

William and Elizabeth Stine
42 Swaan Drive
Lee, NH 03861

Zoning Board of Adjustments
Town of Durham
15 Newmarket Road
Durham, NH 03824

RECEIVED
Town of Durham

APR 29 2013

29 May, 2013

Property referenced: Tax Map 6, Lot 4-28.

**Planning, Assessing,
Zoning & Code Enforcement**

Dear Zoning Board Committee,

We are applying for variances in order to renovate and expand the property located at 14 Oyster River Road in the Faculty neighborhood of Durham, a Residence A (RA) District. The property is bounded on the west side by the Oyster River, and so also falls into the Shoreland Protection Overlay (SPO) District.

In denying our initial request for a building permit, Mr. Johnson has cited violations of the 125-foot Shoreland setback, as per Article XIV, Section 175-74 (A) (1), and the requirements for expanding a non-conforming structure by no more than 15% of the original footprint and/or 30% of the original volume, as per Article IX, Section 175-30 (D)(3)(c and/or d), of the Durham Zoning Ordinance. We are applying for variances to these articles of the SPO District ordinance.

We enclose a copy of the site plan showing the existing structure and our proposed alterations, the topography, and RA and SPO setbacks.

The property at 14 Oyster River Road is 0.88 acres in area, or 38,245 square feet, as shown on the site plan. While the lot is larger in area than the minimum 20,000 square feet necessary for an RA District lot, it has 158 feet of shoreline, significantly less than the currently designated 200-foot minimum for SPO District lots. Approximately half the area falls within the Shoreland protection setback, including all but a corner of the existing structure. The combination of the current RA and SPO District setbacks leaves about one-third of the site available for construction, as shown in the box on the site plan. The property's unique topography creates further constraints: the east end is occupied by a ledge knoll that takes up almost all of the space available within the setbacks. Conforming to zoning requirements on the lot thus poses considerable difficulties.

As part of a complete renovation, we propose to demolish the existing carport and construct an enclosed garage in its place. This modification falls within the SPO setback, and so requires a variance. We also propose to expand the existing structure on the north and east sides, so that the expansion will be located as much as possible within the setbacks. This work also requires a variance because the existing structure is non-conforming, and because the proposed expansion to the footprint exceeds the 15% permitted for non-conforming structures by the SPO District ordinance. The proposed expansion to the volume of the structure does not exceed the 30% permitted by the ordinance. We calculate the increase

of the footprint to be 335 square feet, or 27% on the original footprint of 1215 square feet. The increase in volume would be about 4,328 cubic feet, or 28% of the existing 15,074 cubic feet.

Inspection shows that the wall separating the house from the carport is not properly anchored, is cracked and failing where it functions also as a retaining wall, and that it is not thick enough to meet current safety codes. There is a hood vent leading directly from the existing kitchen through the wall into the carport, creating a health and safety hazard. Finally, the floor of the carport is made of brick laid without mortar over gravel, and it has become uneven due to settling; movement of this floor is likely to continue. We propose to replace this unsound structure with an enclosed garage on a concrete slab, in the process bringing the wall adjoining the house up to current code requirements, and eliminating the hood vent. We will lengthen the structure at the back to bring it up to standard size and include some storage space.

We propose expand the house in order to install a second bathroom and a guest room along the east side of the house, at the level of the room over the basement, and to gain usable space in the kitchen area and in the two bedrooms above by moving the north wall out towards the drive. We would like to have a second bathroom and guest room so that we may have our family visit more easily: our elderly parents need to have a private space and a bathroom on a lower level in order to stay, and having this space will also make it easier for our third child, who has already left home, to return for visits. In the kitchen, space is currently limited by the need to divide off an area for laundry appliances, and there is little storage available. Upstairs, the two bedrooms are small, and made more cramped by the slope of the vaulted ceilings. The proposed expansion stays as close to the original footprint and as much within the setbacks as possible, and extends the east slope of the existing roof. This allows us to make most efficient use of the available space. The stepped design of the north wall allows us to respect the exterior architectural design where it is most visible to everyone.

We wish to begin work on the property in late May. We will make every effort to keep construction supplies and equipment contained in areas of the site within the setbacks, or in the garage, in order to minimize impact on the site and disturbance to the neighbors who share the driveway. We will make every effort to avoid damage to or obstruction of the shared driveway, and unnecessary erosion caused by lawn and yard damage during demolition, excavation, or by the use of construction vehicles.

Please find the "Facts Supporting This Request" attached. We thank you in advance for considering our request for these variances so that we can remove the existing carport and replace it with an enclosed garage, and expand the existing structure as part of a complete renovation of the property.

If you have any questions, please feel free to contact us at the above address, or at (603) 617-9758 (Elizabeth, cell phone) or (603) 767-0623 (Bill, cell phone).

Thank you for your assistance.

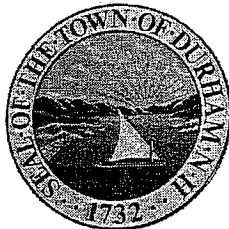
Yours sincerely,



William W. Stine



Elizabeth R. Stine



TOWN OF DURHAM
15 NEWMARKET RD
DURHAM, NH 03824-2898
603/868-8064 603/868-8065
FAX 603/868-8033
www.ci.durham.nh.us

ZONING BOARD OF ADJUSTMENT REQUEST PROCEDURE

MEETINGS: The Zoning Board of Adjustment (ZBA) will meet on the second Tuesday of each month in the Council Meeting Room at the Town Hall.

FILING OF APPLICATION: Applications for ZBA are available at the Town Office. The application must be filed at the Town Office at least 15 days prior to a meeting, along with an application fee. A notice of the meeting will be published in the Foster's Daily Democrat and a similar notice will be sent, by certified mail, to abutters and nearby property owners. The filing fee will be used to meet these expenses. If the expenses exceed the filing fee, the applicant will be billed for the difference.

LIST OF ABUTTERS: You must prepare a list of all abutting property owners, have it verified at the Town Office, and attach it to your application. If you have any difficulty, consult the Assessor's Office, but **THE ACCURACY OF THE LIST IS YOUR RESPONSIBILITY**. An "abutter" means any person whose property adjoins or is directly across the street or stream from the land under consideration. The list of abutters must also include any holders of conservation, preservation, or agricultural preservation restrictions in accordance with RSA 676:4 (I) (a) of the New Hampshire Planning and Land Use Regulations.

PLOT PLAN: Applications must be accompanied by plot plans in order to be considered by the ZBA. Plans should show the location and shape of the subject structure in relation to lot lines and required setbacks, in addition to location and identification of abutters. Neither the review of any applications or plans by officials of the Town of Durham, nor any subsequent inspection of the premises, should be relied upon as an assurance of conformity to legal requirements. The applicant shall remain fully responsible for complying with all applicable United States, New Hampshire or Durham laws, ordinances, regulations or conditions.

PRESENTATION AT MEETING: The Petitioner should bring all documentation, which will assist the Board in understanding the proposal. Do not assume that anything submitted to a different Town Board will find its way to the ZBA file.

NOTE: Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. An appeal of Administrative Decision must be filed with the Board no later than 30 days from the date of the original decision as per the Zoning Board Rules of Procedure Section D(1)(b).

It is necessary that the applicant or his legal representative attend the meeting held for the review and consideration of this petition.

Please send this form with Plot Plan and List of Abutters to the Town of Durham, 15 Newmarket Rd., Durham, NH 03824, Attn: Zoning Board of Adjustment.

Appeal for Applicant

State of New Hampshire

Strafford, SS

To: Zoning Board of Adjustment, Town of Durham NH 03824

Name of Applicant: William and Elizabeth Stone

Address: 42 Swan Drive, Lee NH Phone # 603-659-8207
03861

Email: elizabethransome@comcast.net / bill.stone@unh.edu

Owner of Property Concerned: Same
(If same as above, write "Same")

Address: Same
(If same as above, write "Same")

Location of Property: 14 Oyster River Rd. Tax Map 6 / Lot 4-28
(Street & Number, Subdivision and Lot number)

Description of Property (Give Tax Map number, length of frontage, side and rear lines and other pertinent descriptive information) Tax Map 6 / Lot 4-28

Frontage 125.90' on Oyster River Rd.; No. side line 349';
South side line 258'; Frontage on Oyster River, 158'

Fill in Section 1, 2, 3 or 4 below as appropriate. Do not fill in more than one section. This application is not acceptable unless all required statements have been made. Additional information may be supplied on separate sheets if the space provided is inadequate.

SECTION 1: APPEAL FROM AN ADMINISTRATIVE DECISION

Appeal must be filed no later than 30 days from the date of the original decision.

Relating to the interpretation and enforcement of the provision of the Zoning Ordinance.

Decision of the enforcement officer to be reviewed: _____
Number _____ Date _____

Article _____ Section _____ of the Zoning Ordinance in question.

SECTION 2: APPLICATION FOR SPECIAL EXCEPTION

Description of proposed use showing justification for a Special Exception as specified in the Zoning Ordinance Article _____ Section _____

SECTION 3: APPLICATION FOR EQUITABLE WAIVER

The undersigned hereby requests an Equitable Waiver of Dimensional Requirements as provided in RSA 674:33-A of the New Hampshire Planning and Land Use Regulations.

Please give a brief description of the situation: _____

SECTION 4: APPLICATION FOR A VARIANCE

STANDARD OF REVIEW: The New Hampshire Legislature has declared that each of the following conditions must be found in order for a variance to be legally granted. Prior to seeking a variance, the property owner must have been DENIED a building permit by the Building Inspector or approval by the Planning Board.

1. No decrease in value of surrounding properties would be suffered;
2. Granting the variance would not be contrary to the public interest;
3. Denial of the variance would result in unnecessary hardship to the owner seeking it;
4. By granting the variance substantial justice would be done;
5. The use must not be contrary to the spirit and intent of the ordinance.

A Variance is requested from Article _____ Section _____ of the Zoning Ordinance to permit _____

Facts supporting this request:

1. No decrease in value of surrounding properties would be suffered because:

2. Granting the variance would not be contrary to the public interest because:

Current law requires the existence of unnecessary hardship for the granting of any variance, whether that is for a use not allowed in a particular zone or a deviation from a dimensional requirement.

- 3(A). Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

- a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

and

- b. the proposed use is a reasonable one because:

Or

- 3(B). Owing to special conditions of the property that distinguishes it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

4. By granting the variance substantial justice would be done because:

5. The use will not be contrary to the spirit and intent of the ordinance because:

Facts Supporting This Request (Answers to Section 4, Application for Variance):

1) No decrease in value of the surrounding properties would be suffered because:

The demolition of the failing carport and construction of an enclosed garage in its place will improve the safety, function and exterior appearance of the property. It will also make our property more compatible with that of our immediate neighbors and with a majority of the surrounding properties, which have enclosed garages. Finally, it will maintain existing levels of privacy with respect to the immediate neighbors by keeping a structure on this part of the site where the two houses are close together. This construction will therefore maintain or enhance the value of the surrounding properties by contributing to the safety, privacy and appearance of the neighborhood.

The expansion of the house will be part of a full renovation that improves the structural integrity, energy-efficiency and aesthetic character of the property. The house is a Techbuilt house, constructed in 1955 from a kit designed by architect Carl Koch. We intend to respect the architectural design, which is both elegant and characteristic of the neighborhood, while bringing the house up to current safety and energy efficiency standards, improving the quality of the interior space and fittings, and renovating the exterior envelope. We will also repair the foundation and improve site drainage on the east side of the existing structure. The exterior of the expanded section will be integrated with the exterior of the entire structure by the maintenance and extension of the original roof slopes and eaves, the placement and proportions of the distinctive, modular windows, and the re-siding of the entire structure using wooden shakes or shingles like those now in place. The safety, function and quality of the structure will thus be enhanced and its appearance improved, and these changes will maintain or enhance the value of the surrounding properties.

2) Granting the variance would not be contrary to the public interest because:

The SPO District ordinance is intended to protect the town's waterways from disturbance and pollution, to prevent the degradation of surrounding natural areas, and to protect wildlife and conserve natural beauty. Granting the requested variances will enable us to lower the environmental impact of the existing structure in several ways that serve these public interests: the new, enclosed garage will contain accidental spills and run-off associated with the car, preventing them from draining into the Oyster River; improving site drainage will make the property less vulnerable to erosion and stabilize the area on which the house is constructed; making our expansion part of a unified structure will enhance its energy efficiency; our other renovations will significantly diminish energy consumption, also reducing environmental impact. Further, the expansion will be constructed as much as possible on land within the setbacks, so protected areas are not disturbed and the beauty of the unusual site is maintained. The house will remain a single-family dwelling, so land use will not change.

The RA District is intended to maintain the integrity of existing, high-density residential areas, while ensuring that any development or renovations are consistent with the existing character of these neighborhoods. Our proposed renovation and expansion will improve the existing structure while preserving its architectural character as an example of mid-century Modernism. The Faculty neighborhood is significantly characterized by mid-century, Modernist architecture, and our project will contribute to the maintenance of this style in the neighborhood. The finished house will be our primary

residence, so we will also help maintain the integrity of the neighborhood as a settled community, rather than as an area of rental properties.

3 (A) Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:

The SPO District ordinances are designed to protect the value of the property and of surrounding properties, and to protect the Oyster River from degradation due to pollution, run-off and unsound developmental practices. They are also designed to protect wildlife and fisheries in and around the river, and to conserve the natural beauty of the waterway. The renovation and expansion of our house will enhance the value of the house itself and surrounding properties, will reduce pollution from run-off and spills, will improve drainage and stabilize the site, will decrease the impact of the house on the environment through energy consumption, and will leave the natural beauty of the property and the river intact.

and b. the proposed use is a reasonable one because:

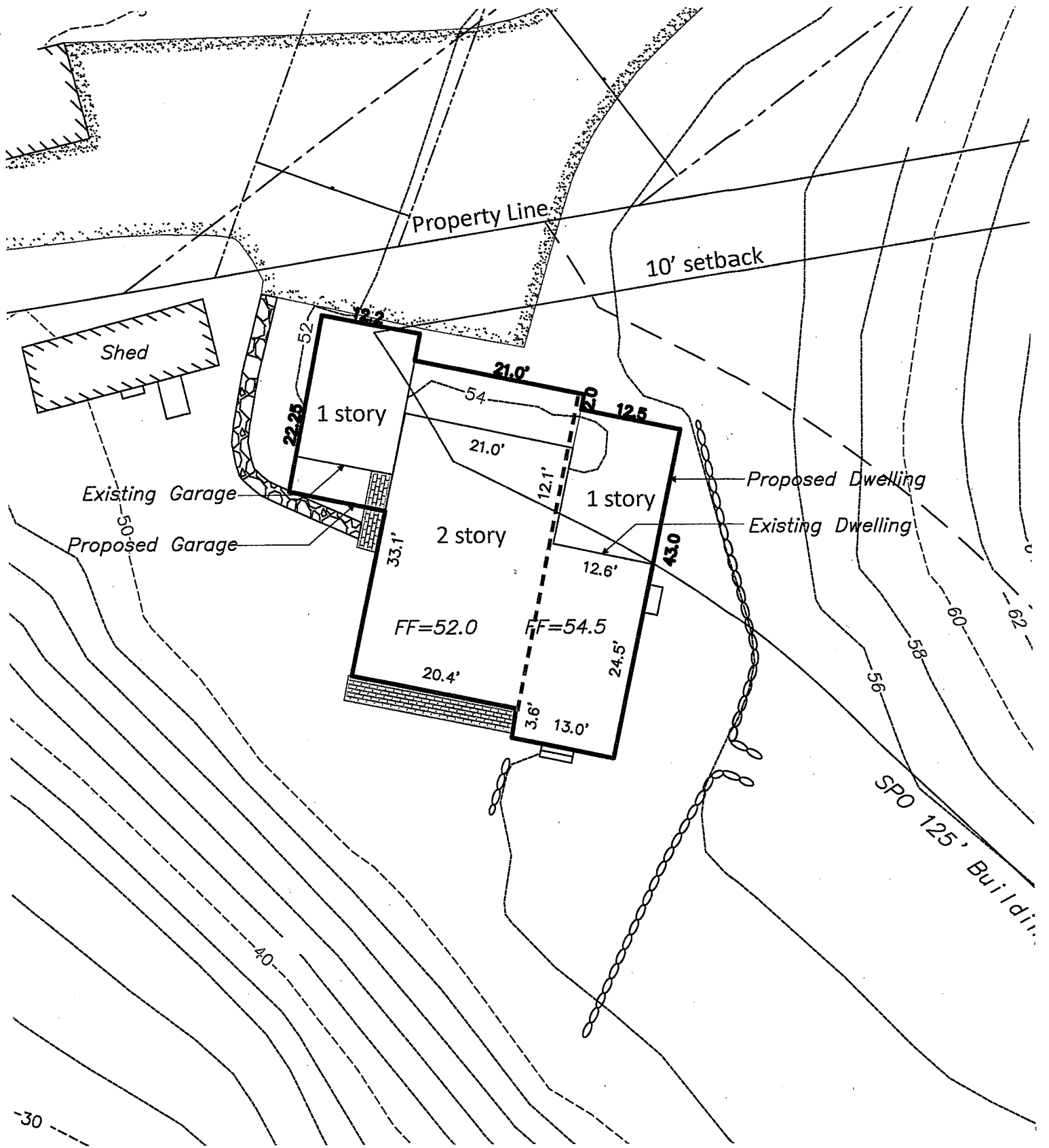
The proposed use will make the house safer, better functioning and more energy efficient, and create a healthier environment for us to live in. It will also improve the environment for our neighbors as a result. It will preserve the architectural character of the existing structure and of the neighborhood, and it will enhance the value of the property and of neighboring properties, while contributing to the stability of the neighborhood community.

4) By granting the variance substantial justice would be done because:

We will be able to remove an old and unsound structure, and to replace it with one that is safe and increases the conformity of our property to the surrounding properties. We will be able to improve the environmental quality of our property, and of the surrounding area. We will improve the appearance of the property and preserve its architectural character, thereby maintaining the character of the neighborhood, and enhancing its aesthetic appeal.

5) The use will not be contrary to the spirit and intent of the ordinance because:

We will be able to improve the property without having a negative impact on the environmental quality of the Oyster River, on our neighbors' properties or pursuits, or on the character and life of the surrounding community.

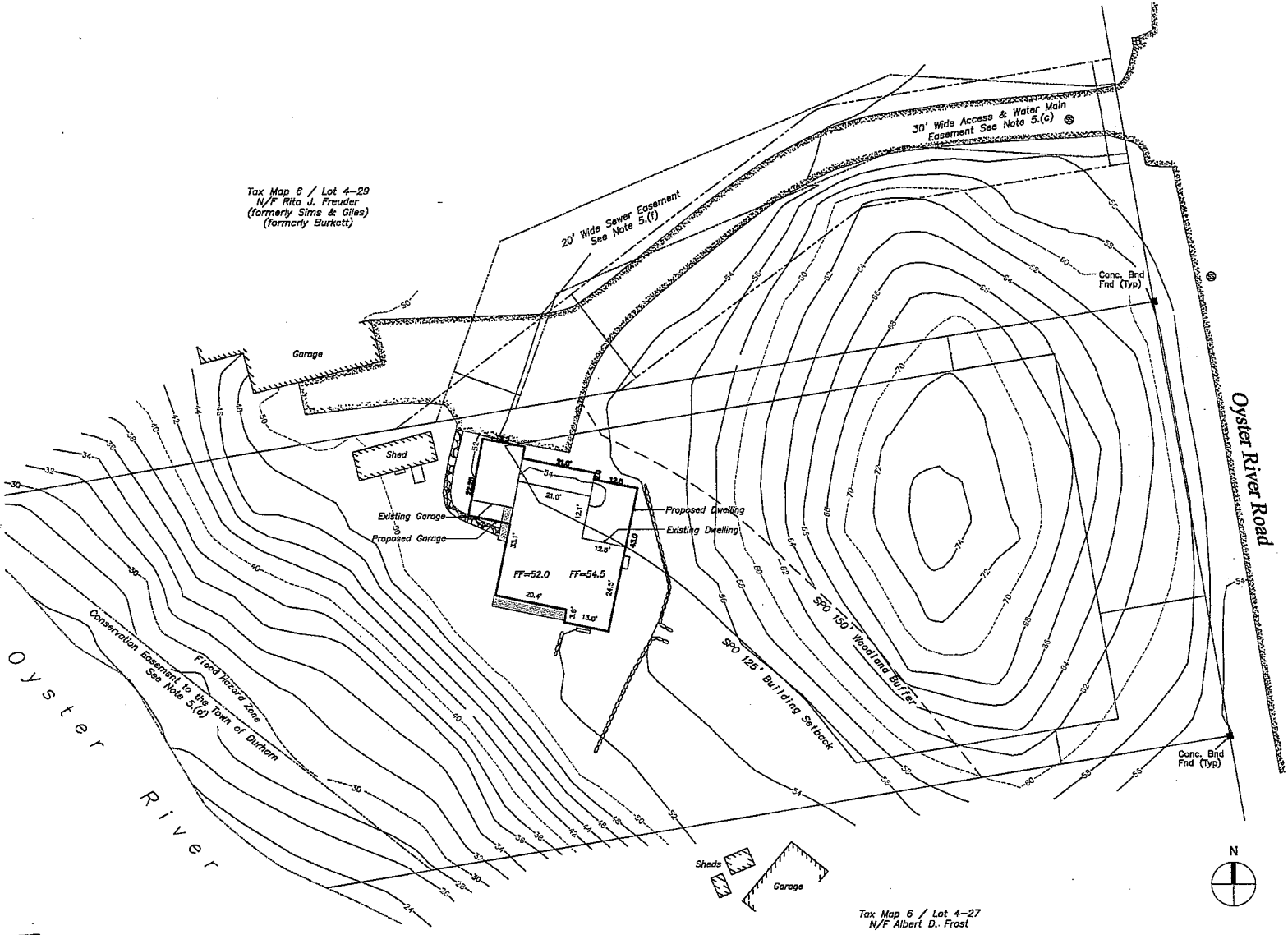


Site Plan Detail

April 29, 2013

Scale: 1/16" = 1'-0"

Tax Map 6 / Lot 4-29
N/F Rita J. Freuder
(formerly Sims & Giles)
(formerly Burkett)



Tax Map 6 / Lot 4-27
N/F Albert D. Frost

Not to Scale

Site Plan
April 29, 2013