint-only collections to clear out backlogs of legacy paints
 - Retailers are allowed to set a limit such as 5 gallons on how much they will accept from a customer at one time
 - Retailers can save some money by not having to pay to dispose of their own off-color mixes or returns, and perhaps even use the space in the back for new collection that was previously set aside for this consolidation.
8. Paint Stewardship has an excellent track record. It has operated successfully in Connecticut since 2013, Rhode Island since 2014, in Vermont and Maine since 2015 and in New York since 2021.

Mass. Legislature closes out least productive period in decades

By [Samantha J. Gross](#) and [Matt Stout](#) Globe Staff, Updated November 29, 2023, 5:44 a.m.
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Members of public employee unions rallied in front of the State House last week.
PAT GREENHOUSE/GLOBE STAFF

The caller was desperate. After seven years of paying her rent on time, through two rent increases during the pandemic, she said, her landlord last week delivered an eviction notice.

"I have not been able to find anything affordable in my area," Maureen, who identified herself by her first name, pleaded to Governor Maura Healey during the Democrat's monthly GBH radio appearance Monday. "I've been there for 18 years in Tyngsboro."

Healey said she understood. She acknowledged that residents across the state are similarly struggling. "Maureen and her plight is, like, Example A of why we need to pass the Affordable Homes Act," Healey said, referring to a sweeping housing bond bill she [introduced in October](#) — officially putting the onus on the Legislature.

When that could be is anyone's guess. Nearly 11 months after it convened, the Legislature has failed to move proposals to Healey's desk that would address some of the state's most pressing issues — housing, gun control, and oversight of the beleaguered MBTA. And by Wednesday, lawmakers hadn't yet sent Healey a nearly \$3 billion spending bill designed to close out last fiscal year, a proposal that includes hundreds of millions in funding for homeless children and families.

Such a plodding pace is not new on Beacon Hill; just two years ago, one national study deemed the Massachusetts Legislature the least effective state legislative body in the country. Tension and power dynamics among lawmakers also contribute to glacial policy making, leading this session to [divorced joint committees](#) and [backroom infighting](#) over committee rules that, at times, have spilled into the public eye.

Related

Massachusetts lawmakers fail to reach deal on shelter funding in final formal session of the year. Migrant families in Massachusetts sit in limbo while politicians debate shelter solutions: ‘Do your job!’ Frustration builds as Legislature’s talks on spending bill drag on.

But the dysfunction has reached a new level. In the House, where any spending bill must originate, lawmakers have taken fewer votes at this point in their two-year session than any other going back two decades, a Globe review found. And it comes at a time of an escalating statewide housing crisis that advocacy groups say is screaming for a more urgent legislative response.

“Actions speak louder than words,” said Chris Norris, executive director of [Metro Housing|Boston](#), which administers rental assistance programs and helps connect people with housing. “Folks tell us there is urgency. But the question is: Do the actions demonstrate that it is an urgent issue to be addressed? We have seen more deliberation, and less action.”

In just a year’s time, the pain wrought by the housing crisis has intensified by nearly every metric. There have been more than 35,000 eviction cases filed in the state’s housing court so far in 2023, a [25 percent jump](#) from the same point last year, according to court data. The state has fielded more than 122,000 applications this year from low-income families for a rental assistance program known as RAFT. A crush of migrant families has pushed the emergency shelter program to unprecedented — and officials say, unsustainable — levels.

The budget the Legislature passed this summer includes major increases, such as a 27 percent boost in funding for RAFT alone, and [made permanent](#) a pandemic-era renter protection law. But it’s unclear whether the Legislature will seek to bolster those programs or others geared toward low- and middle-income housing on a wider scale before formal sessions are scheduled to wrap up next July.

In statements Tuesday, House Speaker Ronald Mariano and Senate President Karen E. Spilka defended their records, boasting accomplishments made in the budget, as well as the passage of major bills such as a tax overhaul that expanded credits for families, seniors, renters, and low-income residents. Mariano added that the number of bills passed isn’t representative of the breadth of work accomplished, as many bills package together various policies.

“The challenges we face as a Commonwealth are complicated — and reaching consensus on the best solutions takes time,” said Gray Milkowski, a spokesperson for Spilka, an Ashland Democrat. “We have a two year session, and are confident we will have a productive 2024 as we continue to address the most pressing issues before us.”



Two men conversed in the halls of the Massachusetts State House while lawmakers deliberated on high-stakes bills on the final evening of the two-year formal legislative session on July 31, 2022. CARLIN STIEHL FOR THE BOSTON GLOBE

The pattern of inefficiency sets Massachusetts apart. According to a [2021 study](#) by Washington, D.C., information company FiscalNote, Massachusetts had the lowest ratio of bills passed to bills introduced in the country. A bill introduced in Colorado, for instance, was nearly 200 times more likely to be enacted than one introduced in Massachusetts.

Massachusetts passed 0.41 percent of bills introduced in 2021, making it the [least effective state in the country](#), according to the study.

The still-pending supplemental budget has become emblematic of the Legislature's slow-moving gears. The emergency shelter system is staggering amid a flood of homeless and migrant families; in at least one scenario posed by the Healey administration, it could run out of money by January. The Legislature also needs to pass the \$2.8 billion supplemental budget to officially close the books on the fiscal year that ended nearly five months ago.

But lawmakers remain locked up in closed-door negotiations, leaving \$250 million for the shelter program in limbo two weeks after the Legislature began its seven-week holiday break.

The package also includes nearly \$400 million for raises for thousands of public employees, for which unions already bargained. Powerful public sector unions like the Massachusetts Teacher's Union and the AFL-CIO are so peeved by the slowdown they

are asking lawmakers to sign on to a letter prodding leadership, according to a draft copy obtained by the Globe.

“Many of these workers have gone years without a raise despite providing vital services to the Commonwealth,” the draft letter to both House and Senate Ways and Means chairs reads. “As their elected representatives, we owe them quick and decisive action immediately.”

Peter Enrich, a former law professor at Northeastern who served as general counsel to the state’s Executive Office for Administration and Finance, said supplemental budgets like the one up for debate are routine bills. But leadership exercises control by rolling in other items and leaving major bills until the last minute, he said, giving rank-and-file members little time to debate or hash things out.

“It’s frankly shameful,” said Enrich, who helps lead [a coalition](#) promoting legislative transparency. “The real impacts — the families who don’t know how their shelter is being taken care of or the employees coming into the holiday season without the money they have been owed for months — it’s really unacceptable.”

Whether or not the supplemental bill passes this year, this session still will rank among the least productive first years of session in decades. The House is poised to end the year having taken 70 roll call votes, the lowest at this point in the two-year session this century. Just four years ago, state representatives took twice as many by this point, and averaged more than 200 over the last decade, a Globe review found.

The votes, or lack thereof, are in part a [byproduct of the Legislature’s increasing reliance](#) on bulky, omnibus packages to move proposals big and small. But it also means lawmakers make public their policy positions far less often, leaving voters far less information.

The Legislature has produced some major changes in the past 11 months. A \$1 billion tax package that Healey [signed in October](#) marked the most significant tax relief Beacon Hill has passed in two decades. The [annual budget](#) — which the Legislature is constitutionally required to pass — made free meals in public schools a permanent program and included funding for tuition for students attending community college nursing programs, among other changes.

But such sweeping bills are few and far between. Nearly 45 laws passed this year are specific to a town or city, either approving a liquor license or allowing a police officer or firefighter to serve past a certain age. Another 20 create sick leave banks for an employee or transfer a piece of land within a town — minor bills that effectively amount to legislative housekeeping. Two other bills were passed to simply keep government running because legislators were so late in passing the annual budget.

Boston Representative John Moran, who is serving his first term, said he spent Monday — when it appeared the House could vote on the supplemental budget but didn’t — “sitting here and hoping we would come to a resolution.”

“I know everyone is acting with a sense of urgency, but it probably doesn’t feel that way if you are waiting for that promised pay increase or if you’re part of the migrant population,” the South End Democrat said. “I wish I had a quick answer in terms of resolution. . . . We do need a solution.”

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Endorsement of Massachusetts product stewardship legislation

The [Massachusetts Product Stewardship Council](#) (MassPSC) is a formal committee of MassRecycle with the goal of shifting the costs and the management of disposing of materials from taxpayers to the companies that design and market products through product stewardship and extended producer responsibility.

MassPSC is collecting endorsements from municipalities and environmental organizations on product stewardship legislation for these materials: Paint, Mattresses, and Printed Paper & Packaging (i.e. curbside recyclables).

tbirwin70@gmail.com

Switch account

Not shared

* Indicates required question

What is your name? *

Your answer

What is your title? *

Your answer

What is the name of your organization or municipality? *

Your answer

What is your email address? *

Your answer

Are you authorized to endorse, or confirm passage of a resolution supporting this legislation on behalf of your organization? *

☐ Yes

☐ No

☐ Other:

if "other" please explain

Your answer

The image shows a Google Forms survey titled "Does your organization support product stewardship legislation for...". The survey is displayed on a desktop screen with a Windows taskbar at the bottom. The survey contains four questions, each with radio button options for "Yes", "No", and "Other". The first two questions are about support for legislation for "paint" and "mattresses". The third question is about endorsement for "printed paper and packaging". The fourth question is about whether the municipality's chief elected officials have passed a resolution or signed a letter supporting product stewardship legislation. The survey includes a "Submit" button and a "Clear form" link. A sidebar on the right contains various icons for Google services. The Windows taskbar at the bottom shows the Start button, a search bar, and several application icons including File Explorer, Microsoft Edge, Word, PowerPoint, Excel, and Chrome.

Does your organization support product stewardship legislation for [paint](#) (H.823/S.551, or S.542)? *

☐ Yes

☐ No

☐ Other: _____

Does your organization support product stewardship legislation for [mattresses](#) (H.881, or H.916/S.513)? *

☐ Yes

☐ No

☐ Other: _____

Does your organization endorse product stewardship legislation for [printed paper and packaging](#) (S.471)? *

☐ Yes

☐ No

☐ Other: _____

Has your municipality's chief elected officials passed a resolution or signed a letter supporting product stewardship legislation? [See here for a draft Resolution Template.](#) *

☐ Yes

☐ No

☐ Not Applicable

☐ Other: _____

[Submit](#) [Clear form](#)

Never submit passwords through Google Forms.

Link to [endorsement form](#)

https://docs.google.com/forms/d/e/1FAIpQLSe8rdL894nrgjNryXvsUjkkR1hQwdx-DAzghG6LhIS3tBLmA/viewform?usp=sf_link



By passing a mattress stewardship law,
Massachusetts will:

SAVE MUNICIPALITIES MONEY & SIMPLIFY RECYCLING OPTIONS FOR RESIDENTS

A mattress stewardship policy, such as H.881, will make it easier and less expensive for Massachusetts residents to recycle mattresses. As of November 2022, mattresses are banned from trash disposal in Massachusetts. As a result, many municipalities now offer mattress recycling, some with an out-of-pocket cost up to \$75 per item. With a product stewardship law, there will be one program for all residents.

A PRODUCT STEWARDSHIP SYSTEM FOR MATTRESSES WILL:



Save local governments money by reimbursing their costs to run mattress recycling programs.



Provide free mattress recycling for all residents, including those living in apartments or rural areas.



Reduce illegal dumping and simplify mattress recycling for residents.

HOW A PRODUCT STEWARDSHIP SYSTEM WILL WORK

Companies that sell mattresses in Massachusetts will be required to collect a fee to pay for the recycling of mattresses at the end of their life. The collected funds are used to pay local governments (or private haulers) to operate mattress collection sites for MA residents. Product stewardship would save taxpayers \$10 million per year, reduce the burden on municipal employees, and reduce dumping.

PRODUCT STEWARDSHIP IS A PROVEN SOLUTION

Four States (California, Oregon, Rhode Island, and Connecticut) have product stewardship laws for mattresses. In states that have passed a product stewardship law, such as Connecticut, it costs less to recycle a mattress than a state that doesn't have a law. Currently, MA municipalities are paying up to \$10 per mattress more than in CT. Recycling one mattress saves 500 gallons of water and enough energy to power a home for three days.

Product stewardship in Massachusetts has support from local governments, the Massachusetts Municipal Association, recycling businesses, environmental groups, and more. For more info, please contact:

Waneta Trabert
Massachusetts Product Stewardship Council (MassPSC)
& City of Newton DPW
wtrabert@newtonma.gov

[Learn more at massrecycle.org](https://massrecycle.org)



WIDE SPREAD SUPPORT ACROSS MASSACHUSETTS

MATTRESS STEWARDSHIP HAS BROAD SUPPORT

The following municipalities, businesses, and organizations have signed an endorsement of mattress stewardship. They are constituents from across Massachusetts. Municipalities representing 30% of the state population have voiced their support.

Local Governments

Hilltown Resource Management Cooperative
(representing 10 municipalities)
Franklin County Solid Waste Management District
(representing 21 municipalities)
South Shore Recycling Cooperative
(representing 18 municipalities)
Bourne Recycling Committee
City of Boston
City of Cambridge
City of Holyoke
City of Malden
City of Newton
City of Revere
City of Salem
City of Somerville
City of Woburn
Ipswich Waste Reduction Advisory Committee
Shutesbury Recycling and Solid Waste Committee
Town of Arlington
Town of Boxford
Town of Braintree
Town of East Longmeadow
Town of Falmouth
Town of Marblehead
Town of Shutesbury
Town of Swampscott
Town of Leominster
Town of Middleborough

Non-Government Organizations

The Massachusetts Municipal Association
Cape Cod Anti-Litter Coalition, Inc.
Cape Cod's Faith Communities Environmental Network
Energy and Climate Committees of the Cape and Islands
Greening Greenfield
Green Newton
Keep Massachusetts Beautiful
Keep Salem Beautiful
League of Women Voters of Massachusetts
Lee Greener Gateway Committee
National Stewardship Action Council
Product Stewardship Institute, Inc.
Salem Sound Coastwatch
Saugus Action Volunteers for the Environment
Seaside Sustainability
Sheffield Saves
Shutesbury Recycling and Solid Waste Committee
Sustainability Committee of Tyngsboro, MA
Wachusett Earthday Inc
Zero Waste Amherst
Zero Waste Melrose

Businesses

Allonnia
Black Earth Compost
Clean-Seas, Inc.
Helpsy
Manchester Marine
Pinto Recycling, Inc



Through a product stewardship law for containers, packaging, and paper, Massachusetts can:

INCREASE RECYCLING, REDUCE UNNECESSARY PACKAGING & SAVE MUNICIPALITIES MONEY

A product stewardship law, such as S.471, will make it easy for all Massachusetts Residents to recycle more plastics, aluminum cans, glass bottles, cardboard, and paper. This will rapidly improve the recycling rate in Massachusetts and result in fewer greenhouse gas emissions, cleaner air and water, less waste sent to landfills and incinerators, and lower disposal costs for taxpayers.

A STEWARDSHIP LAW FOR CONTAINERS, PACKAGING, AND PAPER WILL:



Increase our recycling rate and reduce climate pollution.



Provide free recycling for MA residents, including those living in apartments and in rural areas.



Develop a clear common list of what can be recycled statewide.



Save local governments money by reimbursing their costs to run recycling programs.



Support Mass. businesses by creating a more resilient domestic supply of raw materials to make new products.



Create financial incentives for companies to reduce unnecessary packaging and use recyclable materials.

HOW A STEWARDSHIP SYSTEM FOR PACKAGING & PRINTED PAPER WILL WORK

- Companies that sell plastic, metal, and glass containers and printed paper, including cardboard, in Massachusetts will be required to pay to recycle their products.
- The companies will form an independent non-profit organization, called a Producer Responsibility Organization (PRO), to coordinate, fund, and manage a statewide recycling system.
- Companies will pay fees to the PRO based on the amount and type of material they sell in Massachusetts. The PRO will use these funds to reimburse local governments (or private haulers) to operate convenient recycling programs for residents and other entities.
- MassDEP will oversee the PRO, with input from a stakeholder advisory committee.
- The PRO will cover 100% of the costs of recycling, including consumer education and government oversight of the program.

PRODUCT STEWARDSHIP IS A PROVEN SOLUTION

More than 40 countries have product stewardship laws for containers and packaging materials. And, four states (ME, OR, CA, CO) passed the first US laws for packaging since 2021.

Recycling avoids three tons of climate pollution for every ton recycled.

WILL THIS INCREASE COSTS FOR CONSUMERS?

Product stewardship programs are in place in dozens of countries and provinces, and some have been in place for nearly three decades. There is no evidence to show that product stewardship programs lead to an increase in consumer prices based on research on similar programs throughout Canada and Europe.

BUSINESSES SUPPORT PRODUCT STEWARDSHIP TO STRENGTHEN SUPPLY CHAINS

Businesses have faced massive disruptions in global supply chains and struggle to source the metal, paper, plastic, and glass needed to make new packaging and products. Meanwhile Massachusetts buries or incinerates more than 5.4 million tons of resources every year. By recycling more, we can create a reliable domestic supply of recycled materials to make new products. Over 100 global companies have publicly stated their broad support for product stewardship policies to increase recycling, reduce plastic pollution, and help strengthen local economies. Product stewardship laws are an essential component of a circular economy.

Product stewardship in Massachusetts has support from local governments, the Massachusetts Municipal Association, environmental groups, and more. For more info, please contact:

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[Learn more at massrecycle.org](https://massrecycle.org)