

## Erin Zwirko

---

**From:** Camilla Shannon  
**Sent:** Monday, April 1, 2024 2:58 PM  
**To:** Erin Zwirko; Wendy Simmons  
**Cc:** Timothy Shannon  
**Subject:** In support of ADU application

Dear Members of the Planning Board,

We write in support of our neighbor Janice Cooper's application for an ADU on her property at 53 West Elm Street. The proposed ADU is in keeping with the town's development philosophy: it would create a new, more affordable housing option by infilling in a central location. The proposed ADU would place very little additional burden on the town (no need for new roads, for example). The proposed ADU would also be better for our neighborhood. It would replace what has been an airbnb rental with the regular turn over of guests and cleaners with a home for a stable, new neighbor with a vested interest in the local community.

Sincerely,  
Cam and Tim Shannon  
47 West Elm Street, Yarmouth

--  
Camilla Shannon  
(c) 617-780-9150

April 8, 2024

Public Comments to Proposed ADU at 53 West Elm Street.

Submitted by:

Rebecca Rundquist

55 West Elm St.

Yarmouth, ME 04096

I am submitting these comments to object to the proposed ADU on 53 West Elm St. My first notice of use of the small building that was a garage (see the rendering from the planning board files referring to it as a garage) in the backyard of 53 West Elm Street occurred over 12 months in the early Fall of 2013 when a Craigslist ad appeared for rental of the space as an apartment. Illegal use of the space as a rental then continued for a number of months into 2014. Extensive additional construction then began on the structure even though it was not yet approved for rental or tenancy. This use has continued for 10 years. I am trying once more to clarify that this building in no way has been approved for its current use.

#### **A. Objections in Relation to Yarmouth Ordinances**

Section J 12 j specifically states: “j. Accessory dwelling units are not eligible for variances to setbacks.” There has been a number of references to this building having a variance. All references to a variance in the town file for this property are referring to alterations done to the main building.

OF THE DATE SHOWN  
IBLE CONFLICTS WITH  
RECORDING.

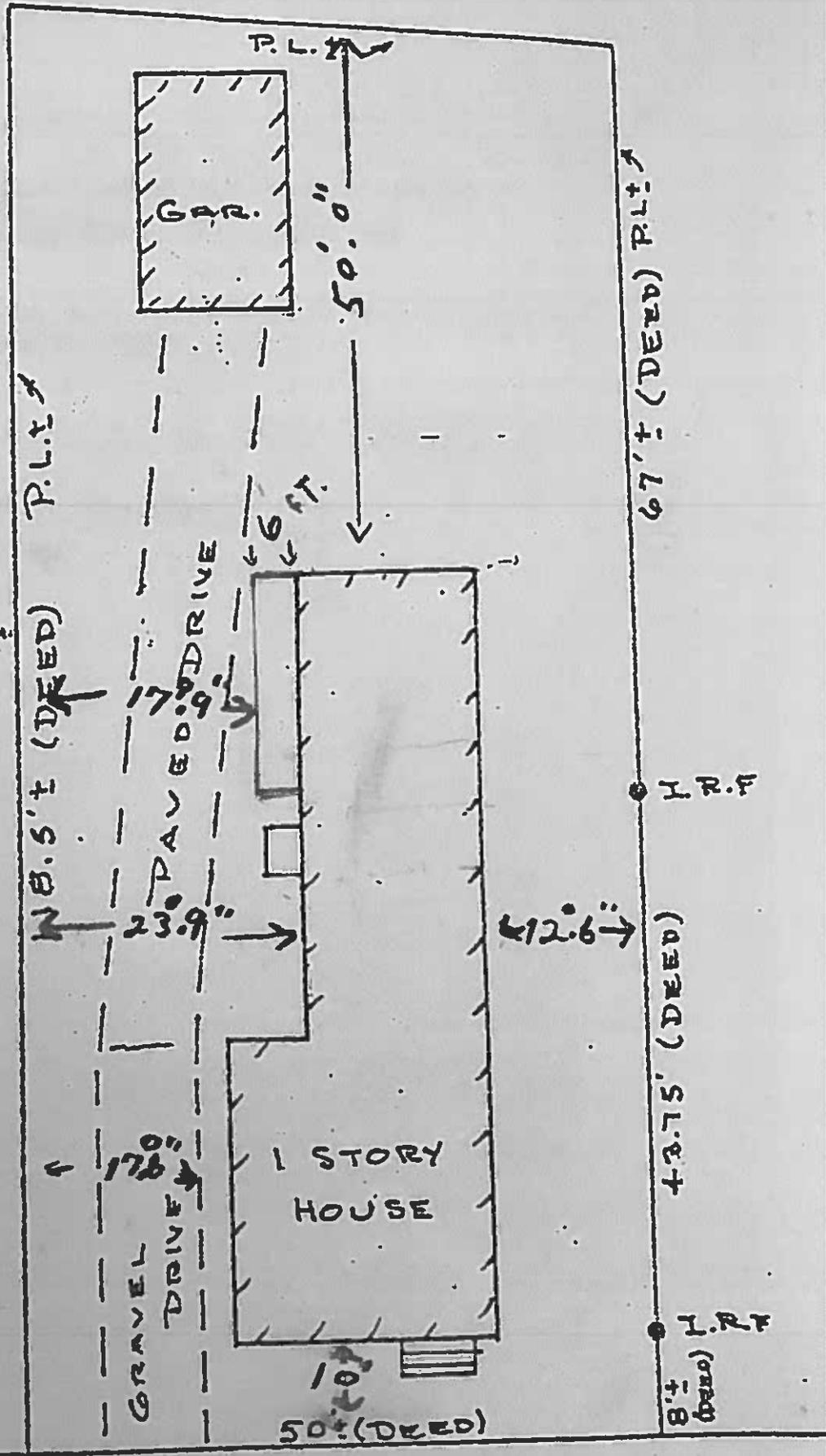
ARY SURVEY.

Z

7



RW 1/2



23 WEST ELM STREET



FRANCES E. BAYERS  
TOWN CLERK

# TOWN OF YARMOUTH, MAINE

OFFICE  
TOWN CLERK  
P. O. Box 155  
YARMOUTH, MAINE 04096  
Oct. 17, 1973

TEL. 846-5241

## NOTICE OF PUBLIC HEARING

A PUBLIC HEARING WILL BE HELD BY THE YARMOUTH ZONING BOARD OF APPEALS ON OCTOBER 25, 1973 at 7:30 P. M. IN THE ROWE SCHOOL TO HEAR THE APPEAL OF -RICHARD P. & MARILYN E. SELLECK OF 23 WEST ELM ST., YARMOUTH, ME., TO PERMIT:

"To remodel existing shed into bedroom by enlarging the West wall 4 foot and the North wall 3 foot and maintain the 12½ foot set-back of main dwelling allowed by the Board of Appeals action in 1972 to divide this lot."

THIS CONSTITUTES A VARIANCE OF THE ZONING ORDINANCE.

*Frances E. Bayers*  
Frances E. Bayers  
Town Clerk.

211/71

October 27, 1973

Mr. & Mrs. Richard P. Selleck  
Bayview Street  
Yarmouth, Maine 04096

Dear Mr. & Mrs. Selleck:

Following public hearing held at the Rowe School October 25, 1973, the Board of Appeals voted to grant you permission to remodel an existing shed into a bedroom, provided you maintain the 12½' set-back of the main building.

The board feels that by granting this variance it will not further extend the non-conforming use of this property.

Very truly yours,

L. W. Reinsborough, Sec.,  
Zoning Board of Appeals

LWR/r  
cc: ✓ Frances E. Bayers  
William Lowell  
Betty Sturtevant

10-20 P.D.  
Rev # 130

TOWN OF YARMOUTH, MAINE  
BOARD OF APPEALS

VARIANCE APPEAL

10-3-73

DATE

Selleck

Richard P. & Marilyn E., OWNER OF PROPERTY AT 23 West Elm St.  
UNDER THE PROVISIONS OF THE ZONING ORDINANCE OF THE TOWN OF YARMOUTH, HEREBY  
RESPECTFULLY PETITIONS THE BOARD OF APPEALS FOR A VARIANCE FROM THE PROVISIONS  
OF SAID ORDINANCE TO PERMIT:

To remodel existing shed into bedroom by  
enlarging the West wall 4' and the North wall 3' and maintain  
the 12½ set-back of main dwelling allowed by Board of Appeals  
Action in 1972 to divide this lot.

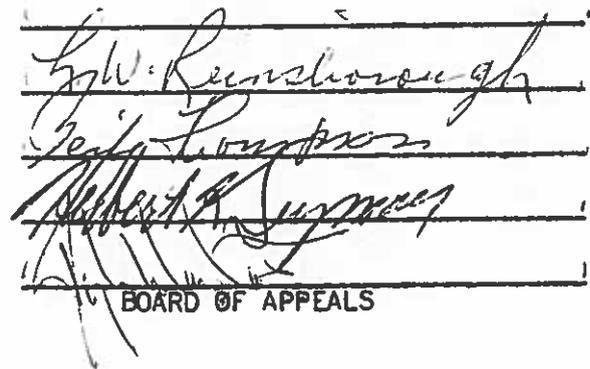
LEGAL BASIS OF APPEAL: SUCH VARIANCE MAY BE GRANTED ONLY IF THE BOARD OF  
APPEALS FINDS THAT THE STRICT APPLICATION OF THE PROVISIONS OF THE ORDINANCE  
WOULD RESULT IN UNDUE HARDSHIP IN THE DEVELOPMENT OF PROPERTY WHICH IS INCON-  
SISTENT WITH THE INTENT AND PURPOSE OF THE ORDINANCE; THAT THERE ARE EXCEPT-  
IONAL OR UNIQUE CIRCUMSTANCES RELATING TO THE PROPERTY THAT DO NOT GENERALLY  
APPLY TO OTHER PROPERTY IN THE SAME DISTRICT OR NEIGHBORHOOD, WHICH HAVE NOT  
ARISEN AS A RESULT OF ACTION OF THE APPLICANT SUBSEQUENT TO THE ADOPTION OF  
THIS ORDINANCE WHETHER IN VIOLATION OF THE PROVISIONS OF THE ORDINANCE OR NOT;  
THAT PROPERTY IN THE SAME DISTRICT OR NEIGHBORHOOD WILL NOT BE ADVERSELY AF-  
FECTED BY THE GRANTING OF THE VARIANCE; AND THAT THE GRANTING OF THE VARIANCE  
WILL NOT BE CONTRARY TO THE INTENT AND PURPOSE OF THE ORDINANCE:

  
APPELLANT

DECISION

AFTER PUBLIC HEARING HELD \_\_\_\_\_, THE BOARD OF APPEALS FINDS THAT  
ALL OF THE ABOVE CONDITIONS DO \_\_\_\_\_ EXIST WITH RESPECT TO THIS PROPERTY AND  
THAT A VARIANCE SHOULD \_\_\_\_\_ BE GRANTED IN THIS CASE.

IT IS, THEREFORE, DETERMINED THAT A VARIANCE FROM THE PROVISIONS OF THE ZONING  
ORDINANCE SHOULD BE GRANTED IN THIS CASE.

  
BOARD OF APPEALS

To remodel existing shed into bedroom  
by enlarging the West wall 4' and the  
North wall 3' and maintain the 12 1/2'  
setback of main dwelling allowed by  
Board of Appeals Action in 1972 to  
divide this lot.

16 West Elm St  
Chattelers

- |                 |   |       |                     |
|-----------------|---|-------|---------------------|
| 5-8 - 29        | Jonathan <del>Stett</del> Chelkoff                  | 68-67 | 24 Baker Cida       |
| 30              | Ann M. Bartlett<br>22 W. Elm St.                    | 68-67 | Franklin            |
| 31              | Carylyn Rawson<br>c/o Mours Lodge<br>24 W. Elm St.  | 68-67 | M. + M. C. C. C. C. |
| 32              | Phyllis Makner<br>(Amelia) Kalcian<br>26 W. Elm St. | 68-67 | Margaret            |
| 33              | Gene M. McCann<br>28 W. Elm                         | 68-67 | Elizabeth           |
| 25 Center St.   | 34 Richard + Joyce Knight                           | 68-67 | 14 Lorraine St. Sp  |
| 21 Center St.   | 35 Johan Van de Velde                               | 68-67 | Robert Waters       |
| 13 " "          | 36 Elizabeth S. Bishop                              | 68-67 | WFD #1, Yarnon      |
| 13 " "          | 37 " " "  | 68-67 | Oren Kump           |
| " " "           | 38 Dennis of Stanley Bishop                         | 68-67 | 17-9 City           |
| 9 " "           | 39 Lula Sawyer                                      | 68-67 | Florence Seeger     |
| 7 " "           | 40 Rose Carmichael                                  | 68-67 | Redmen's Hall       |
| 3 " "           | 42 Mrs + Mrs. Langha Keller                         | 68-67 | 13 West Elm         |
| 7 W. Elm        | 43 Luga Johnson                                     | 68-67 | D. S. F. Mc In      |
| 40 Church St.   | 45  | 68-67 | 2 Church            |
| North St.       | 46  | 68-67 | W. M. Glenn         |
| Ellicott St.    | 47  | 68-67 | Ernest              |
| 10 Ellicott St. | 48  | 68-67 | Estation            |
| Tuttle Rd.      | 49  | 68-67 | 4 Church St         |
| W. D. Lamb. Ct. | 50  | 68-67 |                     |
| Sumnerland St.  | 51  | 68-67 |                     |
| 371 Baker St.   | 52  | 68-67 |                     |
| 31 Baker        | 53  | 68-67 |                     |
| 27 Baker        | 54  | 68-67 |                     |
| 23 Baker        | 55  | 68-67 |                     |
| 14 Baker        | 56  | 68-67 |                     |
| * 11 Baker St.  | 57  | 68-67 |                     |

(Pellebroni)  
 (Herb - 1 Cum. Jand)  
 (Lynn)  
 (The Wall)  
 (L. J. J. J. J.)  
 (L. J. J. J. J.)

Mrs. + Mrs. Joseph  
 " Eagle Sherwin  
 " Lewis Deek  
 " Lawrence Thee  
 " Grace Brown  
 " Baker St.

\* Oref. Penn  
 M. + Mrs. James Dal  
 " St. Ma. Donald

Pascoe Daughless  
 Edith Luffin  
 M. + Mrs. Rodney MacLean  
 Janette Sullivan  
 Laurence Thurlow  
 Stella B. Young  
 P. A. ...

TOWN OF YARMOUTH, MAINE  
BOARD OF APPEALS  
SETBACK REDUCTION APPEAL

June 13, 1990  
Date

Request: Julie Harris, owner, applicant of property at  
23 West Elm St 41-71, under the provisions of the  
Zoning Ordinance of the Town of Yarmouth, hereby petitions  
the Board of Appeals for a setback reduction as provided for  
in Article VII, Section 101.2d of the Zoning Ordinance to permit:

construction of a 2<sup>nd</sup> story addition,  
20' x 20' requiring a setback reduction  
to 17' in the MOK District, Article 10,  
Section 105.

x Robert A. Haines / ORH  
Appellant

At a public meeting held on \_\_\_\_\_, the Board  
of Appeals finds that the request meets the standards of  
Article VII, Section 101.5 of the Zoning Ordinance and the  
appeal is granted.

Dorothy P. H...  
J. L. H...  
Paul B. H...  
James P. G...  
Jonathan F. A...  
Amel B. A...

Board of Appeals

41-71  
BUILDING  
PERMIT

20-

APPLICANT Robert Haynes DATE 7-24 19 95 PERMIT NO. 95-082  
ADDRESS 23 West Elm St. (NO.) (STREET) (CONTR'S LICENSE)

PERMIT TO Shed (Attached) (TYPE OF IMPROVEMENT) NO. (PROPOSED USE) NUMBER OF DWELLING UNITS

AT (LOCATION) Same (NO.) (STREET) ZONING DISTRICT

BETWEEN (CROSS STREET) AND (CROSS STREET)

SUBDIVISION 41 LOT 71 BLOCK LOT SIZE

BUILDING IS TO BE 6 FT. WIDE BY 18 FT. LONG BY FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCT

TO TYPE Res USE GROUP R-4 BASEMENT WALLS OR FOUNDATION (TYPE)

REMARKS: Setback Reduction Required - Approved 7/24/95

AREA OR VOLUME (CUBIC/SQUARE FEET) ESTIMATED COST \$ 3,000 PERMIT FEE \$ 20-

OWNER [Signature] ADDRESS BUILDING DEPT. BY [Signature] 1137 CEO

FORM NO. BOCA - BP 1994



41-71

CERTIFICATE ISSUED

DATE 20

# BUILDING PERMIT - CERTIFICATE OF OCCUPANCY

APPLICANT Robert Haynes DATE 7-24 19 95 PERMIT NO. 95-082  
ADDRESS 23 West Elm St. (NO.) (STREET) (CONTR'S LICENSE)

PERMIT TO Shed (Attached) (TYPE OF IMPROVEMENT) NO. \_\_\_\_\_ (PROPOSED USE) NUMBER OF DWELLING UNITS \_\_\_\_\_

AT (LOCATION) Same (NO.) (STREET) ZONING DISTRICT \_\_\_\_\_

BETWEEN \_\_\_\_\_ (CROSS STREET) AND \_\_\_\_\_ (CROSS STREET)

SUBDIVISION \_\_\_\_\_ LOT 41 BLOCK 71 LOT SIZE \_\_\_\_\_

BUILDING IS TO BE 0 FT. WIDE BY 12 FT. LONG BY \_\_\_\_\_ FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCTION

TO TYPE Res. USE GROUP R-4 BASEMENT WALLS OR FOUNDATION \_\_\_\_\_ (TYPE)

REMARKS: Setback Reduction Required - Approved 7/24/95

AREA OR VOLUME \_\_\_\_\_ (CUBIC/SQUARE FEET)

OWNER D. Haynes  
ADDRESS \_\_\_\_\_



TO BE POSTED ON PREMISES  
SEE REVERSE SIDE FOR CONDITIONS OF CERTIFICATE

FORM NO. BOCA - BP 1994

DEPARTMENTAL APPROVAL FOR CERTIFICATE  
of OCCUPANCY and COMPLIANCE

To be filled in by each division indicated hereon  
upon completion of its final inspection.

BUILDINGS

Permit No. 95-082

Approved by [Signature] Date 4-1-96

Remarks \_\_\_\_\_

PLUMBING

Permit No. \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_

Remarks \_\_\_\_\_

ELECTRICAL

Permit No. \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_

Remarks \_\_\_\_\_

OTHER

Permit No. \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_

Remarks \_\_\_\_\_

OTHER

Permit No. \_\_\_\_\_

Approved by \_\_\_\_\_ Date \_\_\_\_\_

Remarks \_\_\_\_\_

**TOWN OF YARMOUTH**

P.O. BOX 907  
YARMOUTH, MAINE 04096



TAX.

TREAS.

NO.

41

DATE: 07/24/95  
AMOUNT: 20.00

PREVIOUS BALANCE:  
NEW BALANCE:

R2551      CODE ENFORCEMENT      20.00

DESCRIPTION: BLDG PERMIT 95-082

THANK YOU

RECEIVED FROM: ROBERT HAINES

TREASURER TAX COLL. BY CHK

PLEASE SAVE THIS RECEIPT FOR YOUR RECORDS.

Yarmouth, Maine  
 Department of Planning and Development  
 Setback Reduction Petition

MAP: 41 LOT: 71

Date: 7-24-95

Name: Robert Haines Address: 23 W. Elm St.

Description of Work: Attached shed 6' x 12'

Lot is nonconforming as to:  lot width  lot size  setbacks  lot area coverage  street frontage

Lot Created Before January 12, 1979:  Yes  No Recorded: Book 4239 Page 237

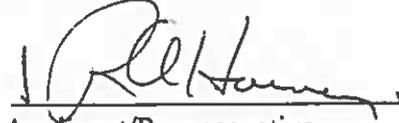
This lot is used for single family residential use only.  Yes  No

**SETBACK REDUCTIONS ALLOWED BY ZONE DISTRICT**

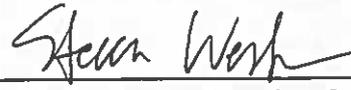
<u>DISTRICT</u>	<u>FRONT YARD*</u>	<u>SIDE YARD</u>	<u>REAR YARD</u>
M.D.R.	15	10' 2" 6" + 17' 5"	15
L.D.R.	40	20	40
R.R.	40	20	40

\*front yard averaging may be used in the R.R. or L.D.R. District.

Special exception standards apply to this application for setback reduction?  Yes  No

Signed or Submitted by/for:   
 Applicant/Representative

APPROVED:  
 Date: 7/24/95

Signed:   
 (by/for) Director Planning & Development

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

Signed: \_\_\_\_\_  
 (by/for) Director Planning & Development

Reason(s) for any denial:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

call when ready

# BUILDING PERMIT

Town of Yarmouth, Maine

MAP 41 LOT 71 EXT       

DATE OF APPLICATION 6.19.02

**APPLICANT**

NAME: ROBERT A. HAINES PHONE NO: 846-3730  
MAILING ADDRESS: 53 W ELM ST

**OWNER (other than applicant)**

NAME: \_\_\_\_\_ PHONE NO: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_

**CONTRACTOR**

NAME: JOHN CHAPLIN BUILDERS PHONE NO: 926-3426  
MAILING ADDRESS: WOODMAN RD - NEW CLONCIBESTER - ME

PROPERTY LOCATION: 53 W ELM ST

LOT DIMENSIONS: \_\_\_\_\_ x \_\_\_\_\_ Area: see attached plan Lot Coverage: \_\_\_\_\_ %

SEWER PERMIT ISSUED: yes  no  n/a  PLANNING BOARD / ZONING BOARD APPROVAL: yes  no  n/a

PLANS FILED: plot plan - yes  no  n/a  construction drawings - yes  no  n/a  ; SSWD - yes  no  n/a  ; other - yes  no  ; if yes, describe \_\_\_\_\_

DESCRIPTION OF PROPOSED CONSTRUCTION: SHED ROOF REVISION FOR ADDED STORAGE - SHED EXISTING - 6' x 12' WITH A SHED ROOF - TO INCREASE SPACE WITH A GABLE ROOF

BUILDING: Length: \_\_\_\_\_ ft. Width: \_\_\_\_\_ ft Height: \_\_\_\_\_ ft Foundation: \_\_\_\_\_ ft Area: \_\_\_\_\_ sq. ft.

Number of dwelling units: 1 Zoning District: MDR SOD: yes  no  RPD: yes  no

ESTIMATED COST OF CONSTRUCTION: \$ 3,000.00

PERMIT FEE: \$ 20.00 *paid CR #272*

Owner/Agent signature: Julie B. Haines

Date Signed: 6.19.02

Office use only: Shed is attached to rear of main building.

TYPE OF CONSTRUCTION: 5 USE GROUP R4

Building Dept.

PERMIT# 02-094

by: [Signature] 6.20.02  
BUILDING INSPECTOR

Date Permit Issued: 6/20/02

BUILDING: Length: \_\_\_\_\_ ft. Width: \_\_\_\_\_ ft. Height: \_\_\_\_\_ ft. Area: \_\_\_\_\_ sq. ft.

Number of dwelling units: 1 Zoning District: MIDIR SOD: yes  no  RPD: yes

ESTIMATED COST OF CONSTRUCTION: \$ 3,000,00 PERMIT FEE: \_\_\_\_\_

Inspector/Agent signature: [Signature] Date Signed: \_\_\_\_\_

Use only: Shed is attached to rear of main building.

TYPE OF CONSTRUCTION: \_\_\_\_\_ USE GROUP: R

Issuing Dept. \_\_\_\_\_ PERMIT # 52

Date Permit Issued: \_\_\_\_\_

Mr. [Signature]  
6.20.02  
URSINA TUSNETTA

GREEN COPY - OCCUPANCY PERMIT

**TOWN OF YARMOUTH**

P.O. BOX 907  
YARMOUTH, MAINE 04096



TAX.

06/24/2002

20.00

TREAS.

NO.

46

PREVIOUS BALANCE:

R2551

NEW BALANCE:

CODE ENFORCEMENT

20.00

INT:

BUILDING PERMIT

RIPTION:

VED HAINES ROBERT & JULIE

THANK YOU

TREASURER TAX COLL. BY CHK

PLEASE SAVE THIS RECEIPT FOR YOUR RECORDS.

ROBERT A. HAINES, M.D.  
JULIE R. HAINES  
PH 207-846-3730  
53 WEST ELM STREET  
YARMOUTH, ME 04096

3723

Date 6.19.02

52-60/112  
127

Pay to the Order of Town of Yarmouth \$ 20.00  
Twenty <sup>00</sup>/<sub>100</sub> Dollars 

  
PrivateBank  
KeyBank National Association  
Portland, Maine 04101

Key Privilege

For [Signature] MP  
⑆011200608⑆ 31369808⑆ 3723



Rebecca Rundquist <rebquist@gmail.com>

**There are no initial permits or variances for the "studio"**

1 message

Rebecca Rundquist <rebquist@gmail.com>

Mon, Jul 20, 2020 at 9:55 AM

To: Alex Jaegerman <ajaegerman@yarmouth.me.us>, Nicholas Ciarimboli <nciarimboli@yarmouth.me.us>

Cc: Judy Colby-George <judycg@gmail.com>, Nat Tupper <ntupper@yarmouth.me.us>

Good Morning,

I am sitting in the town office having looked at the file again for 53 West Elm St.

There is absolutely no documentation of initial permitting nor a necessary setback variance for what Janice is calling the studio to have been plumbed or turned into a living space. There is NO setback variance for this separate building which was only a broken down garage before all the unpermitted improvements began. . Every initial permit and setback variance was for the main building. There was absolutely NO permission given to create what has now essentially and apartment minus a kitchen.

It was all done under the incorrect impression by the town that what is referred to as the "shed" was what Janice is calling a studio. Every single document notes that the "shed" is attached to the Main building. False representations made upon the sale of property to Janice are NOT the obligation of the town to fulfill. Caveat Emptor. It has never been allowed to be a living space. Upon her purchase it was an empty unplumbed building with absolutely no permits or variances.

I have waited for a year and a half for a reply from either of you after we had a meeting and neither was willing to clarify this. I even sent follow up emails. If you want we can read through the file together. It is really really clear. I need the basic occupancy of this building to cease immediately please. It is an absolute nuisance and safety issue with inadequate parking and relentless traffic from renters in addition to Janice's traffic as an occupant at the same time. It is advertised on Airbnb as rental of the entire house. If this building is supposedly just an outbuilding aka bedroom, how is the "whole house" rented if she is in there and supposedly allowed to sleep there? There are too many holes and inconsistencies in this current scenario that accommodate a nuisance and don't respect neighbors who have to put up with this.

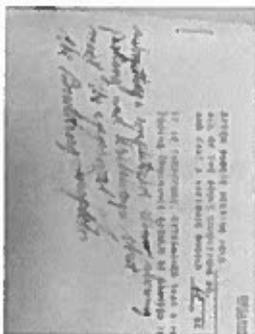
Please resolve this and finally reply to my over 365 day old inquiry.

Thank you.

Rebecca Rundquist

207-712-6430

Sent from Gmail Mobile



524131F7-AAC7-4756-AEB0-61CDCEA2E98D.jpeg  
2690K



Rebecca Rundquist &lt;rebquist@gmail.com&gt;

**Re: Inquiry - Accessory Structures**

1 message

Rebecca Rundquist &lt;rebquist@gmail.com&gt;

Mon, Oct 1, 2018 at 3:27 PM

To: Nicholas Ciarimboli &lt;NCiarimboli@yarmouth.me.us&gt;, Alex Jaegerman &lt;ajaegerman@yarmouth.me.us&gt;

Cc: Tom Federle &lt;Tom@federlelawmaine.com&gt;, killian king &lt;kingkillian@gmail.com&gt;

Hi Nicholas:

Thank you for the list of relevant definitions - which one is applicable to the outbuilding. It is timely you attached that variance b/c that is part of what I believe to be the current misunderstanding. It is my understanding that the attached was a variance to turn what is NOW an attached bedroom on the main building that USED to be the shed and is why I was specifically corrected when I used the term shed years ago. It has nothing to do with the outbuilding which is why the variance refers to the main dwelling. The back of the main house has a bedroom, it used to be where a shed was. There is now a very small attached shed which was new. Also, the room above was an unpermitted illegal addition with no firewall (another bedroom) on the main dwelling. The permission to improve the "studio" was a separate administrative process done by Julie Haines and then unpermitted further improvements were done by the current owner which was approved AFTER there was an illegal tenant in there.

As I asked in today's meeting, please clarify which of the above definitions you have listed are for the outbuilding. ADU is listed but that was specifically denied which is part of my confusion in this 5 year inquiry I continue to be involved in. I have an email into Tom Federle to talk with him and will cc him on this email.

Thank you,  
Rebecca

Rebecca

On Mon, Oct 1, 2018 at 3:17 PM Nicholas Ciarimboli &lt;NCiarimboli@yarmouth.me.us&gt; wrote:

Dear Ms. Rundquist,

Thank you for your time this morning. Please see the following definitions that may be pertinent to our discussion.

**Accessory Dwelling Unit:** A secondary dwelling unit that has been added onto, or created within a single family home or an associated Accessory Structure. One ADU is permitted per lot. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance shall not be considered a separate unit for the purposes of applying the area and density requirements of this Ordinance. An Accessory Dwelling Unit approved under the Site Plan Review Ordinance does not require review under this Ordinance or under 30-A M.R.S.A., Chapter 187, subchapter 4, the municipal reviewing authority having determined that review under the Site Plan Review Ordinance is at least as stringent as that required under subchapter 4.

**Accessory Structure or Use:** A use or Structure which is incidental and subordinate to the principal use or Structure. Accessory Uses, when aggregated, shall not subordinate the principal use of the Lot. A deck or similar extension of the principal Structure or a garage attached to the principal Structure by a rood or a common wall is considered part of the principal Structure.

**Dwelling Unit:** One or more habitable rooms arranged for the use of one or more individuals living together as a family, with a Kitchen, Bathroom, and sleeping facilities including a motel, hotel, boardinghouse, Inn, Bed and Breakfast, or similar structure. Outside of the SOD the definition shall not include a motel, hotel, boarding house,

*Inn, Bed and Breakfast, or similar commercial use.*

***Dwelling, Single Family Detached:*** *A Building designed and/or used exclusively for residential purposes for one (1) family only and containing not more than one (1) dwelling unit.*

***Family:*** *One or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth, adoption or marriage, but no unrelated group shall consist of more than five (5) persons as distinguished from a group occupying a boarding house, lodging house, or hotel.*

***Kitchen:*** *An area with a cooking appliance, refrigerator, sink with hot and cold water, food and utensil storage, and not less than 4 square feet of contiguous countertop work area.*

Additionally, please see the attachment for a copy of a 1973 Board of Appeals variance that was granted to the property owners for the use of the shed as a bedroom. If you have any other questions, please let me know. Thank you for your time.

Very Respectfully,

Nicholas J. Ciarimboli

Code Enforcement Officer/Planning Assistant

Town of Yarmouth

200 Main St.

Yarmouth, ME 04096

P: (207) 846-2401 ext.221

F: (207) 846-2438

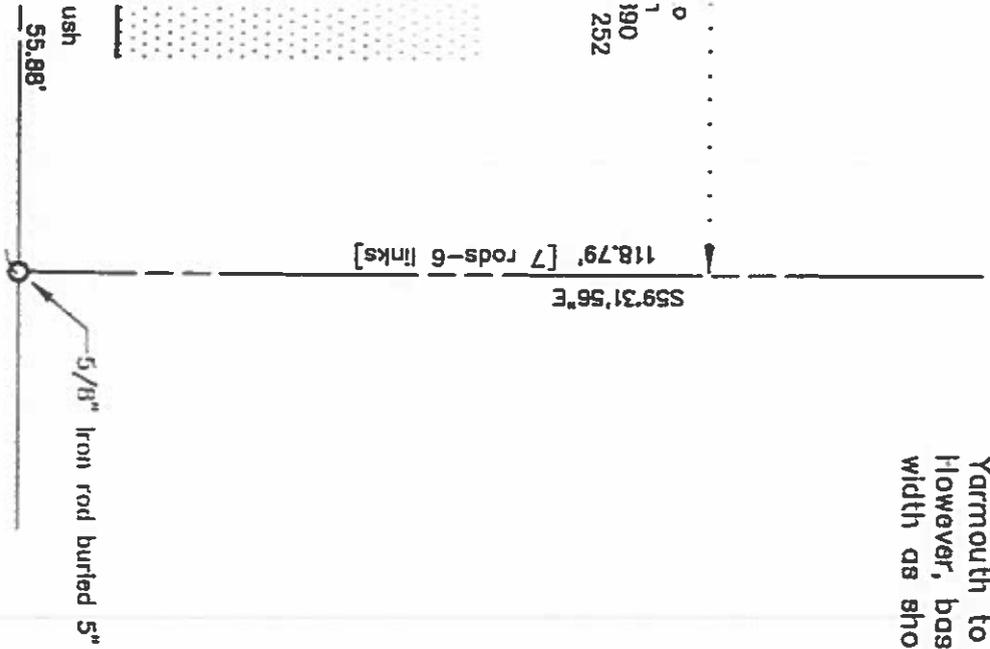
1. No survey had been done to establish the property line of my property. It is less than 7 feet from my property line. It is about 3 feet from the rear property line.

I used the same survey company that had surveyed the property adjacent to the back of my property – that survey is in here for reference.

It was not ever an inhabited space until applicant acquired the property. It was a very nicely replaced shed. It had plywood floors and it stored art supplies. It had no furniture.

2. There was no setback variance for the other “shed” that stands alone in the back corner.

Yarmouth to Eva J. Waterman by deed dated April 20, 1959 recorded in Book 3855, Page 263. However, based on extensive research, it has been determined that this parcel is over 20 feet in width as shown hereon.



**STANDARD BOUNDARY SURVEY**  
of  
**PROPERTY AT 55 WEST ELM STREET**  
**YARMOUTH, MAINE**  
for  
**REBECCA J. RUNDQUIST**

1605SBS.dwg

 <b>Midcoast Survey Co.</b> <i>land surveying services</i>	<b>DATE:</b> February 8, 2016
	<b>DRAWN BY:</b> BKJ
	<b>CHECKED BY:</b> BKJ
	<b>SCALE:</b> 1"=20'
<b>37 South Street</b> <b>Freeport, Maine 04032</b> <b>Tel. (207) 865-6255</b>	<b>PROJ. NO:</b> 1605-YA

*Brian K. Johnson*  
Brian K. Johnson, PLS #1333

Mary A. Lovell  
September 10, 1863  
Book 324, Pg. 430

5/8" iron pipe  
high

N30°18'49"E 73.48'

5/8" Iron rod w/ cap #1333

50.00'

N30°18'49"E

5/8" Iron rod w

74.50'

[6 rods=21 links]

1" iron

Reference:  
John G. Reed to  
Amos Storer & James C. Hill  
March 19, 1834  
Book 274, Pg. 60  
[original Universalist Chapel Lot]

**Rebecca J. Rundquist**  
11,313 sq. ft. or 0.26 acre

[7 rods=5 links]

N/F  
Janice E. Cooper  
Book 30127, Pg. 16

64.93' [67'+/-]  
N59°10'30"W

Reference:  
Eliza A. True to  
Wilfred W. Dunn  
October 27, 1890  
Book 601, Pg. 252

5/8" iron rod, flush

43.51' [43.75']

10.21' [8'+/-]

5/8" iron rod, flush

48.62' [50'+/-]  
S30°28'04"W [6 rods, 5-1/2']

55.88'

Reference:  
I. Mountfort to  
S. Beverage  
July 26, 1944  
Book 1737, Pg. 462  
[trip]

large maple

93.50'  
[5 rods]

Chapel document  
[1 rod=8 links]

[elm tree]

paved drive

paved drive

large maple

ap

ap

rb



**This is the building permit for the outbuilding which used to be a garage. This is a permit to replace the garage which is being called a “shed”. This is what has led to the misconception that this outbuilding has a setback variance**

**There is absolutely no variance for this outbuilding and no permitted use of it as a space to live.**

**The prior owner installed plumbing and sewer in this outbuilding without any permits or approval by the town.**

**It was not permitted and the ensuing work to make it a habitable space is just a continuation of these violations.**

**This says to all other residents that they can be living in their garages simply by improving the architectural characteristics of the garage and illegally installing plumbing.**

41-71  
**BUILDING  
PERMIT**

FIELD COPY

40-

APPLICANT Robert Haines DATE 8-6 19 97 PERMIT NO. 97-100  
ADDRESS 53 W. Elm St. (CONTR'S LICENSE)

PERMIT TO Replace Shed (TYPE OF IMPROVEMENT) NO. (PROPOSED USE) NUMBER OF DWELLING UNITS

AT (LOCATION) Same (NO.) (STREET) ZONING DISTRICT MDR

BETWEEN (CROSS STREET) AND (CROSS STREET)

SUBDIVISION 41 LOT 71 BLOCK LOT SIZE

BUILDING IS TO BE 20 FT. WIDE BY 12 FT. LONG BY FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCT

TO TYPE 5 USE GROUP B-4 BASEMENT WALLS OR FOUNDATION (TYPE)

REMARKS: Includes 4' x 8' addition to shed

AREA OR VOLUME (CUBIC/SQUARE FEET) ESTIMATED COST \$ 10,000 PERMIT FEE \$ 40-

OWNER [Signature] ADDRESS [Signature] BUILDING DEPT. BY Mr. Chapman CED #13

FORM NO. BOCA - BP 1994



41-71

CERTIFICATE ISSUED DATE \_\_\_\_\_

# BUILDING PERMIT - CERTIFICATE OF OCCUPANCY

APPLICANT Robert Hainc DATE 8-6 19 97 PERMIT NO. 97-100  
ADDRESS 53 W. Elm St. (NO.) (STREET) (CONTR'S LICENS)

PERMIT TO Replace Shed (TYPE OF IMPROVEMENT) NO. \_\_\_\_\_ STORY \_\_\_\_\_ (PROPOSED USE) NUMBER OF DWELLING UNITS \_\_\_\_\_

AT (LOCATION) Same (NO.) (STREET) ZONING DISTRICT MDR

BETWEEN \_\_\_\_\_ (CROSS STREET) AND \_\_\_\_\_ (CROSS STREET)

SUBDIVISION \_\_\_\_\_ LOT 71 BLOCK \_\_\_\_\_ LOT SIZE \_\_\_\_\_

BUILDING IS TO BE 20 FT. WIDE BY 12 FT. LONG BY \_\_\_\_\_ FT. IN HEIGHT AND SHALL CONFORM IN CONSTRUCTION TO TYPE 5 USE GROUP R-4 BASEMENT WALLS OR FOUNDATION \_\_\_\_\_ (TYPE)

REMARKS: Includes 4' x 8' addition to shed

FORM NO. BOCA - BP 1994

AREA OR VOLUME \_\_\_\_\_ (CUBIC/SQUARE FEET)  
OWNER x [Signature]  
ADDRESS \_\_\_\_\_



TO BE POSTED ON PREMISES  
SEE REVERSE SIDE FOR CONDITIONS OF PERMIT

**TOWN OF YARMOUTH**

P.O. BOX 907  
YARMOUTH, MAINE 04096



41/71

TAX.

TREAS.

NO.

PREVIOUS BALANCE:  
NEW BALANCE:

DATE: 08/06/97  
AMOUNT: 40.00

DESCRIPTION: BLDG PERMIT 97-100

R2551

CODE ENFORCEMENT

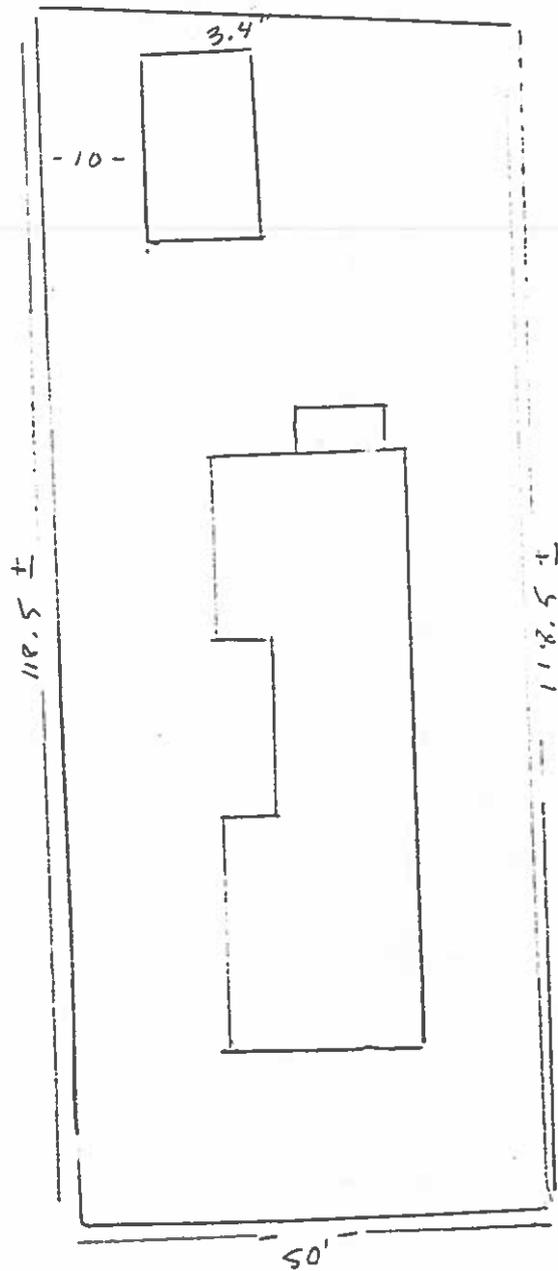
40.00

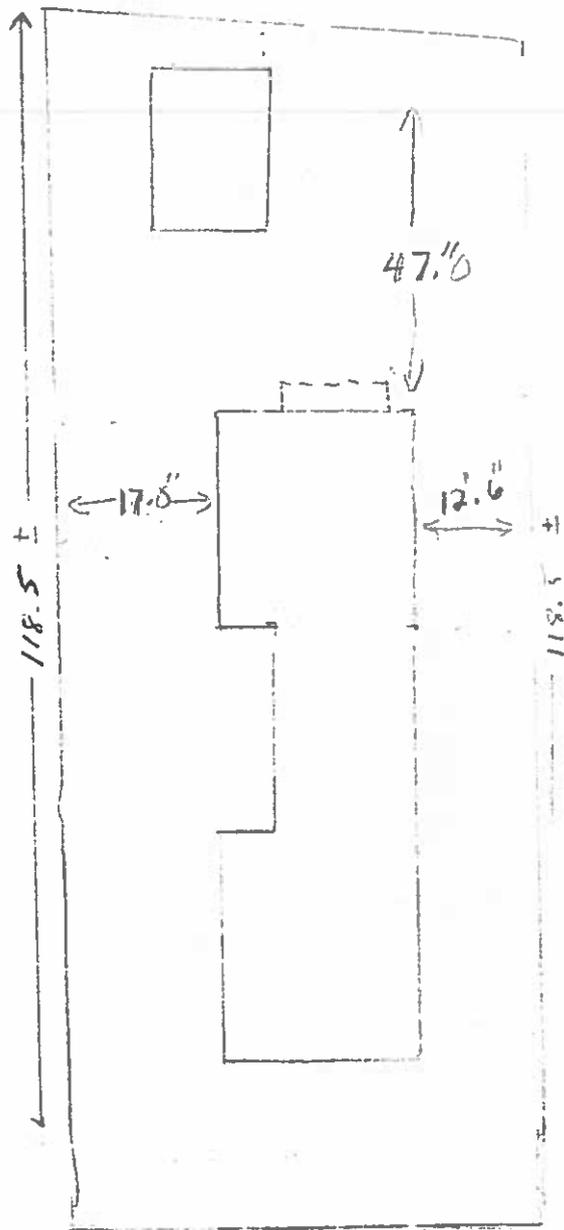
THANK YOU

RECEIVED FROM:  
ROBERT HAINES

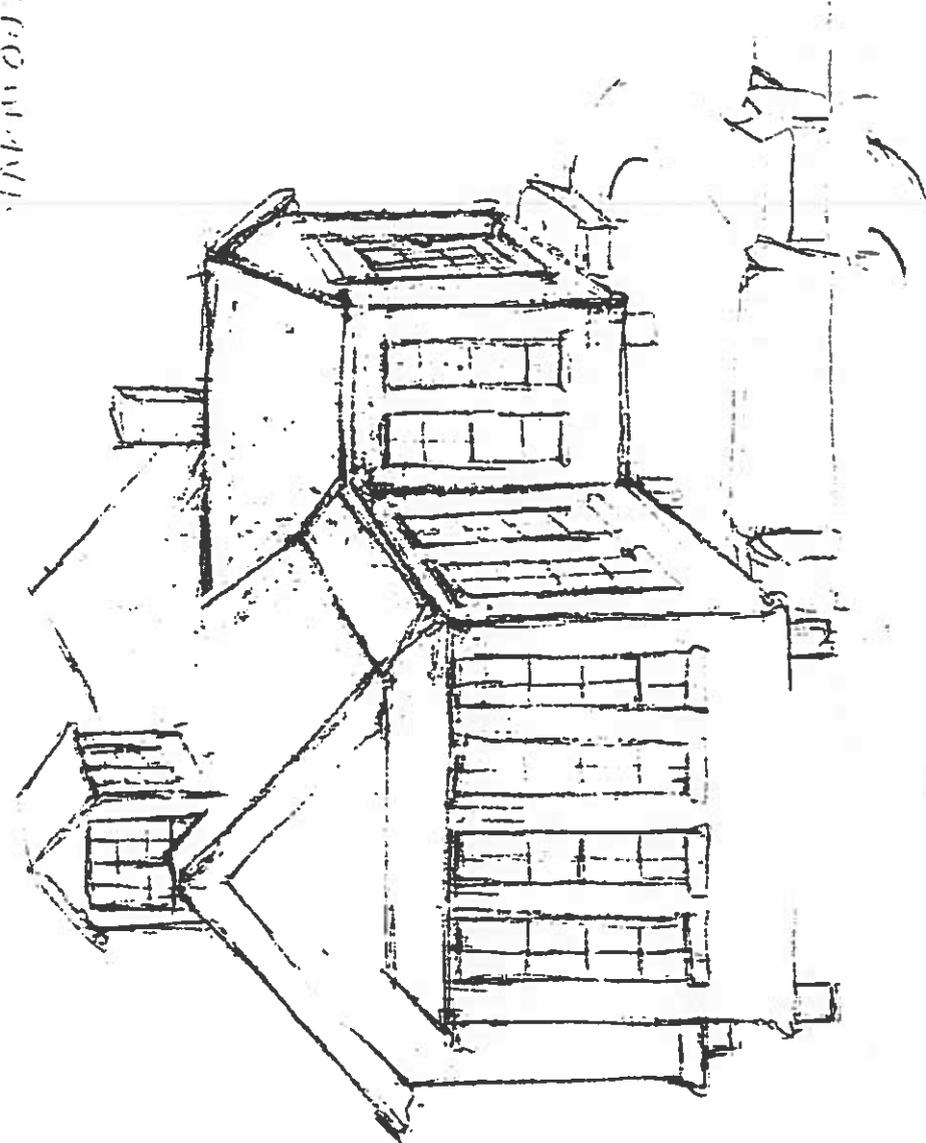
TREASURER TAX COLL. BY CSH  
PLEASE SAVE THIS RECEIPT FOR YOUR RECORDS.

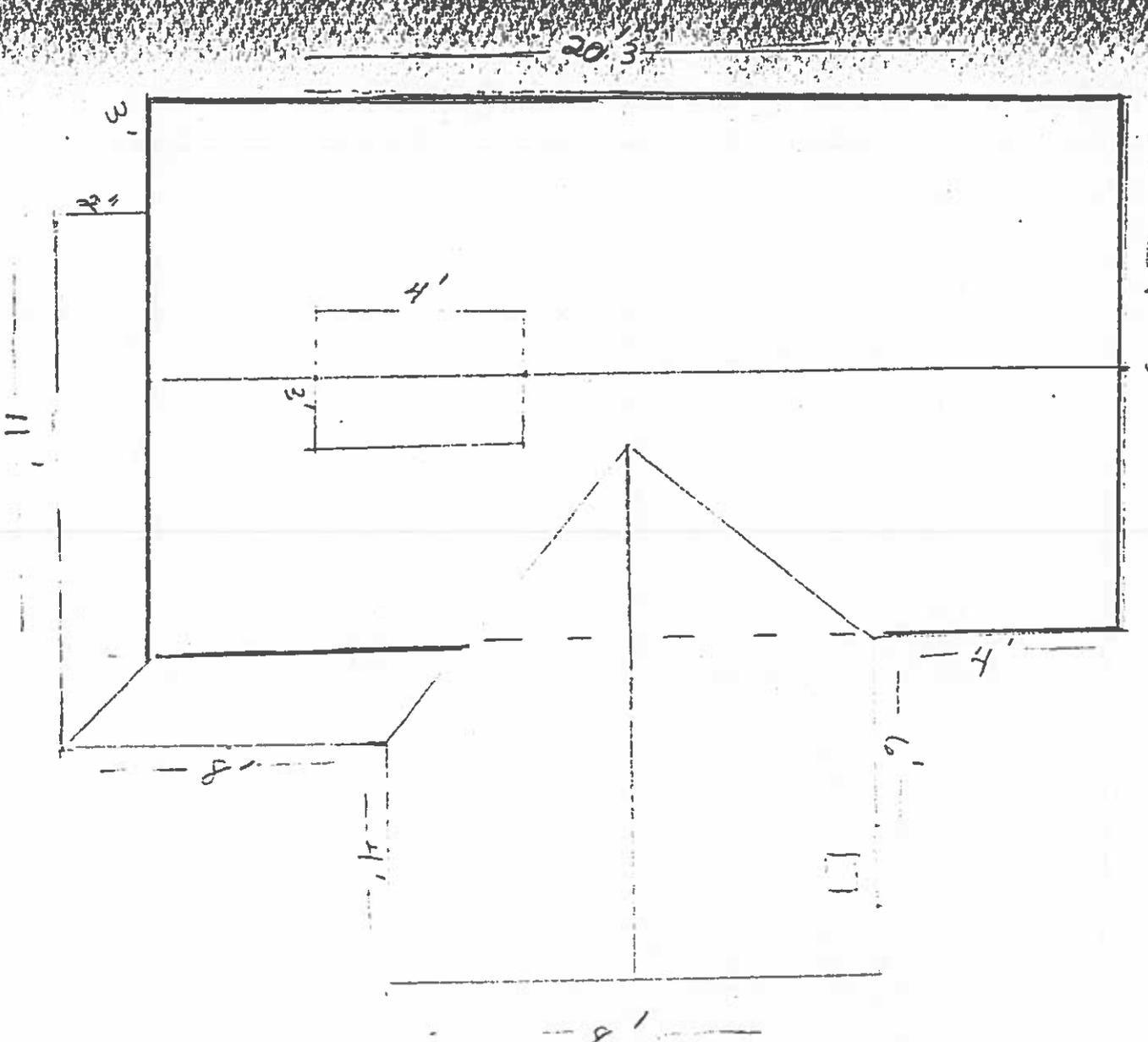
PLOT PLAN - ROBERT HAINES  
53 (FORMERLY 23) W. ELM ST  
YARMOUTH





11-11  
HAWK  
52 W. 20th St  
APPROX 11





ROBERT HAINES 7/1/11  
 53 W. FLEM ST  
 CHARMOUTH, 846-3730

- EXISTING - 12'3" x 20'3" x 15' SHED
- SILLS RESTITUE ON GRAVE FLOOR - UNSOUND
- RECONSTRUCT ON SAND TUBES - NO FOUNDATION
- ESTIMATE 10,000.00

- ARTICLE I
- CHAPTER 701
- 6 of 232
- ZONING ORDINANCE
- TITLE, PURPOSE, INTENT AND DEFINITIONS
- ARTICLE I
- B. PURPOSE
- The purpose of this Ordinance is to promote **the health, safety and general welfare;**
- to encourage the most appropriate use of land throughout the Town; to promote
- **traffic safety; to provide adequate light and air;**
- **to prevent overcrowding of real estate;**
- **to promote a wholesome home environment**

This proposal creates traffic safety issues, causes overcrowding of real estate and is not promoting a wholesome home environment. Some of the safety issues are as follows which still are an issue regardless of the parking requirements.

Parking and snow removal: None of the current parking space which exists at 53 West Elm St. can safely accommodate cars that are any bigger than compact size.

The spaces are not in conformance with the requirements set forth for approval in Chapter 702, Section H of the Yarmouth Ordinance.

Two small strips were installed in front of the house in an attempt to fulfill the requirements of extra parking. The house and three small trees adjacent to the small parking area prevent the two strips of paved stones from being any bigger to accommodate any other type of vehicle. The decision cannot be based only on the current car ownership of the current tenants and owners. The decision must account for any types of vehicles. The existing parking would not work for medium to large vehicles.

When snow arrives, there is no adequate room to remove snow without cars for more than one resident moving into the street to make room for the plow used to move the snow in the driveway. There is no on street parking so there is no where for cars to move in order to do snow removal other than into the line of traffic on west elm street. In past years, snowplows have plowed diagonally onto the lawn of abutting property at 55 West Elm to deposit snow for 53 West Elm Street. To be clear, the plow literally drove onto abutting property, it didn't just deposit the snow onto abutting property. I had to place large rocks to prevent uturns and service vehicles from repeatedly doing this because the parcel is so small and the driveway so narrow.

Applicant's driveway is within approximately 2 feet of my property line and the sight distance when applicant has vehicles in the driveway is nonexistent when we try to exit our driveway. It is unsafe and not in conformance with section 702J technical standards.

702J (13) specifically states:

**Purpose:** The purpose of this section is to promote the public health, safety and general welfare of the community by providing diverse housing choices and to help increase the supply of housing without new land acquisition costs. In permitting an ADU, the Planning Director and/or CEO shall find that:

b. The exterior design is in harmony with, and maintains the scale of the neighborhood.

c. The accessory unit does not result in excessive noise, traffic or parking congestion.

Chapter 702 of Yarmouth's Town Ordinance also states. "Therefore, it is the intent of this Ordinance to adequately regulate development within the Town so that such developments will be designed and located in a manner that will have a minimal adverse impact on the natural environment and the Town Character and protect the health, safety and general welfare of the people.

Every property abutting my property has either a shed or a carriage house but they don't interfere in this same manner.

**Inadequate Buffering:** There is inadequate space to provide sufficient buffering to abutting property owners. Light from the proposed ADU has not been contained in accordance with the requirements set forth in both the ADU application and Chapter 702, Number 7. Very large windows illuminate the abutting owner's back yard, regardless of a fence that was installed without the proper boundary survey. The Windows extend far above and beyond the fence. A turret or pinnacle

that has windows extends far above the roofline of the shed and acts like a beacon when the interior of the building is illuminated at night. It lights up yards surrounding the building and extends far beyond the very small parcel on which the proposed ADU is housed. Again, this space was never occupied until the current owner purchased the property and then inhabited it illegally.

Buffering in relation to the new parking space has not occurred at all and is out of character with the rest of the single family dwelling area because the car is parking on the very small front lawn so that most of the front of the house is occupied by parked cars and a dirt driveway. New regulations don't require parking but existing regulations have the requirements listed above.

To: Town of Yarmouth Planning Board

Re: Public Comment for April 10, 2024 Public Hearing, Action Item: 53 West Elm Street ADU Application

We own and reside at 58 West Elm Street, which is diagonally across the street from 53 West Elm Street. We would like to submit comments for the Planning Board in considering whether to approve the out-building at 53 West Elm Street as an Accessory Dwelling Unit (ADU), which is now identified by the property owner on the outside of the structure and visible from the street as address "53A."

The property at 53 West Elm Street is not well-suited to be used as a short-term rental unit with the owner simultaneously remaining on site in the ADU. Among other issues, the driveway area and very limited parking space available are inadequate to safely accommodate this use, which at times must accommodate up to three vehicles when short-term renters and the owner are all present. When this occurs, the vehicles must be shuffled in order to get in and out of the driveway. While state law does not require additional, supplemental parking for ADUs, that does not mean that the existing parking is adequate to support an ADU. Approval of an ADU on this property is likely to facilitate more short-term rental use, increasing traffic congestion and parking problems that do not exist when used solely as a primary property.

We have a double-width driveway across the street, which has been attractive for short-term renters to use to turn around in, given the limited parking at 53 West Elm Street. Short-term renters do not live in our neighborhood and do not know if there are children or dogs present, both of which we have and who both play in and lay in our driveway. My cousin lost her young son when he was hit and run over in his neighborhood with his parents close by. We take pedestrian safety and traffic issues very seriously. It does us no good to put a sign on our lawn saying "No turning" if my child or dog has already been hit by a vehicle using our driveway to turn around in because there is insufficient parking and space across the street.

The property at 53 West Elm unfortunately is not appropriately sized or configured to accommodate the additional vehicular traffic from being used as a short-term rental with an occupant in the ADU. We respectfully ask that the Town Planning Board consider the traffic and safety issues resulting from such use and reject the application.

Sincerely,  
Kristin & Nic Gladd