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TOWN OF CONCORD

BOARD OF APPEALS

TOWN HOUSE

Please take notice that in the matter of the APPLICATION OF DANIEL J. BAILEY III for a Special Permit under Sections 6.3.3 and 11.6 of the Zoning Bylaw, for a Special Permit to divide land into two or more building lots so that one or more building lot(s) contains reduced frontage, lot width, lot area and/or side and rear yard setback for the purpose of preserving existing historically significant structures or dwellings at 317 Garfield Road (Parcel #3460-2-317), Concord, Massachusetts, the Board of Appeals has this day rendered a decision GRANTING said application, and the record therein has this day been filed with the Town Clerk, Town House, Concord, Massachusetts. Appeals, if any, shall be made pursuant to Section 17 of the Zoning Act; Chapter 40A of the Massachusetts General Laws, and shall be filed within 20 days after the date of this notice.

317 Garfield Rd Concord

*Heather Carey*

Heather Carey, Administrative Assistant  
On behalf of the Zoning Board of Appeals

2/22/18

DATE

Pierce Atwood  
100 Summer St  
Boston MA 02110

1

Miriam L. Reel  
50340-426

Lot B1 will have the following dimensions:

	<u>Required</u>	<u>Provided</u>
Lot area	80,000 sf	21,886 sf
Frontage	200'	191.91'
Lot width	160'	150'
Front yard	40'	8.7'
Side yard	15'	23.1'
Rear yard	30'	28.1'

The Applicant is proposing to place a permanent Historic Preservation Restriction on the main dwelling and the carriage house. Additionally, the Applicant proposes a restriction on any future subdivision of the proposed Lot B2 (main dwelling).

The Police Department, Fire Department, Concord Municipal Light Plant and Building Commissioner do not have any issues or concerns with the project as proposed. The Water/Sewer Division notes there are three active water service accounts associated with the existing parcel at 317 Garfield Road and they do not have records indicating what the existing water service configuration to each building on the existing parcel is. The Water/Sewer Division recommended conditions requiring the Applicant provide a plan which shows how water service is currently being provided to each building, demonstrate how Lot B1 and Lot B2 will each retain rights to water service as a result of the subdivision and provide any necessary easements for review and approval by the Water/Sewer Division.

The Health Division notes that there is very limited information about the septic system(s) serving this property and it is not known whether the existing carriage house is connected to the main residence's septic system or whether it is served by its own septic system. The Health Director recommends the Applicant be required to comply with Title V requirements for on-site sewage disposal for both lots.

The Historical Commission reviewed the application at their meeting on December 14, 2017 and on January 11, 2018. The Historical Commission voted to recommend approval of the Special Permit with conditions, which have been incorporated into the Decision.

In reaching its decision, the Board reviewed the application, recommendation from the Planning Board, supporting material, and plans.

Pursuant to Section 6.3.3 of the Bylaw, the Board considered the division of land into two or more building lots so that one or more building lot(s) contains reduced frontage, lot width, lot area and/or side and rear yard setback and found that the existing historically significant structure or dwelling will remain on one of the lots created and a standard Approval Not Required Plan has been submitted showing that the lots could otherwise be created without exceptions from the Subdivision Rules and Regulations.

2. The Historical Commission and/or their Staff is allowed to photograph the exterior of the property to document existing conditions {in order to have reference for future inspections}; and
3. The Historical Commission and/or their Staff is allowed access to the property to conduct annual inspections, as required by the Preservation Restriction.

Pursuant to Sections 6.3.3.3 of the Zoning Bylaw, the Board made the following findings:

- (a) The reduced frontage, lot width, lot area and/or side and rear yard setback lot(s) results in a pattern of development sufficiently advantageous to the Town to depart from the requirements of this Bylaw otherwise applicable;
- (b) A restriction has been shown on the plan of land to be recorded providing that the reduced frontage, lot area and/or side and rear yard setback lot(s) and any other lots created are subject to a special permit recorded therewith and shall not be further subdivided;
- (c) The existing historically significant structure or dwelling shall be preserved consistent with a preservation plan approved as part of or as a condition to the special permit.

Pursuant to Section 11.6 of the Bylaw, the Board considered impacts on economic and community needs; traffic flow and safety concerns, including parking and loading; adequacy of utilities and other public services; impacts on neighborhood character sighting the importance of preserving the buildings and land; and fiscal impacts, including impacts on Town services, the tax base and employment. The Board determined that any negative impacts are negligible and finds that the adverse effects of the creation of a reduced dimensional lot will not outweigh its beneficial impacts to the public interest, the Town, and the neighborhood, the characteristics of the site and the proposal in relation to that site.

**Approval is based on the following plans and conditions:**

1. Stamski & McNary, Inc., Acton MA:
  - a) Proof Plan of Land dated December 11, 2017
  - b) Progress Print Plan of Land dated February 1, 2018
2. **Prior to Endorsement of an ANR Plan** for the creation of Lot B1 & Lot B2, the Applicant shall:
  - a) Include a note on the ANR Plan referencing the Special Permit, the Historic Preservation Restriction and recording information for those documents;
  - b) Include a note on the ANR Plan stating Lot B2 shall not be further divided or reduced in area;

**TOWN OF CONCORD  
BOARD OF APPEALS**

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THE BOARD OF APPEALS CERTIFIES as follows:

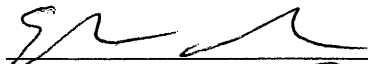
Name and Address of Owner: Joyce M. Lawrence  
PO Box 67513  
Chestnut Hill, MA 02467

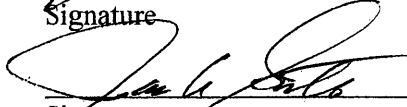
Name and Address of Applicant: Daniel J. Baily III  
Pierce Atwood, LLP.  
100 Summer Street  
Boston, MA 02110

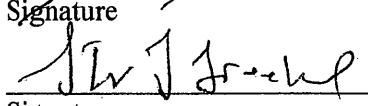
Property Identification: 317 Garfield Road  
Concord, MA 01742  
Parcel ID: 3460-2-317  
D50340/486

This application filed on December 1, 2017 and all subsequent proceedings comply with the requirements of General Laws, Chapter 40A.

An appeal from this decision shall be made pursuant to General Laws, Chapter 40A, Section 17, and shall be filed within twenty (20) days after the date of filing such decision or notice thereof in the office of the Town Clerk.

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

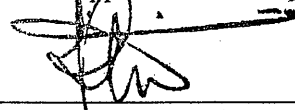
  
\_\_\_\_\_  
Signature

Elizabeth Akhurst-Moran  
\_\_\_\_\_  
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James A. Smith  
\_\_\_\_\_  
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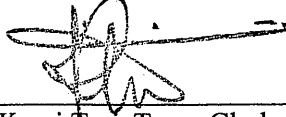
Stuart T. Freedland  
\_\_\_\_\_  
Print

I, Kaari Tari, Town Clerk for the Town of Concord, hereby certify that this is a true copy of the Board of Appeals Decision.

  
\_\_\_\_\_  
Kaari Tari, Town Clerk

**FEB 22 2018**  
\_\_\_\_\_  
Date

I, Kaari Tari, Town Clerk for the Town of Concord, hereby certify that twenty (20) days have elapsed since the filing of this decision and no appeal has been filed, or, if filed, has been dismissed or denied.

  
\_\_\_\_\_  
Kaari Tari, Town Clerk

**MAR 15 2018**  
\_\_\_\_\_  
Date

NOV 10-71 AM 11:55 142RE\*\*\*700

117

Franklin R. Johnson and Sarah Q. Johnson, husband and wife, both of Concord, Middlesex County, Massachusetts ~~both unmarried~~, for consideration paid, and in full consideration of Twenty thousand (\$20,000.00) Dollars grants to Fan P. Cabot of Hill Road, Boxborough, Massachusetts

with quitclaim covenants the land with the buildings thereon situated easterly of Garfield Road in said Concord and shown as Lot A containing 80,048 square feet on "Plan of Land in Concord, Mass. showing Proposed Water Easements Over Land of Franklin R. and Sarah Q. Johnson and Duncan Edmands" dated October 18, 1971 by David W. Perley, C. E., to be recorded herewith, bounded

WESTERLY by land now or formerly of Paige two hundred twenty-four and 93/100 (224.93) feet;

NORTHERLY in part by land now or formerly of Kuh and in part by land now or formerly of Lewis, a total of two hundred seventy-four and 33/100 (274.33) feet;

NORTHWESTERLY one hundred seventeen and 89/100 (117.89) feet and WESTERLY one hundred forty and 43/100 (140.43) feet, both land now or formerly of Wilder;

NORTHEASTERLY by Part of Lot B, as shown on said Plan seventy-five and 92/100 (75.92) feet;

NORTHEASTERLY by the southwesterly sideline of the New Right of Way as hereinafter defined, as shown on said Plan, and by the extension thereof Northwesterly to the Northwesterly sideline of the Original Right of Way as hereinafter defined, one hundred nineteen and 31/100 (119.31) feet;

EASTERLY by the curved westerly sideline of said New Right of Way fifteen and 71/100 (15.71) feet;

SOUTHEASTERLY by the northwesterly sideline of said New Right of Way and by the extension thereof Southwesterly to the Northwesterly sideline of the Original Right of Way one hundred eighty-two and 67/100 (182.67) feet; and

SOUTHEASTERLY by the northwesterly sideline of the Original Right of Way as hereinafter defined by several courses, respectively, thirty-four and 28/100 (34.28) feet, one hundred fifty-nine and 41/100 (159.41) feet, eighty-three and 85/100 (83.85) feet and one hundred seven and 48/100 (107.48) feet.

Together with a right of way, appurtenant to and running with said Lot A, on, over and under said Original Right of Way and said New Right of Way, said right of way to be useable by the grantee, her heirs and assigns, in common with others entitled thereto, for all purposes for which streets and ways are now or hereafter may be used, including transmission facilities for utilities and services of every nature for normal domestic use, the installation, maintenance, repair and replacement of such facilities, and the improvement, surfacing, maintenance and repair of said Way. The grantors reserve for themselves, their heirs and assigns, as appurtenant to and running with the adjoining lands of the grantors and of Duncan Edmands, et ux, (1) the right also to use the Original, New and Former Rights of Way, as shown on said Plan, for all of said purposes until a road is constructed over said New Right of Way, including the placement of all services and utilities therein, which conforms with all rules and regulations of the Town of Concord, its boards and agencies, pertaining (at the time of such construction) to the construction of roads and furnishing of services and utilities therein, which in all events shall at least continue services and utilities then

(\*Individual — Joint Tenants — Tenants in Common — Tenants by the Entirety.)

SEE PLAN IN RECORDS BOOK 12107 PAGE 612 1281

being furnished through the Former Right of Way, whereupon the right of way reserved over the Former Right of Way shall, without further instrument of conveyance, be terminated, and (2) perpetual easements, for the purposes of installing and maintaining water mains and appurtenances, in and through the strip designated on said Plan as "Additional 20' Wide Water Easement Extending From Existing Hydrant to Existing Manhole" and in and through said Former Right of Way.

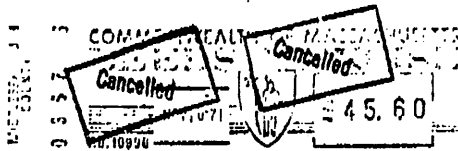
This conveyance is made subject to and with the benefit of the provisions of the Agreement dated July 6, 1951 between Thomas Mott Shaw and others recorded with Middlesex South District Deeds, Book 7769, Page 58 and with the benefit of the easement and rights granted by George R. Shaw, II, et ux by instrument dated March 8, 1954, recorded with said Deeds, Book 8249, Page 129.

"Original Right of Way" means the 40 foot right of way shown on a plan entitled "Plan of the estate of Isabel Lowell, Thomas Mott Shaw and Royal C. Van Etten, Jr., Concord, Massachusetts" by Robinson Engineering, Inc., dated June, 1951, recorded in Middlesex Southern District Registry of Deeds, Book 7769, Page 50.

"New Right of Way" means that portion of the ways shown on said plan to be recorded herewith (which portion is designated thereon as the new right of way) which runs Northeasterly from the Southeasterly sideline of the Original Right of Way and then curves Northwesterly until it rejoins said Southeasterly sideline of the Original Right of Way.

"Former Right of Way" means that portion of the ways, shown on said plan to be recorded herewith (which portion is designated thereon as the former right of way) which lies within the boundary lines of Lot A as hereinbefore described and is a portion of the Original Right of Way.

For title of the grantors see deed of State Street Bank and Trust Company dated February 28, 1966, recorded with said Deeds, Book 11058, Page 333.



Witness.....our.....hands and seals this..... 30<sup>th</sup> day of October 19 71

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.....  
Franklin R. Johnson  
Sarah G. Johnson  
.....  
.....

The Commonwealth of Massachusetts

Middlesex ss.

October 30 1971

Then personally appeared the above named Franklin R. Johnson

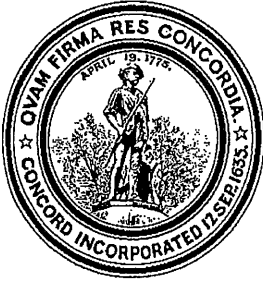
and acknowledged the foregoing instrument to be his free act and deed, before me

Ernest S. Newbury Jr  
Notary Public - 30222222222222

My Commission Expires 10 - 28, 19 77

CHAPTER 183 SEC. 6 AS AMENDED BY CHAPTER 497 OF 1969

Every deed presented for record shall contain or have endorsed upon it the full name, residence and post office address of the grantee and a recital of the amount of the full consideration thereof in dollars or the nature of the other consideration therefor, if not delivered for a specific monetary sum. The full consideration shall mean the total price for the conveyance without deduction for any liens or encumbrances assumed by the grantee or remaining thereon. All such endorsements and recitals shall be recorded as part of the deed. Failure to comply with this section shall not affect the validity of any deed. No registrar of deeds shall accept a deed for recording unless it is in compliance with the requirements of this section.



# TOWN OF CONCORD

## Planning Division

141 Keyes Road - Concord, MA - 01742

Phone: 978-318-3290

### MEMORANDUM

To: Town Clerk  
cc: Town Assessor & Building Inspections  
From: Elizabeth Hughes, Town Planner *EH*  
Re: 317 Garfield Road, Parcel 3460  
Date: August 16, 2019

*309*

At the Planning Board meeting on August 6, 2019, the Board moved to endorse the ANR Plan for Joyce M. Lawrence for 317 Garfield Road by Stamski and McNary, Inc. dated August 5, 2019 subject to the satisfaction of the conditions of approval of the Special Permit under Sections 6.3.3 and 11.6 of the Zoning Bylaw and recorded in the Middlesex South Registry of Deeds in Book 70756, Page 280.

The Applicant received a Special Permit under Section 6.3.3 from the Zoning Board of Appeals to allow the creation of a lot with reduced frontage, lot width, lot area and side and rear yard setbacks for the purpose of preserving existing historically significant structures. As part of that approval process, the Planning Board reviewed the application and recommended approval with conditions to allow the creation of a new lot for the existing carriage house and a separate lot for the existing main house. The Applicant's attorney has submitted the subsequent ANR Plan to now formally create the two lots.

Condition 2(f) of the Special Permit states that it needs to be demonstrated to the Concord Public Works Water/Sewer Division how Lot B1 and Lot B2 will each retain rights to water service as a result of the subdivision and provide any necessary easements for review and approval by the Water/Sewer Division. Any required easements shall be shown on the ANR plan. The Water/Sewer Engineer commented that she is still working with the Applicant on the submission of the necessary easement language for review and approval.

Once the conditions of the Special Permit have been satisfied, the ANR will be endorsed and subsequently recorded at the Registry of Deeds. The lots will have the following configuration:

Lot B1: 309 Garfield Rd.: 191.91 feet of frontage and 21,886 s.f. of area.

Lot B2: 317 Garfield R.: 236.21 feet of frontage and 316719 s.f. of area.

Please let me know if you have any questions or need additional information.