

----- Forwarded message -----

From: **Tom Patch** <tfpatch@gmail.com>

Date: Wed, Sep 23, 2020 at 3:24 PM

Subject: Proposed Form A - 70 Elm Street

To: Savage-Dunham, Mary <dunhamm@hingham-ma.gov>

Mary -

The Form A plan for 70 Elm Street does not appear to contain all the information required by the Planning Board's Rules and Regulations, including the checklist. For example, the note that endorsement does not constitute an interpretation of zoning, no zoning district information, and the rear "legs" of both of these properties are in the wetlands.

I grew up at 62 Elm St and subsequently next door at 3 Emerald Street. As an FYI, the original 3 Emerald Street lot was part of the 62 Elm Street property, and was created with a frontage variance in 1962 (see below). The 70 Elm Street and 62 Elm Street lots are made up in part of land conveyed from the 3 Emerald Street property by my parents in the late 1970s. See 1977 plan below.

While the applicant's reason for the need for the Form A plan - purported mistaken belief about what had been deeded to the current owner of 62 Elm Street - is irrelevant, I note the most recent deeds for 62 Elm Street refer only to Lot 2 on the 1977 plan (see below), and that for 70 Elm Street refers only to Lot 3 on the 1977 plan (see below). I would seem the note language referring to the new parcel being created from 70 Elm Street

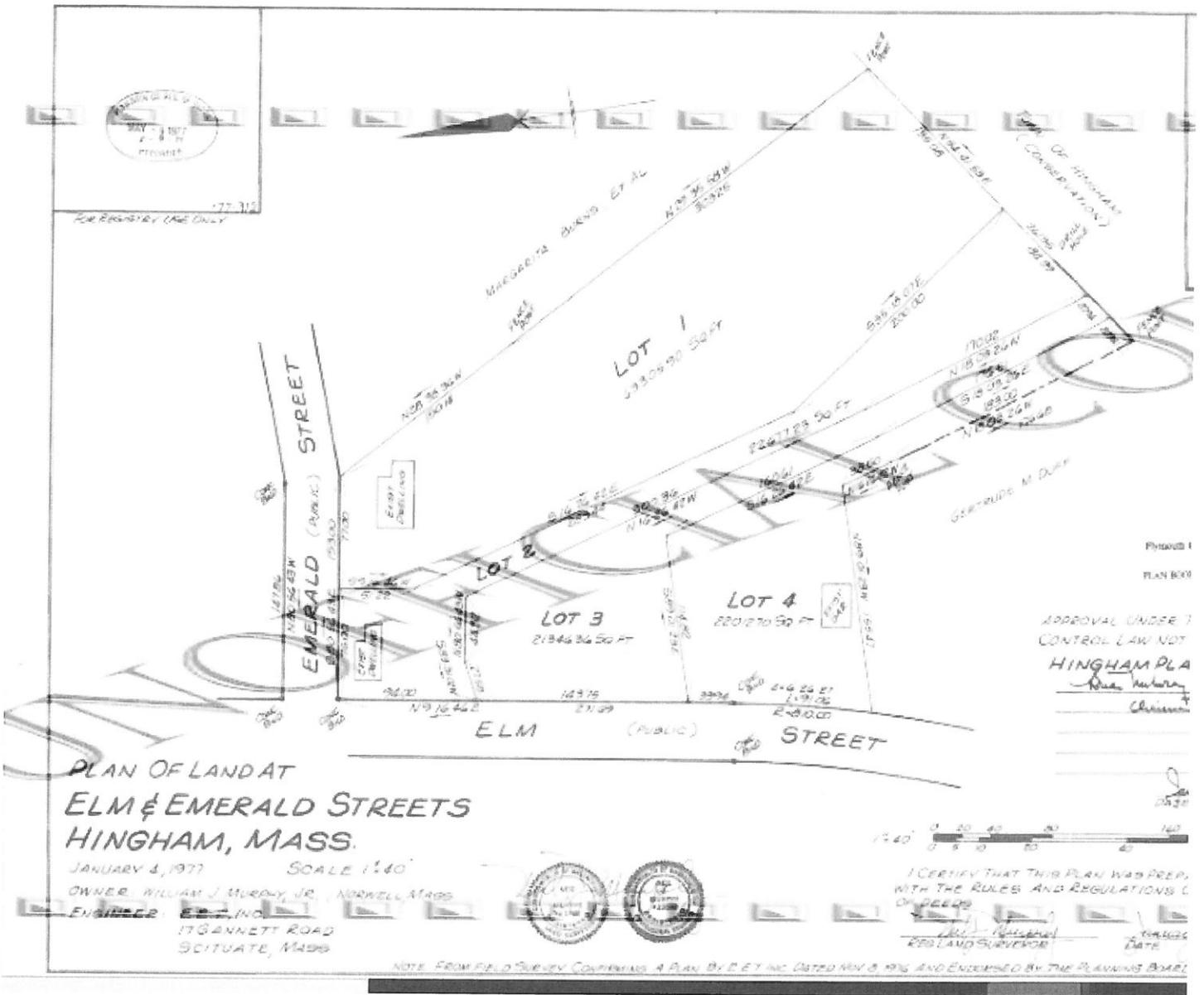
would be better stated as it is in itself not a buildable lot. The applicant really needs to comply with the Board's requirements as part of the submittal rather than holding on to the mylar for additions the Board may determine are needed because of the deficiencies on the plan submitted vis-a-vis those requirements. To permit otherwise needlessly adds to the administrative burdens and promotes a "catch me if you can" environment.

So my take is this plan for division of lot 3 on the 1977 plan (not a "subdivision" as indicated in the application) is entitled to endorsement under G. c 41 sec. 81 L definition of "subdivision" if the proposed division further proposes a conveyance that does not reduce the current lawful zoning frontage of the existing 70 Elm Street lot: "Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth . . . shall not constitute a subdivision." - so the determination for approval must be made that the plan does not show a lot without the required lawful zoning frontage.

I note that when there is a proposed Form A plan where the parcel being divided as shown on the plan does not show frontage compliant with current zoning then it is the burden of the applicant to establish by objective evidence to the satisfaction of the Board that the shown frontage is grandfathered or it is noted as not a buildable lot, otherwise the application must be denied. My underscore of the term "divided" is to emphasize the point that use of the term "subdivision" being antithetical to the Form A process and should never appear on a Form A application or plan other than in reference frontage attributable to or a lot previously created under a plan approved under the Subdivision Control Law. Not all divisions of land are subdivisions under the Subdivision Control Law but all subdivisions under the Law are divisions of land.

I offer this because it seems that Form A submittals are generally sloppy in terms of required elements and usage of terminology - sometimes intentionally so. Applicants need to recognize the obligation to get it right for the inception rather than shifting the obligation upon the Board and Staff to point out issues. Please share with the Board.

1977 Plan



70 Elm Street deed

QUITCLAIM DEED

We, **JEREMY A. GOLDBERG AND JANE A. GOLDBERG, Trustees of Jeremy A. Goldberg M&A Living Trust and Jane A. Goldberg M&A Living Trust** w/dt September, 1997, recorded in Book 15491, Page 60, of 70 Elm Street, Hingham, Plymouth County, Commonwealth of Massachusetts

Received & Recorded
PLYMOUTH COUNTY
REGISTRY OF DEEDS
10 SEP 2003 10:37AM
JOHN R. BUCKLEY, JR.
REGISTER
Bk 26471 Pg 279-280

For consideration paid in full of
ONE DOLLAR AND 00/100 (\$1.00)

Grant to: **JEREMY A. GOLDBERG AND JANE A. GOLDBERG, husband and wife, as tenants by the entirety**, of 70 Elm Street, Hingham, Plymouth County, Commonwealth of Massachusetts

With **QUITCLAIM COVENANTS**

The land with the buildings thereon in Hingham, Plymouth County, Massachusetts, being bounded and described as follows:

- NORTHWESTERLY by Elm Street, a public way, 143.75 feet;
- NORTHERLY by land now or formerly of Fletcher K. Patch and Mary E. Patch, being Lot No. 2 on a plan hereinafter mentioned in two courses totaling 71.40 feet;
- NORTHEASTERLY and EASTERLY by Lot No. 2 as aforesaid, in two courses, 476.87 feet;
- SOUTHEASTERLY by land now or formerly of the Town of Hingham, 20.94 feet; and
- SOUTHWESTERLY and WESTERLY by land now or formerly of grantor, being Lot No. 4 on a plan hereinafter mentioned, in three courses, 451.94 feet.

The parcel herein conveyed is shown as Lot No. 3 on a plan described as "Plan of Land at Elm and Emerald Streets, Hingham, Mass." dated January 4, 1977 and recorded as Plan No. 312 of 1977.

MEANING AND INTENDING TO CONVEY the same premises as in a deed to us dated September 25, 1999 and recorded in the Plymouth County Registry of Deeds in Book 17200, Page 149.

Muel
Jeremy A Goldberg
70 Elm St
Hingham MA 02043

62 Elm Street deed

*** Electronic Recording ***
Doc#: 00045692
Bk: 52839 Pg: 116 Page: 1 of 2
Recorded: 06/01/2020 11:21 AM
ATTEST: John R. Buckley, Jr. Register
Plymouth County Registry of Deeds

.....
MASSACHUSETTS EXCISE TAX
Plymouth District ROD #11 001
Date: 06/01/2020 11:21 AM
Ctrl#
Fee: \$.00 Cons: \$1.00
.....

MASSACHUSETTS QUITCLAIM DEED

We, James Cahill and Gillian Grossman, for consideration paid, and in full consideration of ONE and 00/100 Dollar (U.S. \$1.00) grant to Gillian H. Grossman, Individually, of 62 Elm Street, Hingham, MA 02043,

with *quitclaim covenants* the following property in Plymouth County, Massachusetts:

The land in said Hingham being shown as Lot 2 on a "Plan of Land at Elm & Emerald Street, Hingham, Mass., dated January 4, 1977 for Owner: William J. Murphy, Jr., Norwell, Mass., dated January 4, 1977 for Owner: William J. Murphy, Jr., Norwell, Mass., Engineer: E.E.T., Inc., 17 Gannett Road, Scituate, Mass.," said plan is recorded at the Plymouth County Registry of Deeds at Plan Book 19, Page 422 and reference is made to said plan for a more complete description of said property.

PROPERTY ADDRESS: 62 Elm Street. Hingham. MA 02043

101994

Received & Rec
PLYMOUTH COU
REGISTRY OF D
13 NOV 2009 0
JOHN R. BUCKLE
REGISTER
Bk 37919 Pg 4

CASH \$34,245.56

FEE \$3424.56

11/13/09 3:55PM
000006 #0088

RODGERND
DEEDS REG 24
PLYMOUTH

CANCELLED

QUITCLAIM DEED

WE, Jeanne R McPhail and Michael C. McPhail, being Wife and Husband, of Hingham, MA for consideration Paid of Seven Hundred Fifty-One Thousand and 00/100 Dollars (\$751,000.00) grants to James Cahill and Gillian Grossman, being unmarried, as joint tenants with rights of survivorship, of 62 Elm Street, Hingham, Massachusetts

with **QUITCLAIM COVENANTS**

The land in said Hingham being shown as Lot 2 on a "Plan of Land at Elm & Emerald Street, Hingham, Mass., dated January 4, 1977 for Owner: William J Murphy, Jr., Norwell, Mass., dated January 4, 1977 for Owner: William J Murphy, Jr., Norwell, Mass., Engineer: E.E.T., Inc., 17 Gannett Road, Scituate, Mass.," Said plan is recorded at the Plymouth County Registry of Deeds at Plan Book 19, Page 422 and reference is made to said plan for a more complete description of said property.

BEING the same premises conveyed to within Grantors by deed dated November 22, 2008 and recorded with the Plymouth Registry of Deeds at Book 36680 Page 329.

Executed as a sealed instrument this 13 day of November, 2009

John R McPhail

Michael C McPhail

*wa
62 Elm Street
Hingham
MA
James Cahill
Gillian Grossman*

1962 Variance

BOARD OF APPEALS

SEPTEMBER 26, 1962

NOTICE OF VARIANCE

Conditional or Limited Variance or Special Permit
(General Laws Chapter 40A, Section 13 as amended)

Notice is hereby given that a Conditional or Limited Variance or Special Permit has been granted

To Fletcher K. Patch
Owner or Petitioner
Address 62 Elm Street
City or Town Hingham, Mass.
Corner of Elm and Emerald Streets
Identify Land Affected

^{246/} by the Town of Hingham Board of Appeals affirming the
rights of the owner with respect to the use of premises on
Corner of Elm & Emerald Streets, Hingham
Street City or Town

the record title standing in the name of
Fletcher K. and Mary E. Patch
whose address is 62 Elm Street Hingham Mass.
Street City or Town State

by a deed duly recorded in the Plymouth County Registry of Deeds in Book
2546 Page 277
Certificate No. _____ Book _____ Page _____
Registry District of the Land Court

The decision of said Board is on file with the papers in Decision or ^{246/} ~~Order~~ No. October 1, 1962
dated _____
in the office of the Town Clerk Hingham, Mass.

Signed this 1 day of October 1962

Board of Appeals:

[Signature] Board of Appeals Chairman
[Signature] Board of Appeals Clerk