

## Leicester Zoning Board of Appeals

PERMIT TYPE: ☐ Special Permit ☒ Variance

Date: \_\_\_\_\_

<b>Owner Information</b>			
Owner Name:	LYNDE BROOK PLAZA, LLC		
Owner Signature:	<i>[Signature]</i>		
Address:	4 Olde English Rd., Worcester, MA 01609		
Phone:	c/o 508-867-6885	Fax:	c/o 508-867-3138
Email:	c/o db@berthiaumelegal.com		
<b>Applicant Information</b>			
Applicant Name:	LYNDE BROOK PLAZA, LLC		
Applicant Signature:	<i>[Signature]</i>		
Address:	4 Olde English Rd., Worcester, MA 01609		
Phone:	c/o 508-867-6885	Fax:	c/o 508-867-3138
Email:	c/o db@berthiaumelegal.com		
<b>Project Information</b>			
Project Address:	190 Main Street	Zoning District:	Business
Assessors Map & Parcel #	23B A 50	Deed Reference (Book & Page):	Book 43282 Page 270
Applicable Zoning Bylaw Section(s):	Section 1.3 Definitions: Lot, Frontage, Street		
<b>Brief Description of Application:</b>			
Please See Attached Narrative			
<b>State Briefly Reasons for Variance or Special Permit:</b>			
Please See Attached Narrative			

Attach additional pages as necessary to fully describe the application.

190 Main Street, Leicester, MA  
APPLICATION FOR VARIANCE

BRIEF DESCRIPTION OF APPLICATION

The Applicant, Lynde Brook Plaza, LLC seeks a Variance to allow Reservoir Street to be considered the frontage for a Parcel of land which it owns despite the access to the Parcel being from Main Street.

The Applicant, Lynde Brook Plaza, LLC is the owner of a portion of the property known as 190 Main Street Leicester, MA. The Parcel originally contained 28.40 acres according to a plan recorded in Plan Book 354 Plan 100. Ex. A By Master Deed recorded in Book 43282 Page 290 Lynde Brook Plaza LLC created a condominium and attempted to transfer a portion of the property to the Lynde Brook Plaza Condominium. The portion of the property which is subject to the Condominium is identified as Phase 1A on a site plan recorded in Plan Book 870 Plan 7. Ex. B

As a result of the Site Plan recorded in Plan Book 870 Plan 7 the boundary between the Lynde Brook Plaza Condominium and Lynde Brook Plaza, LLC is uncertain and an examination of this condition has highlighted the need for a technical variance concerning the definition of :Frontage in the Leicester Zoning By-Law. Lynde Brook Plaza, LLC has caused an ANR Plan to be prepared to delineate the boundary. A copy of the preliminary plan is attached hereto and a final plan will be provided as it will be necessary to obtain the endorsement of the Planning Board. Ex. C Based upon the specific relief requested concerning the variance, which is only definitional in nature, however, the applicant submits that the preliminary plan is suitable for filing.

As a result of the division of the land the Condominium will have 184.87' of frontage along Main Street and will well in excess of the 15,000 square feet of area require by Section 4.2 Table 1 of the Leicester Zoning By-Law. The Lynde Brook Plaza Parcel will also have well in excess of the required frontage and square footage to be considered a separate conforming lot however the frontage for the Lynde Brook Plaza Parcel will be along Reservoir Street. The Lynde Brook Plaza Parcel's access will continue to exist across the Condominium Parcel to Main Street. As a result of the access to the Lynde Brook Plaza Parcel being from Main Street, on which it has no frontage, Lynde Brook Plaza, LLC requests that the Board grant a variance from the literal enforcement of the definition of Frontage included in the Town of Leicester Zoning By-Law.

REASONS FOR VARIANCE OR SPECIAL PERMIT

The Leicester Zoning By-Law effectively requires that the frontage for a particular lot be identified on a street that provides access to the lot in question. Although Lynde Brook Plaza, LLC has well in excess of the required frontage along Reservoir Street, historically the Parcel has been accessed from Main Street. There is in fact no present vehicular access from Reservoir Street. In effect, this application seeks to formally recognize the historic access to the property and preserve the status quo.

Massachusetts General Laws c. 40A §10 provides in part:

The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.

The Applicant suggests that this application presents an appropriate set of facts upon which to base the grant of a Variance and that the Applicant's request meets all of the statutory criteria. The sole request of the Applicant in making this request is that the Board permit the frontage on Reservoir Street to be recognized as the frontage associated with the Parcel despite the access to the Parcel being located on Main Street. In support of this request, the Applicant submits as follows with respect to the statutory conditions:

Soil Conditions: Lynde Brook runs parallel with Reservoir Street along and within the boundaries of the Parcel. Accessing the Parcel from Reservoir Street would require a crossing over Lynde Brook which would be costly, potentially disruptive of the Brook, and unnecessary in light of the existing and historic access to Main Street.

Topography: The elevation change between Reservoir Street and the Parcel being accessed is of a significant and varying nature that would render commercial access difficult. In several areas, including the area to the east of the existing building on the lot there is a steep slope that runs from Reservoir Street onto the parcel which renders the access in that area impracticable and potentially dangerous particularly in light of the existing historic access to Main Street.

The Applicant suggests that the soil conditions and topography identified above affect the Parcel specifically and in a different manner than the rest of the zoning district in part because the characteristics described are located almost exclusively within the Parcel boundaries, and additionally, due to the size and scope of the Parcel which differs significantly from the other lots in the area. Accordingly, the applicant suggests that this request satisfies the statutory criteria for a variance. Failing to grant the requested variance would result in a hardship to the applicant due to the uncertainty of being able to access the parcel from Reservoir Street and the

likely significant expense in terms of engineering and site work that would be involved in determining if access were possible and creating same.

The Applicant suggests that the relief sought is in the public interest as the width and character of Reservoir Street as well as the neighborhood located thereon would be preserved rather than causing Reservoir Street to become an access point for a commercial enterprise which would have the potential to change the character of the street. As the access to the Parcel has historically been from Main Street, and the use of the Parcel for a storage facility will not be changing it appears that the historical access should be considered and preserved. In terms of the effect of the property being accessed from Main Street, it should be noted that the Leicester Planning Board has already considered this issue and granted a Special Permit and Plan Approval as of May 10, 2011 which allowed for the building located on the Parcel to be used for a Warehouse. Ex. D In granting the Special Permit, the Board found that the use of the site for a storage facility would not impact traffic and that safe vehicular traffic and pedestrian access had been addressed.

Based upon the foregoing, the Applicant respectfully requests that the Zoning Board of Appeals grant a Variance allowing Reservoir Street to be considered the frontage for the Parcel despite the access to the Parcel being from Main Street.

EXHIBIT

A

Subject

Plan of Property

LEICESTER, MASS.

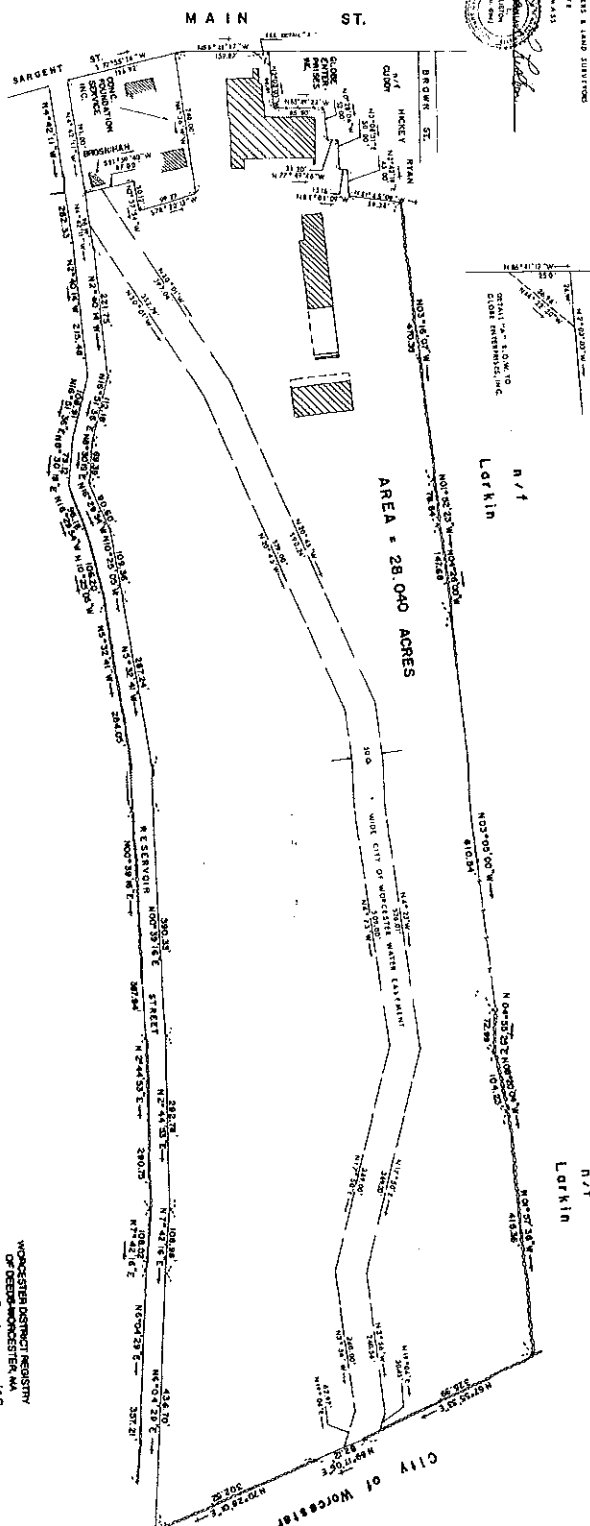
Cherry Valley Builders Supply Co.

Scale: 1" = 100'

THOMAS LUTON ASSOC. INC.  
CIVIL ENGINEERS & LAND SURVEYORS  
424 PARK AVE  
WORCESTER, MASS.



LEICESTER PLANNING BOARD  
APPROVAL UNDER THE  
SUB-DIVISION CONTROL LAW  
NOT REQUIRED  
Signed: *Robert J. Biele*  
Date: September 30, 1971



WORCESTER DISTRICT REGISTRY  
OF DEEDS AND MORTGAGES  
PLAN BOOK 57, PAGE 102  
RECORDED 5-25-71  
ATTEST: *[Signature]*

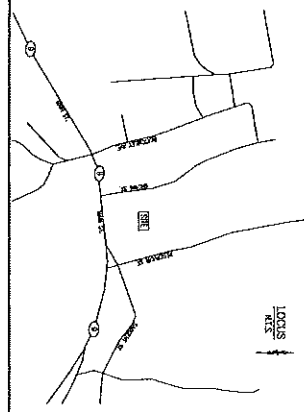
THE CERTIFICATION SHOWN HEREON IS ATTENDED TO BY THE OFFICE OF THE COUNTY CLERK OF THE COUNTY OF LOS ANGELES, CALIFORNIA, AND IS NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. DIVIDERS OF ADJOINING PROPERTIES ARE SHOWN TO INDICATE THE CORRESPONDING FORM OF DECEASETER ASSASSINATING RECORDS.

I CERTIFY THAT THE PROPERTY LINES SHOWN HEREON ARE THE LINES DIVIDING EXISTING AND ADJOINING PROPERTIES, AND THAT THE LINES SHOWN ARE NOT A CERTIFICATION TO THE TITLE OR OWNERSHIP OF THE PROPERTY SHOWN. DIVIDERS OF ADJOINING PROPERTIES ARE SHOWN TO INDICATE THE CORRESPONDING FORM OF DECEASETER ASSASSINATING RECORDS.

*James A. Glavin* *clerk*  
CLERK  
LAT

## PHASE 1

**EXHIBIT**  
**B**



**COLE ENGINEERING, INC.**  
PROFESSIONAL CIVIL ENGINEERS  
19 SOUTH MAIN STREET  
LEICESTER, MASSACHUSETTS 01524  
PHONE: 508-952-2779 - FAX: 508-952-2775

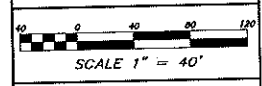
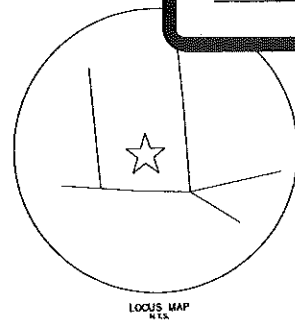
LEICESTER, MASSACHUSETTS  
LYNDE BROOK PLAZA

PREPARED FOR:	LYNDE BROOK PLAZA LLC.
PROPERTY ADDRESS:	190 MAIN STREET, CHERRY VALLEY
OWNER OF RECORD:	LYNDE BROOK PLAZA LLC.
DATE:	AUGUST 21, 2008

[illegible]

PLAN REFERENCE(S):  
870-7, 354-100, 499-18  
DEED REFERENCE(S):  
54783-171  
ASSESSOR REFERENCE(S):  
230 AS 0

**EXHIBIT**  
**C**



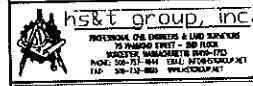
**LEICESTER**

**PLANNING BOARD**  
APPROVAL UNDER THE SUBDIVISION  
CONTROL LAW IS NOT REQUIRED

A MAJORITY VOTE  
DATE: \_\_\_\_\_

PLANNING BOARD ENDORSEMENT IS NOT  
A DETERMINATION AS TO CONFORMANCE  
WITH THE ZONING BYLAW.

THIS PLAN HAS BEEN  
PREPARED IN CONFORMITY WITH THE RULES  
AND REGULATIONS OF THE REGISTERS OF DEEDS  
OF THE COMMONWEALTH OF MASSACHUSETTS.

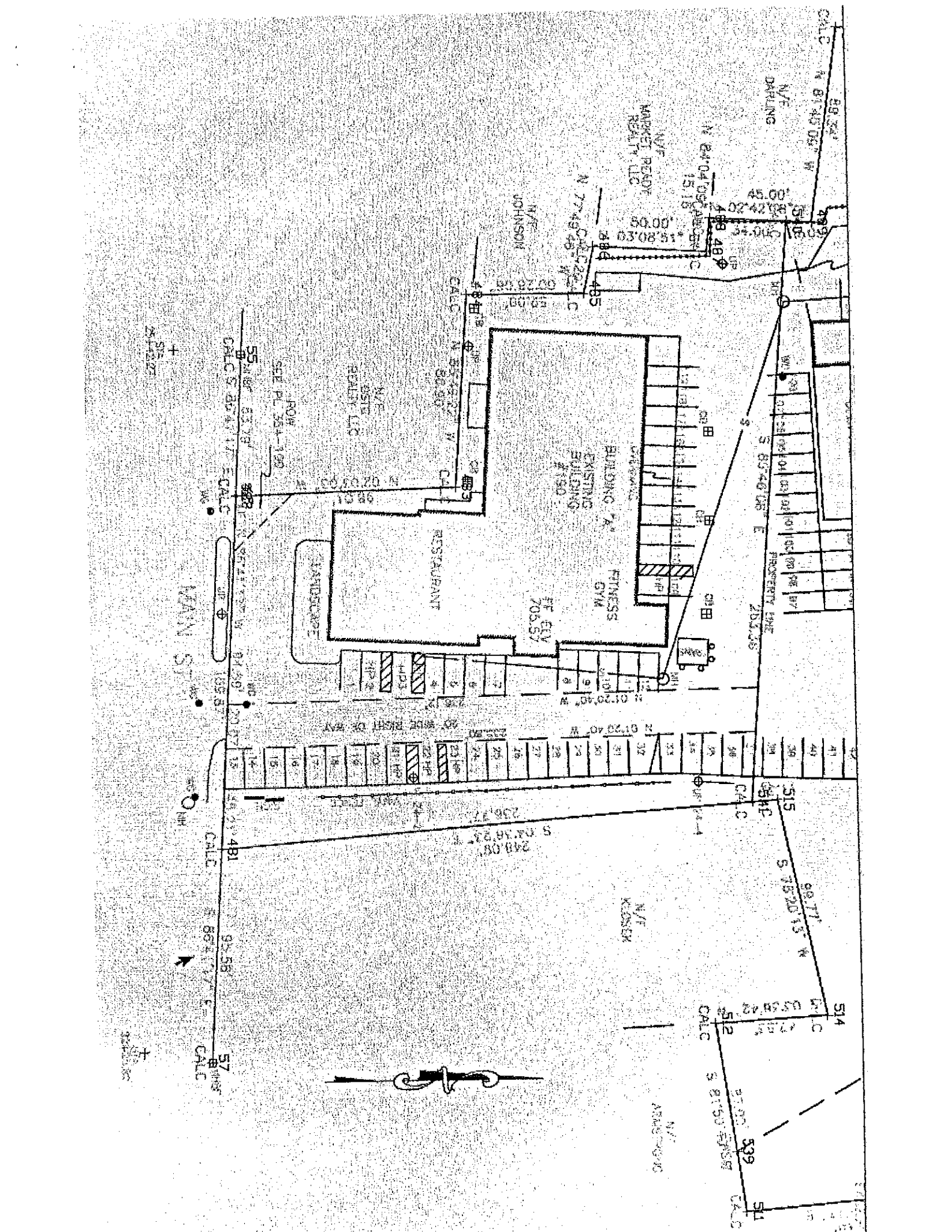


**VARIANCE PLAN**  
180 MAIN ST LEICESTER MA

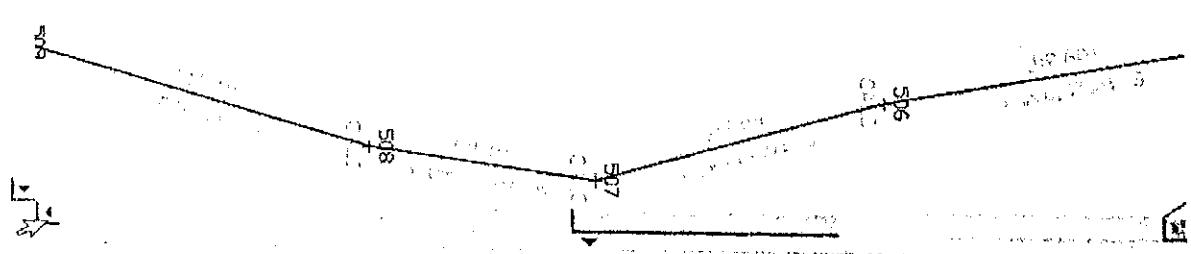
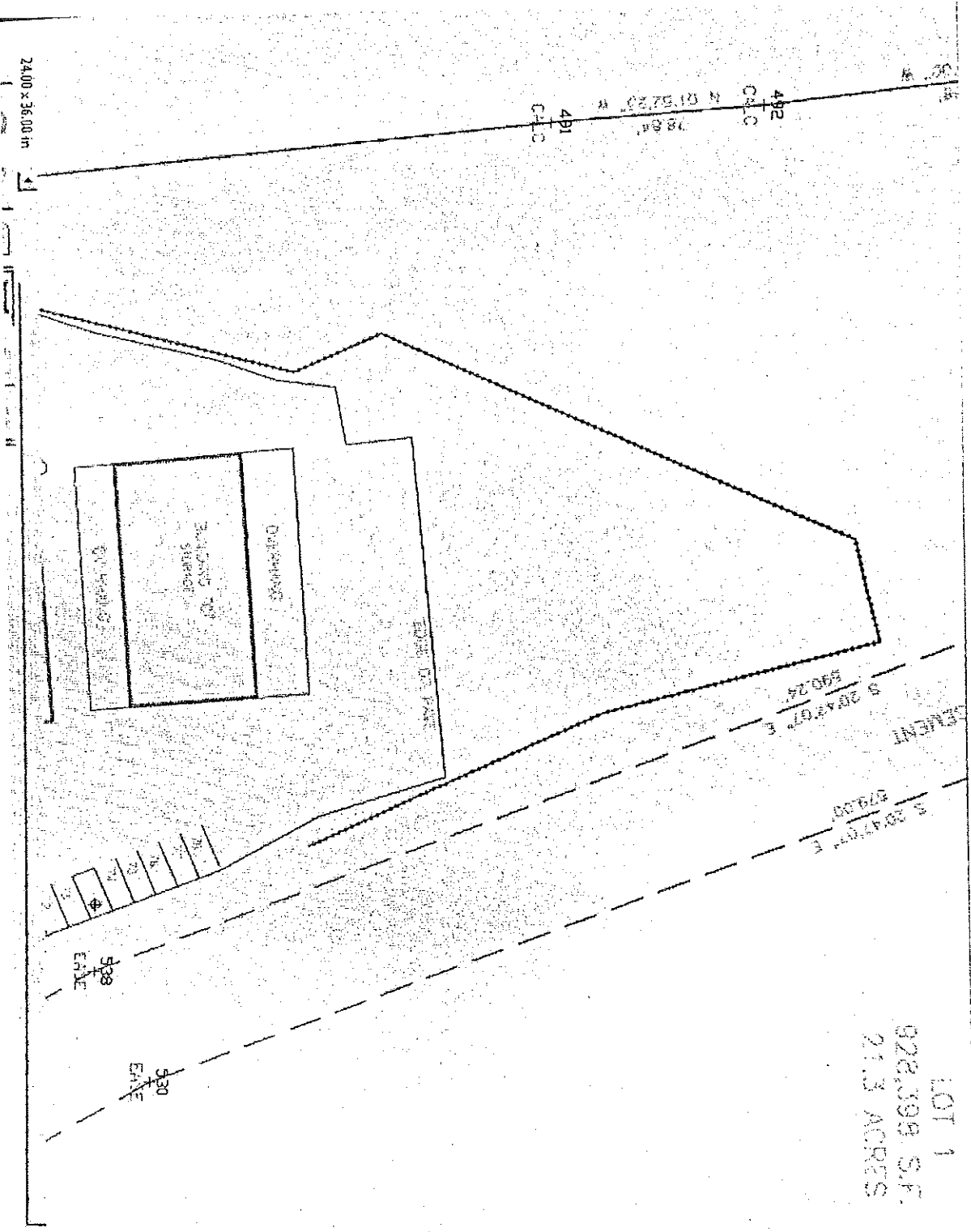
APPLICANT(S)/OWNER(S):  
LYNNE BROOK PLAZA LLC  
180 MAIN ST LEICESTER MA

DATE: 12-04-13 COMPT: DTJ FIELD PS  
SCALE: 1"=40' CAD: DTJ FLD SK: 147-149

JOB NUMBER: 6354  
SHEET NUMBER: 1 of 2  
DWG NUMBER: 5188



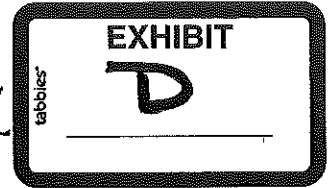
10





# Office of the Town Clerk

## Town of Leicester



3 Washburn Square • Leicester, Massachusetts 01524-1333  
Telephone (508) 892-7011 • Fax: (508) 892-7070

DEBORAH K. DAVIS  
TOWN CLERK  
E-mail: davisd@leicesterma.org

LINDA A. ROWDEN  
ASSISTANT TOWN CLERK  
E-mail: rowdenl@leicesterma.org



Bk: 47575 Pg: 366  
Page: 1 of 8 07/08/2011 09:02 AM W

June 1, 2011

### SPECIAL PERMIT & SITE PLAN APPROVAL

I hereby certify that the twenty (20) days have elapsed from the date the Decision was filed in my office by the **Leicester Planning Board**, which granted to Lynde Brook Plaza, LLC, 4 Old English Road, Worcester, MA 01609 for a **Special Permit & Site Plan Approval** under **Section §3.2.04.3 and 5.2** of the Leicester Zoning Bylaw to allow Map 23B, Parcel A51 (Industrial), #3 (Storage Warehouse) to allow use of existing structures for warehouse use.

Deed Reference: Book # 43282, Page # 270

Special Permit Filed: May 11, 2011

No Appeal has been filed with my office against this Decision.

A True Copy, Attest.

*Deborah K. Davis*  
Deborah K. Davis

Paul D'Brien Esq.  
2 old Common Rd  
Auburn, MA 01501

196 Main Street, Leicester



Phone: 508-892-7019  
FAX: 508-892-7064

**TOWN OF LEICESTER  
PLANNING BOARD  
3 Washburn Square  
LEICESTER, MASSACHUSETTS, 01524-1333**

**SPECIAL PERMIT & SITE PLAN  
APPROVAL**

**Date:** May 10, 2011  
**File Number:** SP2011-01  
**Applicant:** Lynde Brook Plaza, LLC  
4 Old English Road  
Worcester, MA 01609  
**Owner:** Same as Applicant  
**Location:** 190 Main Street/Assessors Map 23B, Parcel A51  
**Deed Ref.:** Book 43282, Page 270  
**Zoning:** Business (B)  
**Water/Sewer:** Cherry Valley & Rochdale Water District/Cherry Valley Sewer District  
**Subject:** Application for a Special Permit and Site Plan Approval under §3.2.04 (Industrial), #3 (Storage Warehouse) to allow use of existing structures for warehouse use

RECEIVED  
TOWN OF LEICESTER, MASS.  
2011 MAY 11 PM 12:42

The decision of the Planning Board on the above-referenced application is as follows:

***PROCEDURAL HISTORY:***

1. On March 29, 2011, an application for a Special Permit and Site Plan Review in accordance with Sections §3.2.04.3 and 5.2 of the Leicester Zoning Bylaw respectively, was submitted to the Leicester Planning Board. This written Decision encompasses both the Special Permit and Site Plan Review requests. All application materials are on file with the Planning Board. The Board's Decision is based on the following submittal(s):
  - Copy of Assessors Map 23B
  - Plan of Property in Leicester, Mass., owned by Cherry Valley Builders Supply, Co., prepared by Thompson-Liston Associates, Inc., and dated September 29, 1971
  - Project Narrative (Memo from Paul J. O'Brien, Attorney for Lynde Brook, LLC to the Leicester Planning Board), dated March 28, 2011.
  - Letters from Paul J. O'Brien dated May 2, 2011, regarding Fire Department and Water and Sewer District issues.
2. The Planning Board held a public hearing on the application on May 10, 2010. At the hearing, opportunity was given to all those interested to be heard in favor or opposition to such application. The hearing was closed on May 10, 2010.
3. During the public hearing, the Planning Board received comments from the following Town Boards and Departments: Board of Health (4/13/11), Police Department (4/25/11), Cherry

Valley and Rochdale Water District (4/13/11), Cherry Valley Sewer District (4/13/11), Code Enforcement Officer (4/11/11), and Highway Department (3/29/11). All comments are on file with the Planning Board.

### **FINDINGS:**

1. Pursuant to the Leicester Zoning By-law 3.2.04.3, a storage warehouse is allowed by Special Permit from the Planning Board in the Business (B) zoning district.
2. The project is located on a 21.3± acre lot in the Business (B) zoning district. There are four existing structures on the site (the front two structures are attached). Currently, the structure closest to Route 9 is occupied by a restaurant (Eller's). The attached rear structure and two additional structures have been used in the past as a warehouse. The Applicant proposes to use the three vacant existing buildings for unheated storage warehouse space (41,280± total square feet). Renters may include businesses and individuals who require storage of goods, equipment, vehicles, boats and the like. Renters will have supervised access to the facility.
3. The Applicant proposes no additional building or pavement and no increase in impervious surface. There is an existing parking lot and interior driveways around the buildings. The parking field includes parking in front of the property adjacent to the restaurant as well as parking along both sidelines. There are approximately 90 parking spaces. The existing paved surfaced will be repaired and re-striped as necessary. In addition, new signage will be placed on the buildings.
4. In accordance with Section 5.8.04.B of the Leicester Zoning Bylaw [Special Permit Review Criteria (for the Business District)], the Planning Board may grant a special permit if the following conditions are met:
  1. **Provision shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets and property. The service level of adjacent streets shall not be significantly reduced due to added traffic volume or type of traffic in accordance with the most recent edition of the Massachusetts Highway Department Highway Capacity Manual;**  
The Board finds that the proposed use as storage will not impact traffic and that safe vehicular and pedestrian traffic has been addressed as conditioned in this approval.
  2. **The proposed use shall not overload the capacity of water and sewer systems, storm water drainage, solid waste disposal facilities, and other public facilities;**  
There are deficiencies in both water and sewer lines serving the buildings. The structures may only be used for storage, with no occupancy of the buildings, unless these deficiencies are addressed. Other utilities will be provided by the owners at the owners' expense.
  3. **The design of the project shall provide for adequate methods of disposal of sewage, refuse, or other wastes generated by the proposed use;**  
See comments under #2 above regarding sewer. Trash will be picked up by private contractor.
  4. **The project shall comply with all applicable environmental laws and regulations;**  
Board finds that the Applicant has complied with this requirement as conditioned in this approval.

5. **The proposed project shall be consistent with Leicester's Master Plan; and,**  
The project is consistent with Leicester's Master Plan, which encourages the reuse of existing structures.
6. **The project shall comply with all Site Development Standards required in the "B" district.**  
The Board finds that the Site Development Standards required in the "B" district are generally not applicable because no new exterior construction is proposed.
5. Section 5.2.05 of the Zoning By-law contains standards for Site Plan Approval. With regard to the Applicant's development proposal, the Planning Board makes the following findings pursuant to Section 5.2.05:
  - A. **The use complies with all the provisions of the Leicester Zoning By-Law**  
The Board finds that the proposed use complies with the Leicester Zoning Bylaw.
  - B. **The use will not materially endanger or constitute a hazard to the public health**  
The Board finds that the proposed project, subject to the conditions set forth in this decision, will not constitute a hazard to public health or safety.
  - C. **The use will not create undue traffic congestion or unduly impair pedestrian safety**  
The Board finds that the project, subject to the conditions set forth in this decision, will not create undue traffic congestion or unduly impair pedestrian safety.
  - D. **Sufficient off-street parking exists or will be provided to serve the use**  
The Board finds that the proposed parking is sufficient for the proposed use.
  - E. **The use can be adequately served by water, sewer, and other necessary utilities, or if these are unavailable, that they will be brought to the site at the owner's expense; or, the Planning Board is satisfied that the proposed alternatives will comply with all applicable regulations;**  
The Board finds that this standard has been met as conditioned in this decision.
  - F. **The use will not result in a substantial increase of volume or rate of surface water runoff to neighboring properties and streets, nor will result in pollution or degradation to surface water or ground water;**  
The proposed project does not involve any new exterior construction or increase in impervious area.
  - G. **The use will not result in any undue disturbance to adjoining property owners or the Town caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc.**  
The Board finds that this standard has been met.

#### **DECISION:**

At its meeting of May 10, 2011 the Planning Board voted to approve the Special Permit and Site Plan for this project. As used in this decision, the term "Applicant" as set forth herein shall mean the Applicant, its heirs, successors and assigns. The term "Board" as set forth herein shall mean the Planning Board. The term "Town" shall mean the Town of Leicester, Massachusetts. Unless otherwise indicated herein, the Board may designate an agent or agents to review and approve matters set forth herein. The Planning Board's approval is subject to the conditions and waivers described below.

#### **WAIVERS:**

This vote includes a waiver of the submittal of technical information customarily submitted with Special Permit applications for the following reasons: 1) the proposed use will be located in existing structures, 2) there will be no new construction or increase in impervious area, 3) the

relationship of the structures and site and the abutting properties will be unchanged, and 4) the plan submitted provides sufficient detail in combination with evaluation of the site to adequately evaluate the proposed use.

### **CONDITIONS:**

#### **Pre-Construction**

1. This Special Permit shall not take effect until it has been recorded at the Worcester District Registry of Deeds and evidence of such recording is delivered to the Planning Board.
2. Prior to the commencement of authorized site activity, the Applicant shall provide to the Planning Board Office the name, address and business phone number of the individual who shall be responsible for all construction activities on site.
3. Prior to the issuance of a building permit, all required federal, state, and local permits and licenses for the construction of the building which is the subject matter of the building permit shall be obtained and presented to the Building Inspector.

#### **General**

4. All improvements shall be constructed in accordance with the approved plans of record. This approval is dependent upon, and limited to the proposals and plans contained in the application (as revised through the course of the review process) and supporting documents submitted and affirmed by the Applicant. No substantial corrections, field modifications, additions, substitutions, alterations, or any changes shall be made in any plans, proposals, and supporting documents approved and endorsed by the Planning Board without the written approval of the Planning Board, which in its sole discretion, may determine such substantiality. Any requests for substantial modifications shall be made to the Planning Board for review and approval and shall include a description of the proposed modification, reasons the modification is necessary and supporting documentation. Such modifications may require formal amendment of the Special Permit following the same procedure as for the original grant of a Special Permit.
5. Unauthorized deviations from the approved project may result in the Planning Board seeking the issuance of a Cease and Desist Order until the deviation is addressed. Violation of any condition contained herein or failure to comply with the approved plan shall subject the Applicant to a zoning enforcement action in accordance with the remedies set forth in M.G.L. c. 40A.
6. In accordance with Section 5.2.08 of the Zoning By-laws, construction on the site must be started or substantial activity commenced within one (1) year of the date of Site Plan Approval. This time may be extended for one additional year at the discretion of the Planning Board, for good cause, and upon a written request from the Applicant prior to the expiration of the original one-year period. If this time period has elapsed and construction has not started, the rights granted by the Site Plan Approval shall expire and may be reestablished only after another site plan review under Section 5.2. Construction, once begun, shall be actively and continuously pursued to completion within a reasonable time.

7. The Special Permit shall lapse in two years unless construction has commenced by such date, unless for good cause shown a written request for an extension of time is made to the Planning Board. Such construction, once begun, shall be actively and continuously pursued to completion within a reasonable time. This two-year period does not include time as required to pursue or await the determination of an appeal from the granting of this Special Permit.
8. Litter and debris in the parking lots, landscaped and buffer areas shall be removed regularly to maintain a neat and orderly appearance.
9. The use will not result in any undue disturbance to adjoining property owners or to the Town caused by excessive or unreasonable noise, smoke, vapors, fumes, dust, glare, etc.
10. All parking spaces shall remain accessible and clear of snow year-round. In such instances where snow storage areas are not sufficient to accommodate heavy snow, the Applicant shall remove snow off site to ensure that all parking spaces are available.

**Project –Specific Conditions:**

11. There are existing deficiencies in water and sewer service to the structures proposed for warehouse house. Use of these structures is therefore limited solely to unoccupied storage facilities. No space shall be rented out to conduct business on the premises; customers shall have storage rights only.
12. The sprinkler system will be up to code and certification of same will be presented to the Fire Department by the owner or his designee.
13. Emergency vehicle access around all of the buildings shall be maintained year round.
14. The Applicant shall install a key storage "KNOX-BOX®" on the building per the specifications and requirements of the Leicester Fire Department.
15. There shall be no storage of hazardous materials in the buildings.
16. In the event of a change in use, the owner shall notify the Fire Department 30 days prior thereto.
17. The Applicant shall comply with the provisions of §3.2.07 (SIGNS) of the Leicester Zoning Bylaws, and apply for the appropriate permits for the proposed signage.
18. Newly striped parking spaces shall be 10' x 20', in conformance with the Site Development Standards for the Business District. Parking access aisles between rows of parking spaces shall be at least 24 feet wide to provide adequate room to maneuver when backing out of parking spaces.
19. The Applicant shall provide a sign near the transformer behind Eller's Restaurant that reads "Caution Pedestrians" or similar, to the satisfaction of the Planning Board.
20. The Applicant shall provide a stop sign on the sidewalk to the right of the curb cut (when exiting), subject to Mass DOT approval.

21. Hours of operation shall be limited to 7:00AM – 7:00PM, Monday through Saturday.
22. All storage shall be inside the structures on the site; there shall be no exterior storage.
23. Additional exterior lighting is subject to review and approval by the Planning Board and may be approved by majority vote of the Board at a regular meeting of the Board.

#### **Construction**

24. During repair/re-stripping of the parking lot and other authorized site work, the Applicant shall conform to all local, state and federal laws regarding noise, vibration, dust, and blocking of Town roads. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Construction on exterior features shall not commence on any day before 7:00AM and shall not continue beyond 7:00PM; provided, however, that such construction shall not commence on Saturday before 8:00AM and shall end at 3:00PM. There shall be no construction on any Sunday or state or federal legal holiday.
25. Sediment tracked onto Route 9/Main Street from construction activities shall be swept at the conclusion of each construction day, until all work areas have been properly stabilized.
26. Members or agents of the Planning Board shall have the right to enter the site at reasonable times to gather all information, measurements, photographs or other materials needed to ensure compliance with this approval. Members or agents of the Planning Board entering onto the site for these purposes shall comply with all safety rules, regulations and directives of the Applicant and the Applicant's contractors.

#### **Occupancy**

27. Prior to occupancy, the owner shall contact the Fire Department to arrange an inspection of the fire suppressant system. The sprinkler system shall be approved by the Fire Department prior to occupancy.
28. No final certificate of occupancy for the buildings shall be issued until authorized site improvements have been completed.

Approval by the Planning Board shall not be construed as approval from any other board or agency that is needed regarding permitting for this project.

**RECORD OF VOTE**

The following members of the Planning Board vote to approve a Special Permit and Site Plan to allow construction of a veterinary clinic as described above, subject to the above-stated terms and conditions:

William Wright  
William Wright, Chair

Debra Friedman  
Debra Friedman, Vice-Chair

Absent  
John McNaboe

Jason Grimshaw  
Jason Grimshaw

Absent  
Patricia Dykas-Gonct

Sharon Nist  
Sharon Nist, Associate Member

Date of Decision: May 10, 2011

**APPEALS**

Appeals, if any, shall be made pursuant to M.G.L., Ch. 40A, §17 and notice of appeal shall be filed within 20 days after the date of filing of this notice in the office of the Town Clerk.

Copy of Decision delivered to:

Applicant*	Zoning Board of Appeals
Owner*	Highway Department
Town Administrator	Building Inspector
Assessors Office	Quinn Engineering

\* by certified mail

Notice of Decision delivered to "Parties in Interest" (abutters & Planning Boards of abutting Towns)

## Damien Berthiaume

---

**From:** Taylor, Jeffrey <TaylorJ@leicesterma.org>  
**Sent:** Wednesday, December 20, 2017 9:55 AM  
**To:** Damien Berthiaume  
**Subject:** RE: [Leicester MA] Lynde Brook Plaza (Sent by Damien Berthiaume, db@berthiaumelegal.com)

Good morning Damien,

I have reviewed all of this and have also run this by Michelle Buck, town planner. I agree a variance will be in order and I also have one comment to make. Exhibit C does not have any measurements at all so we couldn't make heads nor tails from that print..

As I stated and agree with you, you will need to apply for a variance with the ZBA...

Any further questions please direct them to me or Michelle if one of us is out of the office...

Jeff Taylor  
Inspector of Buildings,  
Building Commissioner  
Zoning Enforcement Officer  
Leicester, Ma 01524  
508-892-7003

-----Original Message-----

**From:** vtsgmailer@vt-s.net [mailto:vtsgmailer@vt-s.net]  
**Sent:** Monday, December 18, 2017 12:07 PM  
**To:** Taylor, Jeffrey <TaylorJ@leicesterma.org>  
**Subject:** [Leicester MA] Lynde Brook Plaza (Sent by Damien Berthiaume, db@berthiaumelegal.com)

Hello jtaylor,

Damien Berthiaume (db@berthiaumelegal.com) has sent you a message via your contact form (<https://www.leicesterma.org/user/15726/contact>) at Leicester MA.

If you don't want to receive such e-mails, you can change your settings at <https://www.leicesterma.org/user/15726/edit>.

Message:

Jeff:

Attached please find a letter confirming our conversation last week regarding Lynde Brook Plaza. Please contact me with any questions or in the alternative simply confirm that a variance is required and I will file the application. -Damien