

Department of
Development Services

Town Hall
45 Broad Street
Westerly, RI 02891

*Town of Westerly
Rhode Island*



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BOOK 2017 PAGE 5943
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**ZONING BOARD OF REVIEW
DECISION**

April 13, 2017

Richard Heller
59 Nichols Road
Wolcott, CT 06716

**RE: 65 Salt Pond Way
Assessor's Plat 131, Lot 18
Zoning Submittal No. 16/2338**

On **April 5, 2017**, the Zoning Application for the above-referenced property was presented before the Zoning Board of Review requesting a **Front-yard Setback Variance, Left Side-yard Setback Variance**, and a **Right Side-yard Setback Variance** from §260-19 (Minimum Dimensional Requirements) of the Zoning Ordinance to **add a second story to an existing one-story residential structure** at the above-referenced property. The Public Hearing on this matter was held on **April 5, 2017** with a decision being rendered at that time.

FINDINGS OF FACT

Based on the information presented during the Public Hearing and the testimony given, a motion was made by **Walter Pawelkiewicz**, duly seconded by **Linda Bongiolatti**, to adopt following Findings of Fact outlined below:

This request is being brought forward by the applicant and owner, **Richard Heller**, who is requesting a **9.4' Front-yard Setback Variance**, a **9.3' Left Side-yard Setback Variance**, and a **0.9' Right Side-yard Setback Variance** from Section(s) 260-19 (Minimum Dimensional Requirements) of the Zoning Ordinance to **add a second story to an existing one-story residential structure** at the subject property located at **65 Salt Pond Way**, otherwise identified as **Assessor's Plat 131, Lot 18**. The subject property is presently used as a seasonal residence and is located in an **HDR-10** Zoning District. The neighborhood surrounding the subject property consists primarily of year-round and seasonal single-family residences also located within the HDR-10 Zoning District.

The Zoning Board received comments concerning this application at a Public Hearing held on **April 5, 2017**. Zoning Board members **Mark Doescher, Walter Pawelkiewicz, Linda Bongiolatti, Albert Clemence**, and **John Ornberg** (voting alternate member) were present and heard testimony during the entirety of the Public Hearing, as was **Larry Cioppa** (a non-voting alternate member).

The Zoning Board was provided with a Zoning Narrative prepared by Staff dated **March 29, 2017** which outlined the details of the application and was made part of the application file, thereby becoming part of the record.

The following individuals spoke as representatives (and experts, if any) of the applicant:

Attorney Kelly Fracassa served as legal representative of the applicant.

Richard Heller, owner, testified to his ownership of the property and the hardship which would be suffered from a denial of the request.

The following individuals spoke during the Public Hearing in support of the request:

Ross Salonia, 59 Salt Pond Way, inquired about setback requirements and the construction schedule for the proposed addition.

No individuals spoke during the Public Hearing in opposition to the request.

The following information and materials were entered into the record as Exhibits:

Appraisal document of the property

Approval by Rhode Island Department of Environmental Management (RIDEM) for a three-bedroom septic system

Photograph of the project

Based on this evidence and testimony entered into the record, a motion was made by **Walter Pawelkiewicz, Vice Chairman**, duly seconded by **Linda Bongiolatti**, finding that the requested relief **satisfies** the standards of Section 260-33 (Variances), specifically sub-section D, Standards 1 through 4, and sub-section E, Standard 2, and in agreement that the granting of the variance:

1. **Is** due to the unique characteristics of the land on which it resides and is not due to the physical or economic disability of the applicant because the lot is 4,900 square feet in area and the one-story 24' x 29' residence is an existing, dimensionally non-conforming residence;
2. **Is justified** by a hardship that is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain because the applicant's family has grown and has received approval to increase the number of bedrooms to accommodate the family;
3. **Will not alter** then general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or Comprehensive Plan because the addition of the second story is in character with the neighborhood and will enhance the neighborhood;
4. **Is justified** as being the least relief necessary because the addition will be within the existing footprint and would not require any additional variances; and,
5. **Is justified** as the hardship suffered by the owner, if the dimensional variance is not granted, would amount to more than a mere inconvenience because the addition will accommodate the size and future needs of the owner's family.

The motion in establishing these Findings of Fact passed 5-0 (Mark Doescher, Walter Pawelkiewicz, Lina Bongiolatti, Al Clemence and John Ornberg).

RELIEF REQUESTED

§260-19 (Minimum Dimensional Requirements)

9.4' Front-yard Setback Variance

9.3' Left Side-yard Setback Variance

0.9' Right Side-yard Setback Variance

DECISION

As supported within the above Findings of Fact, a motion was made by **W. Pawelkiewicz**, duly seconded by **L. Bongiolatti**, to grant the requested **9.4' Front-yard Setback Variance, 9.3' Left Side-yard Setback Variance, and 0.9' Right Side-yard Setback Variance** from §260-19:

Minimum Dimensional Requirements of the Zoning Ordinance to **Addition of a second story to an existing structure** at the subject property as requested.

The motion to grant the requested relief passed 5-0 (Mark Doescher, Walter Pawelkiewicz, Lina Bongiolatti, Al Clemence and John Ornberg).

Respectfully Submitted,


Jason A. Parker, AICP, CFM
Administrative Official

EDYNA L. GORRANIO MMS TOWN CLERK
VILLAGE OF HELLER, REFER: Zoning

Town of Westerly
Rhode Island

DEPARTMENT OF
DEVELOPMENT SERVICES



Town Hall
45 Broad Street
Westerly, RI 02891

Zoning Narrative

Date: **March 29, 2017**
Petitioner: **Richard Heller**
Location: **65 SALT POND WAY**
Assessor's Plat/Lot '131-018'
Zoning Submittal No. 16/2338

SUMMARY:

The petitioner is requesting a **9.4' front-yard setback variance, a 0.9' right side-yard setback variance and a 9.3' left side-yard setback variance** from §260-19 (Minimum Dimensional Requirements) of the Zoning Ordinance to **construct a second-floor addition to an existing, dimensionally non-conforming residence** at the above-referenced property.

FINDINGS OF FACT:

Existing Conditions

- A. Parcel 131-018 consists of approximately 4,900 square feet of land area with approximately 50 feet of frontage on Salt Pond Way. This parcel is located in an HDR-10 Zoning District.
- B. Lot 131-018 contains an existing, dimensionally non-conforming one-story 24' x 29' seasonal residence with 15' x 15' rear deck.

Current Proposal

- C. The applicant is proposing to **construct a second-floor addition to the existing one-story residence.**
- D. The proposed second-floor addition encroaches into the required setbacks associated with this property and subsequently requires a **9.4' front-yard setback variance, a 0.9' right side-yard setback variance and a 9.3' left side-yard setback variance** from §260-19 Minimum Dimensional Requirements of the Zoning Ordinance.

Dimensional Information			
HDR-10 Dimensional Requirements	Primary Structure (Required)	Proposed	Variance(s)
Front-yard	30'	20.6'	9.4'
Right Side-yard	15'	14.1'	0.9'
Left Side-yard	15'	5.7'	9.3'

- E. Within the Zoning Application, the petitioner states “the house is exceedingly small for a single family and is nonconforming dimensionally on a nonconforming lot. Second story addition will be within current footprint - applicants will only be building upwards.”
- F. At the March 1, 2017 Zoning Board meeting, the applicant was granted their request of waivers for the following checklist items associated with this application:

- i. Item C – Letter from a biologist indicating that there are no coastal or freshwater wetlands on or in proximity to the site.

RELIEF REQUESTED

§260-19 (Minimum Dimensional Requirements)

9.4' Front-yard Setback Variance

0.9' Right Side-yard Setback Variance

9.3' Left Side-yard Setback Variance

STANDARDS TO BE MET

In accordance with §260-33 Variances of the Zoning Ordinance, in granting variances the Zoning Board shall require that evidence satisfying the following standards be entered into the record of the proceedings:

1. That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;
2. That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
3. That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which this chapter is based; and
4. That the relief to be granted is the least relief necessary.

In addition to the above standards, the Zoning Board shall require that evidence be entered into the record of the proceedings that:

5. The hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is no other reasonable alternative to enjoy a legally permitted beneficial use of one's property. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.

RECOMMENDATION

Staff remains neutral as to an opinion on the proposed construction. While the expansion of a structure nonconforming by dimension is allowed by dimensional variance under §260-32C(1) of the Zoning Ordinance, the applicant should be prepared to address the standards of review regarding hardship.

ZONING

6422-75
JAN 26 2017
2491-150
BY: _____

Application for Dimensional Variance

To: Westerly Zoning Board of Review
Town Hall – 45 Broad Street
Westerly, RI 02891

Date: Jan. 26, 2017

The undersigned hereby applies to the Westerly Zoning Board of Review for a **dimensional variance** pursuant to the provisions of § 260-33 of the Westerly Zoning Ordinance affecting the following described premises in the manner and on the grounds hereinafter set forth.

Applicant(s): Richard T. & Carol A. Heller Address: 59 Nichols Rd., Wolcott CT 06716
Owner(s): Same Address: Same
Lessee: N/A Address: _____

1. Filing instructions:

- a. Original application and 10 copies, typed or legibly printed, must be filed with the Zoning Office in accordance with the minimum time required to post adequate notice.
- b. A filing fee in the amount of **\$150**, plus legal advertising and recording fees, shall accompany an application to the Zoning Board of Review to cover the costs of processing (payable to "Town of Westerly – Zoning"). In addition to the \$150 fee, the applicant shall also be responsible for all additional costs, if any, incurred by the town in the course of review of this application, such as third-party review, cost of additional advertising and stenographic fees, and will be billed when the final costs have been determined.
- c. All required checklist items for a **dimensional variance** must accompany the application in order to be considered a complete application.

2. Location of premises: 65 Salt Pond Way

3. Plat: 131 Lot: 18 Zoning District: HDR-10

911 Address: 65 Salt Pond Way

4. Dimensions of lot: (frontage) feet by (depth) feet; Area (square feet or acres): 5000 sq. ft. (approx.)
50 ft. frontage x 98.4 ft. depth

5. Present use of premises: Residential

6. Proposed use of premises: Residential

7. Is there a building on the premises at present: Yes

ZONING

8. How long have you owned the premises: Acquired April 21, 2010
9. Year that lot was platted and recorded: 1939
10. Have you submitted plans to the Zoning Inspector: Yes
11. Has a permit been refused: Zoning cert. refused If a permit has been refused, attach a copy of the denial in writing.
12. Size (in square feet) of all existing buildings and accessory structures:
House is 696 sq. ft. (29' x 24'). Deck is 225 sq. ft. (15' x 15')
13. Size (in square feet) of all proposed buildings and accessory structures:
Footprint to remain the same but 2 stories: 696 sq. ft. x 2 = 1392 sq. ft. living area
14. Indicate the number of families to reside in the building: Single family
15. Describe the extent of the proposed alterations: Second floor addition within current footprint.
16. Indicate the section of the Westerly Zoning Ordinance under which application for **dimensional variance** is made:
Sec. 260-33
17. State what relief is sought (dimensions, in number of feet):
Side: 9.3' left Side: .9' right Rear: _____ Front: 9.4' Height: _____
18. Clearly state the grounds for which this **dimensional variance** is sought: The house is exceedingly small for a single family and is nonconforming dimensionally on a nonconforming lot. Second story addition will be within current footprint - applicants will only be building upwards.
19. Request for waiver: Indicate checklist items that are requested to be waived by the Zoning Board and the reasons for the request:
Checklist item C: letter from biologist not needed. Lot is clearly not within a wetland or even near one.

Respectfully submitted:

Print Name: Kelly M. Fracassa for Richard T. and Carol A. Heller

Signature: 

Address: 96 Franklin Street, Westerly RI 02891

ANTHONY PHILLIP &
P O BOX 311
JEWETT CITY, CT 06351

ELLINGWOOD DAVID B &
25 BAYBERY CIR
WINDSOR, CT 06095

NARDI NICHOLAS M ET AL
292 FIELD ST
NEWINGTON, CT 06111

TROYAN ANASTATIA
57 SALT POND WAY
WESTERLY, RI 02891

CARR WENDY
2 CANAL ST
WESTERLY, RI 02891

WEEKAPAUG GOLF CLUB
265 SHORE RD
WESTERLY, RI 02891

BRENNA TIMOTHY B III
80 PINE RD
GRISWOLD, CT 06351-2628

KOS JACQUELYN L
212 PARSONAGE HILL RD
NORTHFORD, CT 06472

BRENNAN JOHN TIMOTHY &
127 SUMMER LN
N HAVEN, CT 06473

ROGERS CANDY
22 CHARLENE AVE
WESTERLY, RI 02891

FOSS MARK D &
23 MEADOW RD
BOLTON, CT 06043

THOMAS JAMES M &
115 AUTUMN LN
GLASTONBURY, CT 06033

HANECAK KATHLEEN M
58 SALT POND WAY
WESTERLY, RI 02891

FULLER ELEANOR A
4 MORRIS RD
WESTERLY, RI 02891

SALONIA PRISCILLA A
76 IVY LN
NEWINGTON, CT 06111

HELLER RICHARD T &
59 NICHOLS RD
WOLCOTT, CT 06716

KING CORRINE M
15 EMILY RD
BROAD BROOK, CT 06016

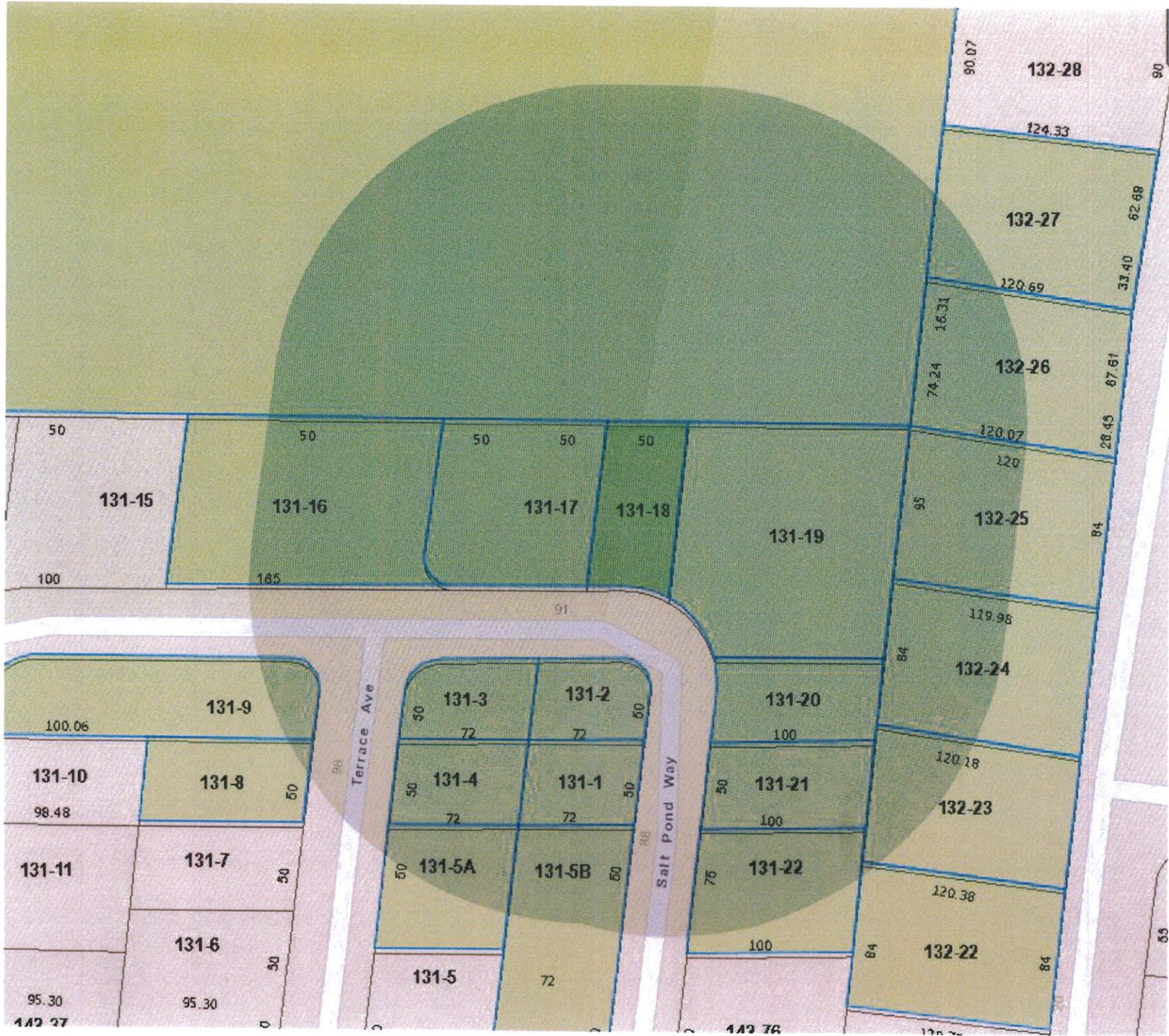
SALONIA PERRY
787 FARMINGTON AVE APT 1A
W HARTFORD, CT 06117

ANTHONY PHILLIP &
P O BOX 311
JEWETT CITY, CT 06351

STRUZIK ELIZABETH A
58 GOVERNOR AVE
WESTERLY, RI 02891

CALVI ROGERS MARISA
53 DUCK POND CROSSING
PLANTSVILLE, CT 06479

CONNERY RAYMOND J TRUST AGRMT &
26 CHARLENE AVE
WESTERLY, RI 02891

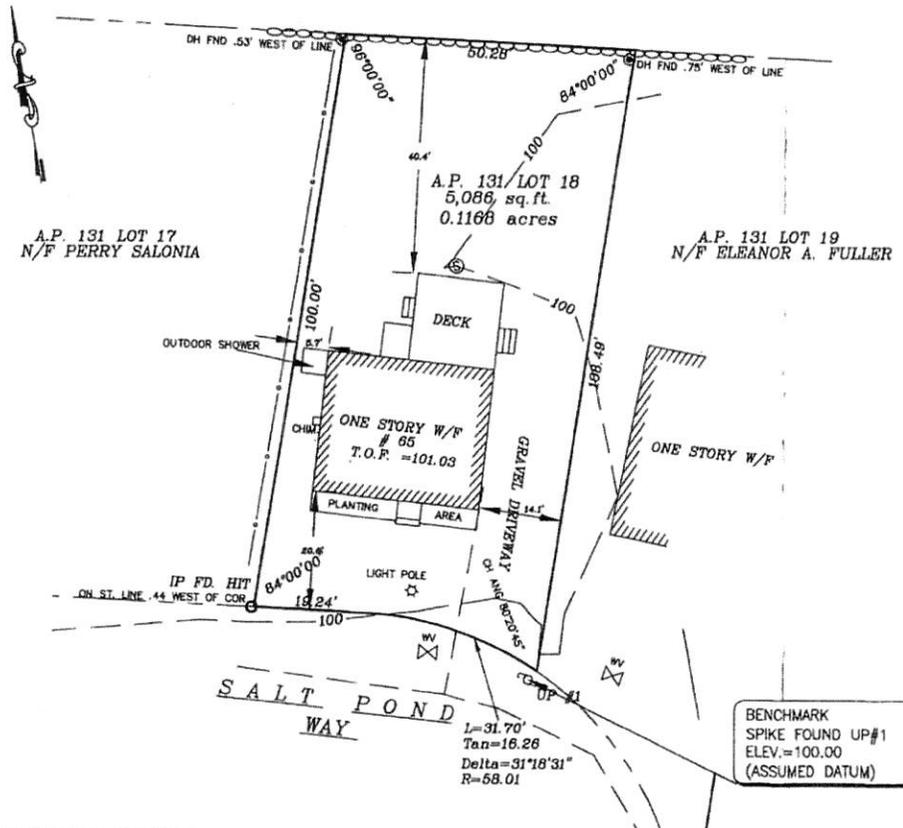


A.P. 131 LOT 23A
N/F WEEKAPAUG GOLF CLUB

A.P. 131 LOT 17
N/F PERRY SALONIA

A.P. 131 LOT 18
5,086 sq. ft.
0.1166 acres

A.P. 131 LOT 19
N/F ELEANOR A. FULLER



REFERENCES:

1. PLAT OF WEEKAPAUG--TERRACE WEEKAPAUG WESTERLY--RI SCALE 1"=80 FT. APRIL-1924 ROSSI & LEWIS ENGRS.

NOTES:

1. THE SUBJECT PARCEL LIES IN A ZONE X AS SHOWN ON FEMA FLOOD INSURANCE RATE MAP COMMUNITY--PANEL NUMBER 44009C0259J, 259 OF 368 OCTOBER 16, 2013

ZONING DISTRICT HDR-10

MINIMUM DIMENSIONAL REGULATIONS	
MIN LOT AREA	10,000 sq ft
MIN. LOT FRONTAGE	80'
MAX % IMPERVIOUS	25.0%
MAX PRIN. BUILDING HEIGHT	35'
MIN. FRONT YARD	30'
MIN. SIDE YARD(NORTH)	15'
MIN. REAR YARD (SOUTH)	15'
MIN. REAR YARD	30'

CERTIFICATION

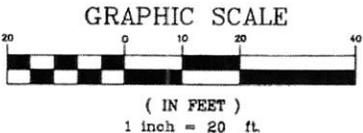
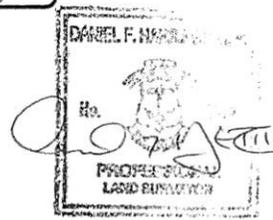
THIS SURVEY HAS BEEN CONDUCTED AND THE PLAN HAS BEEN PREPARED PURSUANT TO SECTION 9 OF THE RULES AND REGULATIONS ADOPTED BY THE RHODE ISLAND STATE BOARD OF REGISTRATION FOR PROFESSIONAL LAND SURVEYORS EFFECTIVE NOVEMBER 25, 2016, AS FOLLOWS:
COMPREHENSIVE BOUNDARY SURVEY CLASS I
TOPOGRAPHY SURVEY CONFORMS TO A T-1
THE PURPOSE FOR THE CONDUCT OF THE SURVEY AND FOR THE PREPARATION OF THE PLAN IS AS FOLLOWS:
SITE PLAN

BY *Daniel F. Harrington, III*
DANIEL F. HARRINGTON, III PLS LICENSE NO. 1819
COA NO. A318

BENCHMARK
SPIKE FOUND UP#1
ELEV.=100.00
(ASSUMED DATUM)

OWNER / APPLICANT

RICHARD T. & CAROL A. HELLER
59 NICHOLS ROAD
WOLCOT, CT 06716



DATE 8/10/16	PROJECT NO. 1	PLAN OF SURVEY A.P. 131 LOT 18 65 SALT POND WAY WESTERLY, RHODE ISLAND FOR RICHARD T. & CAROL A. HELLER
SCALE 1"=20'	DRAWING NO. 1	
REVISIONS 12/27/16 NOTES	DESIGNED BY D.F.H. DRAWN BY D.F.H. CHECKED BY D.F.H.	DANIEL F. HARRINGTON III P.L.S. P.O. BOX 804 HOPE VALLEY, R.I. 02832 (401) 639-7344
SHEET NO. 1	SHEET 1 OF 1	

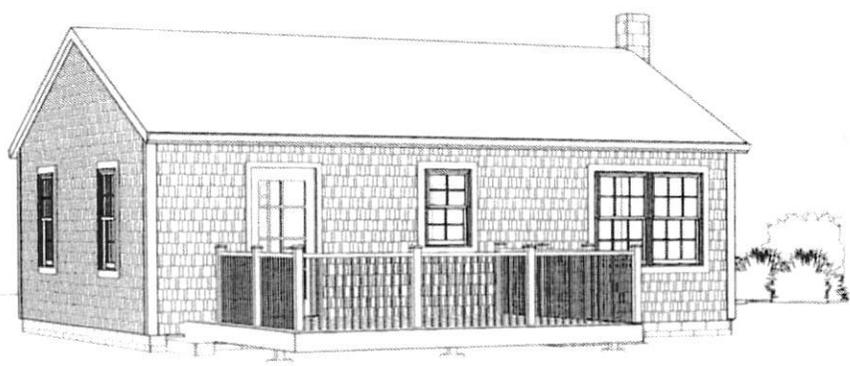
L.D.S.	Revisions
Lorrie Design Services	
lorriefoley@cox.net	



B Front Perspective II



A Front Perspective



C Rear Perspective

NOTE:
 Structural Design To Be The Sole
 Responsibility Of The Builder
 And Must Meet Local Building Codes
 Lorrie Design Services Assumes No
 Responsibility For Improper Construction

<u>Heller Residence</u>	
65 Salt Pond Way Westerly, RI	
Exterior Perspectives	
Existing House	
Date:	03/2016
Drawn by:	Lorrie Foley
A-1	
Scale:	1/4" = 1'-0"

NOTE: CONTRACTOR SHALL CHECK ALL DIMENSIONS AND DRAWINGS PRIOR TO CONSTRUCTION AND REPORT ANY DISCREPANCIES TO L.D.S. FOR VERIFICATION. ANY DISCREPANCIES NOT REPORTED SHALL BE THE CONTRACTORS RESPONSIBILITY.

03/2016 4:09:46 PM

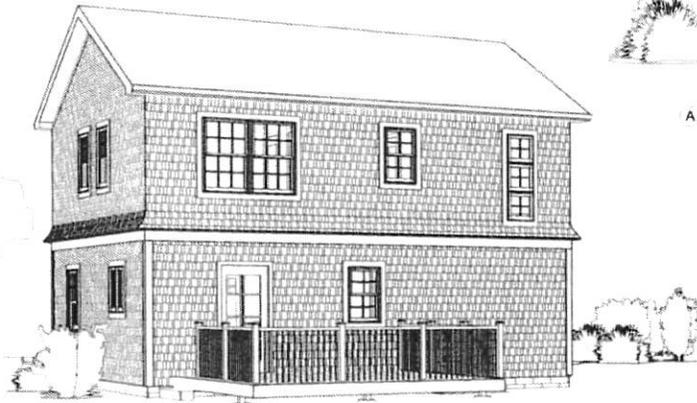
L.D.S.	Revision
Lorrie Design Services	
lorriefoley@cox.net	



B - Front Perspective II



A - Front Perspective



C - Rear Perspective

NOTE
 Structural Design To Be The Sole
 Responsibility Of The Builder
 And Must Meet Local Building Codes
 Lorrie Design Services Assumes No
 Responsibility For Improper Construction

<u>Meller Residence</u>	
65 Salt Pond Way Westerly, RI	
Exterior Perspectives	
Proposed Addition	
Date	9/4/2016
Drawn by	Lorrie Foley
A-1	
Scale	1/4" = 1'-0"

NOTE: CONTRACTOR SHALL CHECK ALL DIMENSIONS AND DRAWINGS PRIOR TO CONSTRUCTION AND REPORT ANY DISCREPANCIES TO L.D.S. FOR VERIFICATION. ANY DISCREPANCIES NOT REPORTED SHALL BE THE CONTRACTORS RESPONSIBILITY.