

TOWN OF WINCHENDON

WINCHENDON TOWN CLERK
RCUD OCT 27 2022 PM 12:50

LS

Telephone (978) 297-3537

Zoning Board



109 Front Street
Winchendon, Massachusetts 01475-1758

Town of Winchendon
Zoning Board of Appeals
PUBLIC HEARING NOTICE

Notice is hereby given that the Zoning Board of Appeals will hold a PUBLIC HEARING on Wednesday, November 16, 2022 at 7:15pm to discuss the application for a Variance submitted by owner Randall Hart for 11-15 Main Street (Also known as Assessors Map 5D1, Parcel 12) Winchendon, MA 01475. Variance request to allow construction of a fire escape attached to a preexisting non-conforming structure at the rear of the property within 50' of the rear setback requirement per section 7.2. of the Winchendon Zoning Bylaws. Said property is located in a PD –Planned Development District. The hearing will be held in the Second Floor Auditorium at Town Hall - 109 Front St., Winchendon, MA 01475. All interested persons should plan to attend. Alternative translation and accommodation for disabled persons is available by advance request.

BY: Cynthia Carville, Chair
Winchendon Zoning Board of Appeals

November 1&8

Planning Decision Petition

WINCHENDON TOWN CLERK
RCUD NOV 1 2022 PM 3:04
DJA

Zoning Board of Appeals

- Special Permit(s)
- Variance
- Administrative Appeal
- Comprehensive Permit

Planning Board

- Site Plan Approval
- ANR endorsement
- Preliminary Subdivision Approval
- Definitive Subdivision Approval
- Special Permit(s)
- Low Impact Development Endorsement

Fee Rec'd

An additional fee will be
due for advertising

Project Number

22-111

Submission Materials to be included with this Petition Form are outlined in the Town of Winchendon Zoning Bylaws and the Planning Board Regulations. This application shall not be deemed complete unless all required items are included or appropriate waivers have been requested.

Property Address 11-15 MAID ST Date 10/19/22
Property Owner's Name RANDALL HART
Owner's Address 151 CARTER FIELD RD Book U6038 pg. 35
NO. ANDOVER, MA. 01845 Map 5D1-0-12
Petitioner's name RANDALL HART Lot Size _____
Petitioner's Phone No. 508 662-0022 Frontage _____
Petitioner's address SAME Zone PD

Project Summary & Decision Sought:

see attached narrative

I hereby certify that the information provided in this application, and the accompanying drawing(s) of the property as well as any supporting data are accurate, true and correct to the best of my knowledge and belief.

Randall F Hart
Signature of Applicant (or their representative)

10/19/22
Date

Randall F Hart
Signature of Property Owner

10/19/22
Date

Tax Certification (Treasurer has up to 10 days to complete this certification):

Pursuant to the provisions of Massachusetts General Law, Chapter 40, Section 57, the Town Bylaw, Licenses and Permits of Delinquent Taxpayer, Section 21.1: "Any Board... shall deny application... for any person, corporation or business enterprise who has neglected to pay any local taxes, fees, assessments, betterments or any municipal charge."

I hereby certify that the applicant or the owner of record owes no debt to the Town of Winchendon for a period of time greater than twelve (12) months.

Dani Giuducci
Winchendon Treasurer

11/1/22
Date

NARRATIVE TO PETITION FOR ZONING VARIANCE

**11-15 MAIN STREET
418 RIVER STREET**

OWNER: RANDY HART, TRUSTEE OF BENCHMARK REALTY TRUST

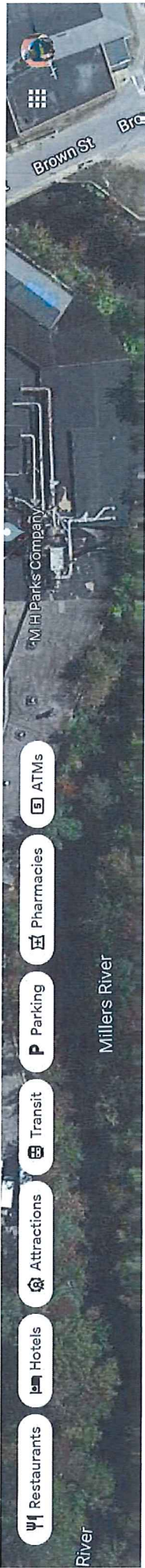
This application requests variances from the requirements set forth in the Winchendon Zoning Bylaw §7.2 - Table of Dimensional and Density Regulations (front, rear and side set backs) and pursuant to the requirements of §13.6.3(C) of the Bylaw. To the extent that the work described herein may be deemed to be an extension of a pre-existing, non-conforming structure that may be approved by the Board of Appeals under §6 of General Laws Chapter 40A (first paragraph), such relief is also requested as noted below.

The applicant owns the land described in the application. Each parcel is improved with multi-family residential dwellings. The building at 11-15 Main Street was constructed in 1876 according to the Tax Assessor. The building at 418 River Street was constructed in 1874 according to the Tax Assessor. Each building pre-dates zoning in the town and is a 'pre-existing structure.' Nonetheless, zoning review and the requirement for relief is triggered when exterior extension/improvement is proposed.

The applicant proposes to install fire escapes, pursuant to the requirements of the state codes, on the multi-family residential building located at 11-15 Main Street. In order to do so, and to provide that the structure does not encroach onto the adjoining lot – 418 River Street - a boundary change is required as depicted on Applicant's plan. Notwithstanding the boundary line change – each lot will continue to provide more than the minimum lot area required under the Bylaw. The sideline setback for 11-15 Main Street would increase but would not meet the current requirements of the Bylaw. Other than the rear setback to 11-15 Main Street, the side, rear and front yard setbacks (which are currently not met by either building) are proposed remain the same as the buildings are not proposed to otherwise modified or moved.

The roughly triangular shape of 11-15 Main Street and the proximity to the boundary of the approximately 144-year-old building gives rise to the Applicant's hardship. The shape of the lot was created, in part, by land takings for road and sidewalk improvements to River and Main Streets and by the installation of a trolley line crossing River Street and running adjacent to the building on Main Street in the late 19th Century. The recently commissioned land survey depicts a corner of the building as intersecting with (but not encroaching on) the public right of way. As a financial and practical matter, moving the improvements on 11-15 Main Street is not feasible. These conditions are peculiar to 11-15 Main Street and the particular building located thereon and do not generally affect the zoning district in which the lot is located.

In a similar vein, no external improvement to the building at 418 River Street is proposed. That over 140-year-old building is proposed to remain the same but would, as a consequence of the grant of zoning relief, be separately conveyable (once the Planning Board acts to endorse the plan as "Approval Not Required") as the title to River Street property is separately "platted".



QUITCLAIM DEED

WM REALTY HOLDINGS NH, LLC, a New Hampshire Limited Liability Company, authorized to conduct business in the Commonwealth of Massachusetts, with an address of 169 Daniel Webster Highway, Nashua, NH 03060

for consideration paid and in full consideration of **TWO HUNDRED EIGHTY FIVE THOUSAND and 00/100 (\$285,000.00) DOLLARS**

grant to **RANDALL F. HART, TRUSTEE OF BENCHMARK REALTY TRUST**, u/d/t dated November 21, 2014 , with an address of 151 Carter Field Road, North Andover, MA 01845
with **QUITCLAIM COVENANTS**

PROPERTY ADDRESSES: **11-15 Main Street, Winchendon, MA**
 418 River Street, Winchendon, MA

The land and buildings being located in Winchendon, Worcester County, Massachusetts.

11-15 Main Street Winchendon, MA

Three certain parcels of land, with the buildings thereon, situated in Winchendon, Worcester County, Massachusetts and being the first three parcels in the deed of Dennis A. Gerard to Bernard T. Cote dated March 1, 1985 and recorded with the Worcester Registry of Deeds in Book 8589, Page 4, and therein described as Tract One, Tract Two, and Tract Three, said Three Tracts bounded and described as follows:

Northeasterly by Main Street, by 3 bounds, to wit: 86 feet, 33 feet and 9 feet;

Northerly by land now or formerly of Varias, 49 feet;

Westerly by River Street, 109 feet;

Southerly by land of Cote, by 2 bounds, to wit: 65 feet and 67 feet; and

Easterly 39 feet to Main Street, the point of beginning.

Said parcels are also shown on the Assessor's Map for the Town of Winchendon as 5 D-1 12, 5 D-1 13 and 5 D-1 14. The Tax Collector of Winchendon has them all listed under parcel identification number #5D-1 12.

11-15 Main Street, Winchendon and
418 River Street, Winchendon

Said parcels are subject to the rights of Winchendon Electric Light and Power Company of records, if any, affecting locus.

418 River Street, Winchendon, MA

The land with the buildings thereon, on River Street, located in the Village of Waterville in said Winchendon, bounded and described as follows:

Beginning at a stake and stones on land formerly of Moses Hancock; thence westerly on the line of the road leading from Winchendon to Royalston, now known as River Street, six (6) rods and one (1) foot to an iron pin at land formerly of Simeon C. Aldrich; thence southerly on the line of said Aldrich's land about seven (7) rods and thirteen and one half (13 1/2) feet to a stone post in line of land formerly of Richard Stewart; thence easterly on land of said Stewart about six (6) rods and two (2) feet to a stone post at land formerly of Moses Hancock; thence northwesterly on the line of the lot first mentioned above to the place of beginning.

Also, another tract of land adjoining the above described tract on the south and described as follows:

Beginning at a small post covered in the ground at the northeast corner of said tract on the line of the road from Waterville to Templeton, now known as Main Street; thence southwesterly on the line of said road about two (2) rods to a stone post in the corner of one Aldrich's garden fence; thence northwesterly on the line of said Aldrich and one Park; thence easterly on the line of the above granted premises and of said Moses Hancock to the first mentioned bound. Containing about six (6) square rods.

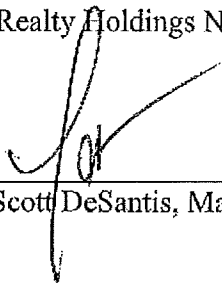
Both parcels conveyed herein are a portion of the Premises conveyed to Grantor by Deed recorded with the Worcester County Registry of Deeds in Book 58233, Page 129.

The Grantor is not classified as a corporation for the current taxable year for federal income tax purposes.

(SIGNATURE AND NOTARY CLAUSE APPEAR ON NEXT PAGE)

Witness my hand and seal this 27th day of August 2021

WM Realty Holdings NH, LLC

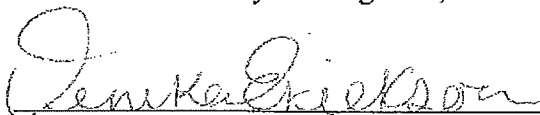


By: Scott DeSantis, Manager

STATE OF NEW HAMPSHIRE

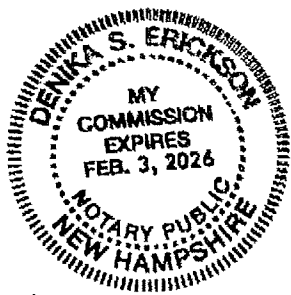
Hillsborough, ss

On this 27 day of August 2021, before me, the undersigned authority, personally appeared, Scott DeSantis, Manager as aforesaid, who proved to me through satisfactory evidence of identification in the form of Drivers license, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it freely and voluntarily for its stated purpose, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief, on behalf of WM Realty Holdings NH, LLC.



Notary Public

My commission expires: Feb. 3rd, 2026



ATTEST: WORC Kathryn A. Toomey, Register

Town of Winchendon
 109 Front Street
 Winchendon, MA 01475



Land Use
 Conservation
 Planning and Development

11/7/22

Trustee Benchmark Realty Tr.
 Randy Hart, Trustee
 151 Carter Field Road
 North Andover, MA 01845

Re: Building Permit Application
 Map 5D1, Parcel 12, 11-15 Main Street

Dear Randy Hart,

I have reviewed the application to construct a fire escape at the rear of the property, identified as Map 5D1, Parcel 12, located in the PD Other Residential Zoning District in the Town of Winchendon.

I am denying your application as the side setback in the PD Other Residential Zoning District requires a combined 20' side setback per Article 7, Section 7.2 of the Zoning Bylaws for the Town of Winchendon. This property is has frontage on more than one street and shall maintain the front setback for all such frontage streets appropriate for the zone in which it lies. Any remaining lot lines shall be considered side lot lines for setback purposes, per Article 7, Section 7.3. The information submitted with your building permit application reflects the location of the proposed fire escape will be constructed directly on your rear property line, which does not meet out Zoning Bylaws.

7.2 TABLE OF DIMENSIONAL & DENSITY REGULATIONS (Amended Nov. 8, 2007)

These provisions do not apply to projects built under the provisions of Article 11, Residential Development, unless that article so provides.

Zoning District	Minimum Lot Area Square Feet	Frontage Note 6	Front Setback Note 7,8	Side Setback Note 7,8	Rear Setback Note 7,8	Maximum Structure Height (floors)	Maximum Man Made Structure Height	Maximum Impervious Area as % of Lot (1)
PD Other residential	10,000 Note 3, 9	75 Note 9	20	Com- bined 30 feet Note 4	50	3	45 feet	70%

You may appeal my decision with the Zoning Board of Appeals.

Sincerely,

Geoffrey L. Newton
 Building Commissioner/Zoning Enforcement Officer



The Commonwealth of Massachusetts

Office of Public Safety and Inspections
Massachusetts State Building Code (780 CMR)

Building Permit Application for any Building other than a One- or Two-Family Dwelling

(This Section For Official Use Only)

Building Permit Number: _____

Date Applied: 10-27-28

Building Official: Geoffrey Newton

SECTION 1: LOCATION

<u>11-15 Main Street</u>	<u>Winchendon</u>	<u>01475</u>	_____
No. and Street	City /Town	Zip Code	Name of Building (if applicable)
<u>5D1</u>	<u>12</u>	_____	_____
Assessors Map #	Block # and/or Lot #		

SECTION 2: PROPOSED WORK

Edition of MA State Code used _____ If New Construction check here or check all that apply in the two rows below

Existing Building <input checked="" type="checkbox"/>	Repair <input checked="" type="checkbox"/>	Alteration <input type="checkbox"/>	Addition <input checked="" type="checkbox"/>	Demolition <input type="checkbox"/> (Please fill out and submit Appendix 2)
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Change of Use <input type="checkbox"/>	Change of Occupancy <input type="checkbox"/>	Other <input type="checkbox"/> Specify: _____
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Are building plans and/or construction documents being supplied as part of this permit application? Yes No

Is an Independent Structural Engineering Peer Review required? Yes No

Brief Description of Proposed Work: Fire Escape installation. See Sketch Plan attached to show location of proposed fire escape. Installation to occur in strip of land to be conveyed from adjoining parcel (418 River Street). Zoning variance is required to undertake project.

SECTION 3: COMPLETE THIS SECTION IF EXISTING BUILDING UNDERGOING RENOVATION, ADDITION, OR CHANGE IN USE OR OCCUPANCY

Check here if an Existing Building Investigation and Evaluation is enclosed (See 780 CMR 34)

Existing Use Group(s): R-2 Proposed Use Group(s): R-2

SECTION 4: BUILDING HEIGHT AND AREA

	Existing	Proposed
No. of Floors/Stories (include basement levels) & Area Per Floor (sq. ft.)	2 + bsmt	same
Total Area (sq. ft.) and Total Height (ft.)	7,573 (assessor)	same

SECTION 5: USE GROUP (Check as applicable)

A: Assembly A-1 <input type="checkbox"/> A-2 <input type="checkbox"/> Nightclub <input type="checkbox"/> A-3 <input type="checkbox"/> A-4 <input type="checkbox"/> A-5 <input type="checkbox"/>	B: Business <input type="checkbox"/>	E: Educational <input type="checkbox"/>
F: Factory F-1 <input type="checkbox"/> F2 <input type="checkbox"/>	H: High Hazard H-1 <input type="checkbox"/> H-2 <input type="checkbox"/> H-3 <input type="checkbox"/> H-4 <input type="checkbox"/> H-5 <input type="checkbox"/>	
I: Institutional I-1 <input type="checkbox"/> I-2 <input type="checkbox"/> I-3 <input type="checkbox"/> I-4 <input type="checkbox"/>	M: Mercantile <input type="checkbox"/>	R: Residential R-1 <input type="checkbox"/> R-2 <input checked="" type="checkbox"/> R-3 <input type="checkbox"/> R-4 <input type="checkbox"/>
S: Storage S-1 <input type="checkbox"/> S-2 <input type="checkbox"/>	U: Utility <input type="checkbox"/>	Special Use <input type="checkbox"/> and please describe below:

Special Use Description: _____

SECTION 6: CONSTRUCTION TYPE (Check as applicable)

IA <input type="checkbox"/>	IB <input type="checkbox"/>	IIA <input type="checkbox"/>	IIB <input type="checkbox"/>	IIIA <input type="checkbox"/>	IIIB <input type="checkbox"/>	IV <input type="checkbox"/>	VA <input type="checkbox"/>	VB <input checked="" type="checkbox"/>
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SECTION 7: SITE INFORMATION (refer to 780 CMR 105.3 for details on each item)

Water Supply: Public <input checked="" type="checkbox"/> Private <input type="checkbox"/>	Flood Zone Information: Check if outside Flood Zone <input checked="" type="checkbox"/> or identify Zone: <u>C</u>	Sewage Disposal: Indicate municipal <input checked="" type="checkbox"/> or on site system <input type="checkbox"/>	Trench Permit: A trench will not be required <input checked="" type="checkbox"/> or trench permit is enclosed <input type="checkbox"/>	Debris Removal: Licensed Disposal Site <input type="checkbox"/> or specify: _____
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Railroad right-of-way:
Not Applicable
or Consent to Build enclosed

Hazards to Air Navigation:
Is Structure within airport approach area?
Yes or No

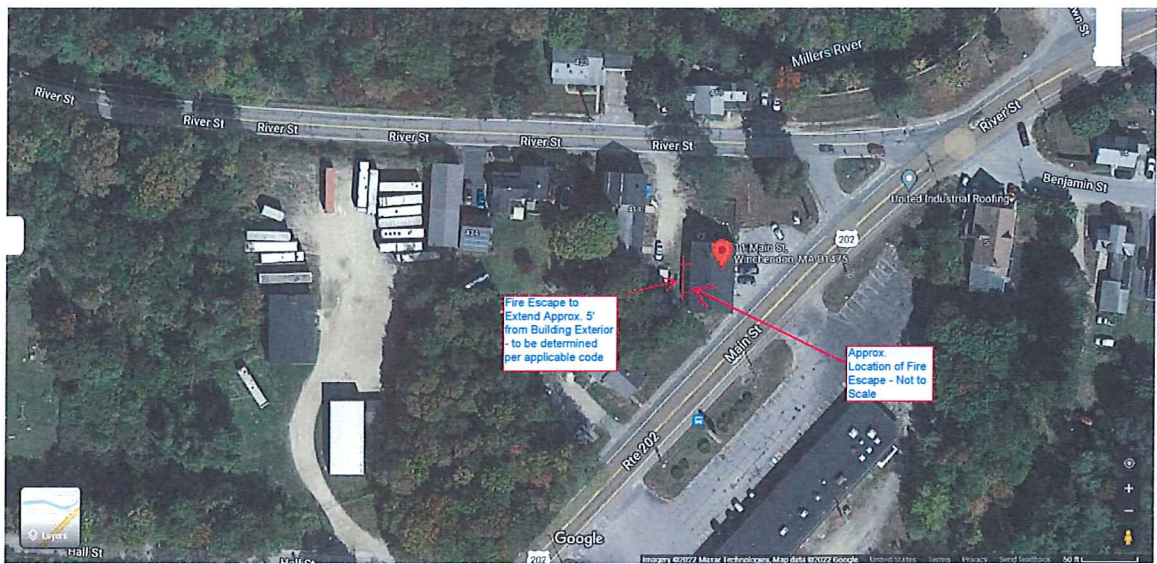
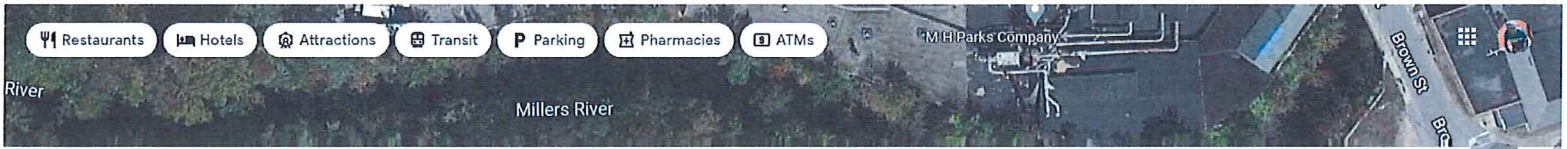
MA Historic Commission Review Process:
Is their review completed?
Yes No

SECTION 8: CONTENT OF CERTIFICATE OF OCCUPANCY

Edition of Code: 97A Use Group(s): R-2 Type of Construction: 5B

Does the building contain an Sprinkler System?: NO Special Stipulations: _____

Design Occupant Load per Floor and Assembly space: _____



NARRATIVE TO PETITION FOR ZONING VARIANCE

**11-15 MAIN STREET
418 RIVER STREET**

OWNER: RANDY HART, TRUSTEE OF BENCHMARK REALTY TRUST

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The roughly triangular shape of 11-15 Main Street and the proximity to the boundary of the approximately 144-year-old building gives rise to the Applicant's hardship. The shape of the lot was created, in part, by land takings for road and sidewalk improvements to River and Main Streets and by the installation of a trolley line crossing River Street and running adjacent to the building on Main Street in the late 19th Century. The recently commissioned land survey depicts a corner of the building as intersecting with (but not encroaching on) the public right of way. As a financial and practical matter, moving the improvements on 11-15 Main Street is not feasible. These conditions are peculiar to 11-15 Main Street and the particular building located thereon and do not generally affect the zoning district in which the lot is located.

In a similar vein, no external improvement to the building at 418 River Street is proposed. That over 140-year-old building is proposed to remain the same but would, as a consequence of the grant of zoning relief, be separately conveyable (once the Planning Board acts to endorse the plan as "Approval Not Required") as the title to River Street property is separately "platted".

Explanation of Point Numbers on the Map:

18. Drill hole found in the top of a concrete retaining wall.
19. Stone bound found down 0.1 feet observed at top center.
21. Concrete bound with drill hole, lead plug and brass escutcheon pin found up 0.3 feet in good condition.
22. Concrete bound with broken top found down 0.3 feet.
24. Concrete bound with drill hole found down 0.2 feet under asphalt sidewalk.
25. Massachusetts Department of Public Works Bench Mark disk #631 found on bridge abutment in good condition.
31. Very old iron pipe found, 0.17 feet diameter and down 0.2 feet.
32. Iron pipe found disturbed and reset as witness to steel #5 reinforcing rod with aluminum cap set flush and stamped with the surveyor's identification.
- 33 = 35. Steel #5 reinforcing rod with aluminum disk set flush and stamped with the surveyor's identification.
36. Steel rod found, 0.05 feet diameter, up 0.8 feet and bent. Bearing S78°40'52"E and 4.27 feet distant from corner.
41. Steel angle found up 1.0 feet in the base of a large tree.
42. Iron pipe found 0.15 feet diameter, up 2.4 feet and leaning northwesterly.

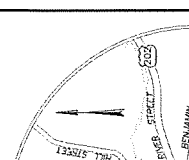
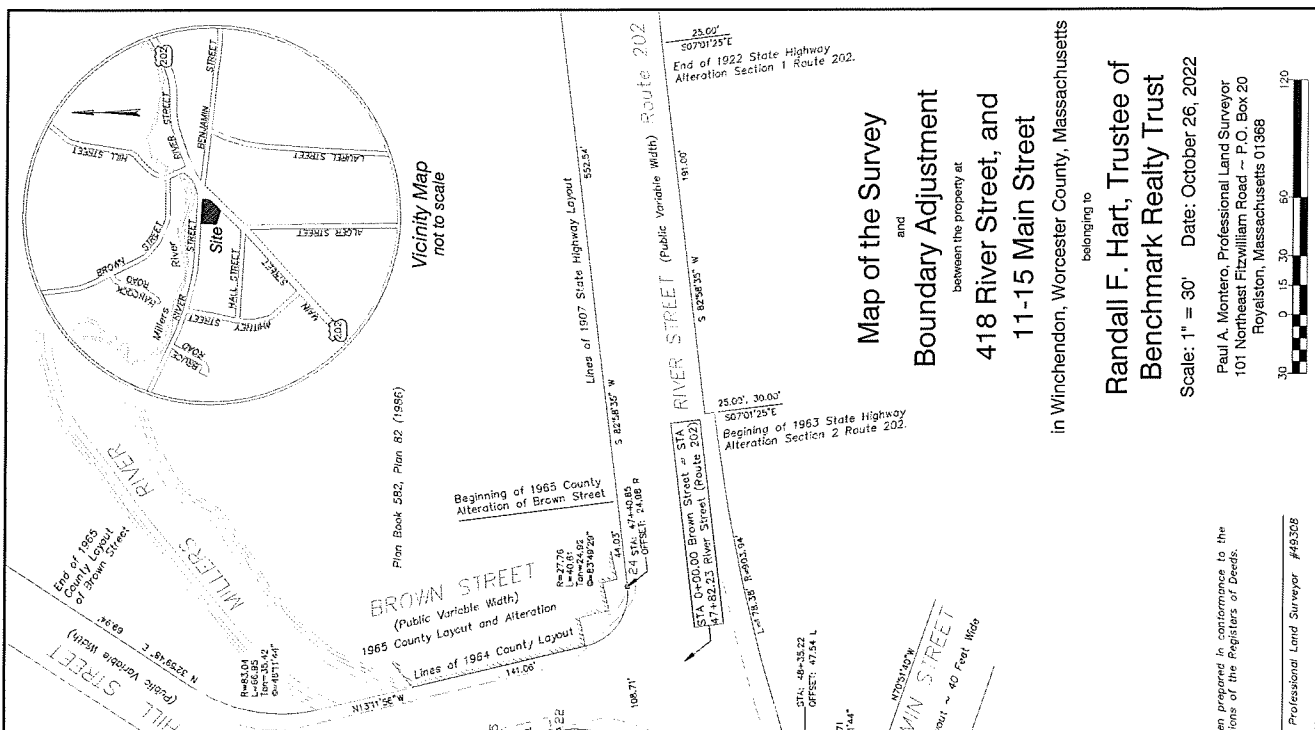
Reference Data:

Book 6603B, Page 34 belonging to Randall F. Hart, Trustee of Benchmark Realty Trust and recorded at the Worcester District Registry of Deeds.
 Book 5 of Bearings:
 State Highway Layout of Route 202 (Main Street) recorded in Plan Book 271, Plan 85 at the Worcester District Registry of Deeds.
 Reference Plans:
 Plan Book 136, Plan 72 (1945 State Highway Layout); Plan Book 271, Plan 85 (1963 State Highway Layout); Plan Book 307, Plan 107 (1965 County Layout); Plan Book 307, Plan 119 (1966); Plan Book 394, Plan 66 (1974); Plan Book 569, Plan 41 (1986) and Plan Book 582, Plan 82 (1986) also recorded at the Worcester District Registry of Deeds.
 General Notes:
 Parcel A is to be taken from 501-0-11 and annexed to 501-0-12. This map was drawn from a survey made between November 27, 2020, and December 10, 2020 using the SOKKIA SET 230 R3 survey instrument. The intersection of River Street of Main Street was altered sometime after 1907 street layout. The intersection of Main Street and River Street was altered sometime after 1907 street layout. This alteration resulted in land being taken along the east boundary of Parcel 501-0-12 and is not mentioned in the reference deed. Records of River Street, from Waterville Savings to Centerville, and of Main Street from River Street west, obtained from the office of the Town Clerk do not mention the intersection alteration. See Book 6589, Page 4 for a description of the three contiguous tracts that make up Parcel 501-0-12 before the intersection alteration.

FOR REGISTRY USE

Zoning Requirements ~ PD (Other Residential) ~ October 26, 2019	Area (sq. ft.)	Frontage (feet)	Front Yard (feet)	Side Yard (feet)	Rear Yard (feet)	Impervious (percent)
Allowable	10,000	75	20	30	50	70
501-0-11	12,815	88.45	11.6	17.4	40.7	10.8
501-0-12	13,968	308.92	0.5	24.3	12.0	36.5

Buildings do not exceed maximum allowable height.



Vicinity Map
not to scale

Map of the Survey and Boundary Adjustment between the property at 418 River Street, and 11-15 Main Street in Winchendon, Worcester County, Massachusetts

belonging to
**Randall F. Hart, Trustee of
 Benchmark Realty Trust**
 Scale: 1" = 30' Date: October 26, 2022

Paul A. Montero, Professional Land Surveyor
 101 Northeast Fitzwilliam Road ~ P.O. Box 20
 Royalston, Massachusetts 01368



This map has been prepared in conformance to the rules and regulations of the Registrars of Deeds.

Paul A. Montero, Professional Land Surveyor #49308

Town of Winchendon
 Planning Board
 Approval not Required
 Under the Subdivision Control Law

FOR REGISTRY USE