

STATE COMMITTEE
Fifth Middlesex District

Woman

Madge N. Ray of Hudson 55
Blanks 50

TOWN COMMITTEE

Leslie W. Sims 66
Charlotte M. Stockbridge 67
Beatrice E. Jordan 63
Gertrude M. Keene 59
Dorothy E. Alving 55
Walter A. Cheslak 56
Joseph Bachrach 65
Francesco A. Colombo 58
Robert R. Hatch 60
Frank J. Murphy 54
Roy E. Marsden 68
William Stockwell 62
Richard D. Elson 60
Warren Johnson 54
Alice M. Howe 58
M. Lucille Sims 55
Sadie I. Case 53
James M. MacKenzie 67
Ranghild M. Nelson 56
Emile A. Dumas 12
Blanks 952

Attest:-

FRANK E. SANDERSON,
Town Clerk.

PROCEEDINGS OF TOWN MEETING

held July 29, 1940

A special town meeting was held on the above date in Parker Street Hall in accordance with Town Warrant No. 382.

Moderator Benjamin M. Piecewicz who presided called the meeting to order at 7.35 o'clock P. M.

On motion of Alton W. Sims—Voted to waive the reading of the warrant.

Article 1. Harold J. Morgan, Secretary of the Finance Committee stated that the recommendations of said committee would be given as each Article was taken up for action.

Article 2. On motion of Donald A. Lent—as amended, it was voted to accept as a public way the portion of Fairfield Street from the easterly end of the accepted part to Parker Street a distance of 416 feet, more or less, as shown on a plan on file at the office of the Town Clerk, said plan drawn by Fred A. Boothroyd, Engineer, and approved by Edward V. Kelley, Supt. of Streets.

Article 3. On motion of Donald A. Lent as amended, voted to accept Railroad Street as a public way as described on a plan drawn by Fred A. Boothroyd, Engineer, and approved by Edward V. Kelley, Supt. of Streets. Said plan on file in the Town Clerk's Office.

Article 4. On motion of Donald A. Lent as amended, voted to accept Marlboro Street as a public way according to a plan filed in the office of the Town Clerk, said plan drawn by Horace F. Tuttle, Surveyor, and approved by Edward V. Kelley, Supt. of Streets.

Article 5. On motion of Merton Merrick—Voted "that Pomciticut Avenue, for a distance of four hundred feet from Summer Street, be accepted as a public way, as shown on a plan prepared by Horace Tuttle, Surveyor, on file in the Town Clerk's office and approved by the Superintendent of Streets."

Article 6. On motion of George Savikoski as amended, voted to accept West Street as a public way as shown on a plan drawn by Fred A. Boothroyd, Engineer, and approved by Edward V. Kelley, Supt. of Streets. Said plan filed with the Town Clerk.

Article 7. On motion of Donald A. Lent as amended, voted to accept 394 feet of Bates Avenue in a north easterly direction from Crane Ave. as described on a plan filed in the office of the Town Clerk. Said plan drawn by Fred A. Boothroyd and approved by Edward V. Kelley, Supt of Streets.

Article 8. On motion of R. Frank Punch—Voted to lay this article on the table.

Article 9. On motion of Donald A. Lent as amended by Walter A. Cheslak—Voted to transfer from the excess and deficiency fund the sum of \$145.60 for the purpose of paying the unpaid bills of 1939, namely,

Christmas lighting	\$ 13.00
Installing lights on hockey rink at Alumni Field	21.90
Perrillo Bill	25.70
Farnell Bill	85.00

and that in the case of Perrillo and Farnell bills, releases be obtained when payment is made.

Article 10. On motion of Harold J. Morgan—Voted to lay this article on the table.

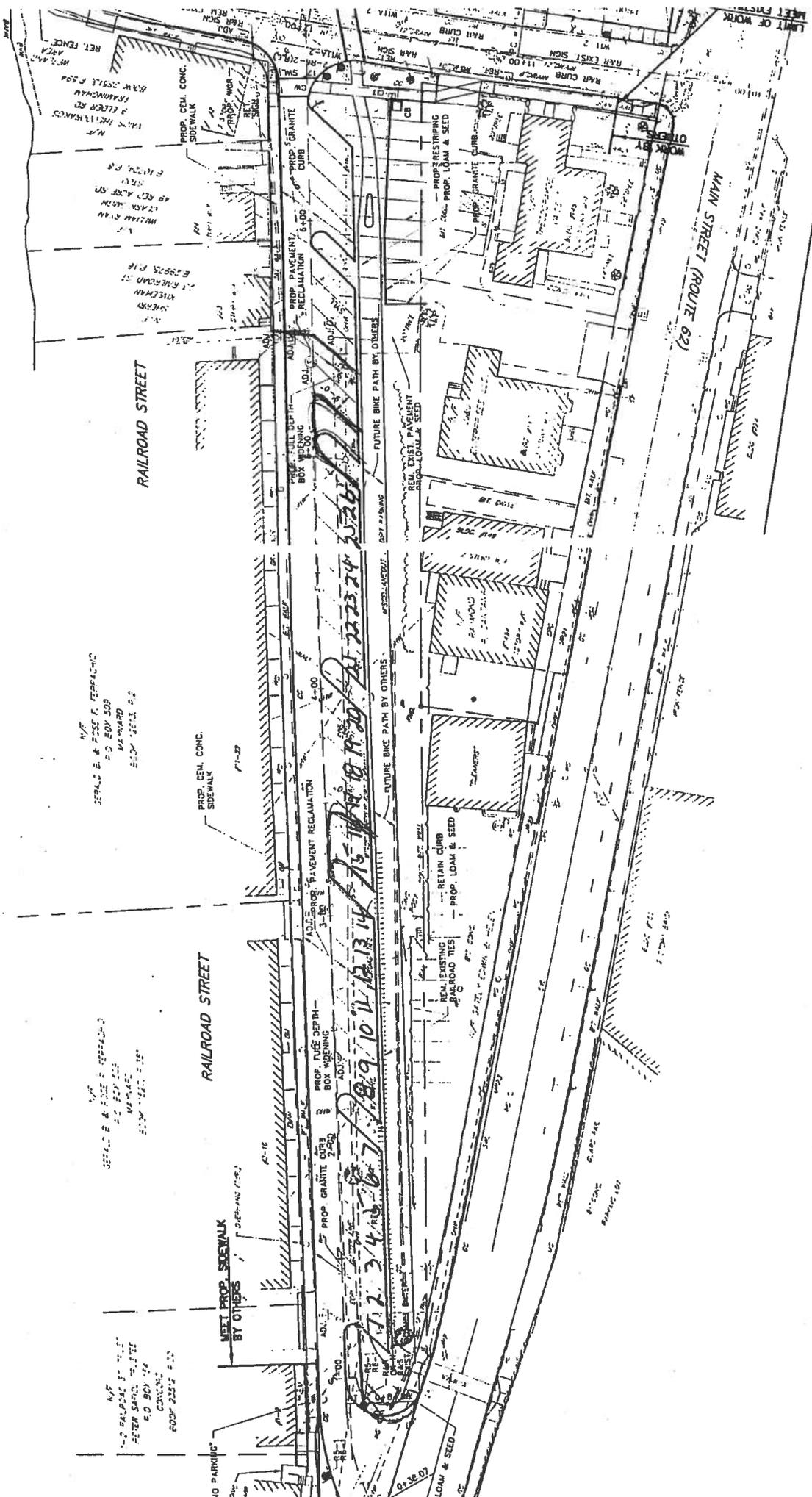
SIDEWALK IMPROVEMENT

DATE	NO. OF SHEETS	SHEET NO.
1988	5	5

GENERAL PLAN

PROJECT FILE NO.

ASSABET RIVER



N/E
SERIAL 2 & EDGE F. REPAIR-10
S.D. 501 503
AM-WARD
ELEV. 111.1, 112

N/E
SERIAL 2 & EDGE F. REPAIR-10
S.D. 501 503
AM-WARD
ELEV. 111.1, 112

N/E
SERIAL 2 & EDGE F. REPAIR-10
S.D. 501 503
AM-WARD
ELEV. 111.1, 112

RAILROAD STREET

MAIN STREET (ROUTE 62)

MEET PROP. SIDEWALK BY OTHERS

PROP. FULL DEPTH BOX JOINTS

PROP. PAVEMENT RECLAMATION

PROP. GRANITE CURB

PROP. PAVEMENT RECLAMATION

PROP. GRANITE CURB

FUTURE BIKE PATH BY OTHERS

RETAIN CURB

RETAIN CURB

RETAIN CURB

RETAIN CURB

RETAIN CURB

PROP. LOAM & SEED

PROP. CEIL. CONC. SIDEWALK

MEET PROP. SIDEWALK BY OTHERS

JOSEPH J. CONNOLLY

ATTORNEY AT LAW

74 MAIN STREET

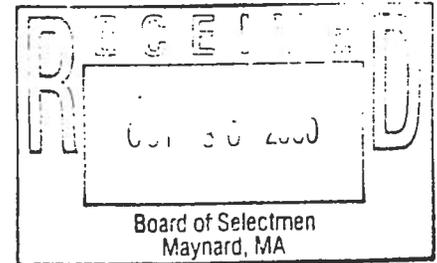
MARLBOROUGH, MASSACHUSETTS 01752

TELEPHONE
(508) 485-4488

FAX PHONE
(508) 624-4110

October 30, 2000

Mr. Michael Gianotis, Town
Administrator
Town of Maynard
195 Main Street
Maynard, MA 01754



RE: 3-10 Railroad Street, 11-22 Railroad Street
Maynard, MA

Dear Mr. Gianotis:

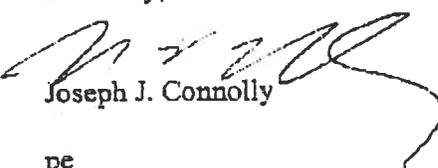
Please be advised that I represent the owners of the above-referenced properties, Gerald B. Ferrechio and Rose F. Ferrechio.

Mr. Ferrechio called me yesterday and informed me that the Town of Maynard had contracted for some improvement work to be performed on the right of way in the front of his property including paving the area and installing angle parking stalls.

I am enclosing, herewith, a copy of the two deeds into the Ferrechio's and a copy of the plan recorded at the Middlesex Registry of Deeds as Plan #449 of 1934 which shows "Railroad St." as a right of way over the front of Lots 74 and 75 (the Ferrechio property.) I have asked my title examiner to research the records at the Middlesex Registry of Deeds and we are not aware of any taking of "Railroad Street" by the Town of Maynard.

I would appreciate your reviewing this matter with the appropriate departments in the Town to confirm the correctness of my position and if, in fact, the improvements are being installed on my client's land, we will need to have some input on the scope of the work being contemplated. We are particularly interested in maintaining the current number of available parking spaces and providing sufficiently wide access for emergency vehicles.

Sincerely,


Joseph J. Connolly

pe
Enclosures
cc: Mr. Gerald B. Ferrechio

OFFICE OF THE

DEPARTMENT OF PUBLIC WORKS

MUNICIPAL BUILDING 195 MAIN STREET

MAYNARD, MASSACHUSETTS 01754

TELEPHONE 978-897-1017

FAX 978-897-7290



November 1, 2000

Joseph J. Connolly
Attorney at Law

Re: Railroad Street, Reference your letter
of October 30, 2000 to Mr. Michael Gianotis,
Town Administrator

Dear Mr. Connolly;

I have received information relative to the work being performed on Railroad Street from Mr. Gianotis, as furnished by your office.

The work being planned and now under construction will not result in any loss of use or reduction in useable parking. There will be twenty-six (26) parking spaces available as shown on the plan. (enclosed) There will be adequate vehicle passage for cars, trucks and emergency vehicles. The one way pattern will remain. We are not taking anything from anyone, only making improvements.

As we are all aware, there has, for a long period of time, been questions of legality in regards to who owns what. At this time, and as you reference in your letter, I am enclosing a copy of a vote of town meeting in 1940 referencing the acceptance of Railroad Street as a public way. Perhaps, at some point this issue will be resolved to the satisfaction of all parties involved. The project should continue, nothing will be lost, such as parking, emergency access, and the area in general will benefit from the improvements. We would be glad to meet at the site to review the scope of work if you so desire.

Sincerely,

A handwritten signature in cursive script, appearing to read "Walter Sokolowski".

Walter Sokolowski
Supt. of Public Works

cc: Michael Gianotis, Town Administrator
Madeline Colety, Program Manager, Community Development ✓

LAW OFFICES
OF
JOSEPH J. CONNOLLY
74 MAIN STREET
MARLBOROUGH, MASSACHUSETTS 01752

JOSEPH J. CONNOLLY
DANIEL J. BURGER*
*also admitted in NH

TELEPHONE (508) 489-4489
TELEFAX (508) 624-4110

November 6, 2000

Mr. Walter Sokolowski, Superintendent
Department of Public Works
195 Main Street
Maynard, MA 01754

RE: Railroad Street

Dear Mr. Sokolowski:

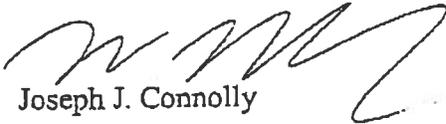
Thanks for your letter of November 1, 2000. Upon receipt I forwarded the same to Mr. Ferrechio and he went out to the site to review the work in progress and, regretfully, he disagrees with your opinion that there will not be a reduction in the available parking for his tenants. He tells me there are two islands laid out that are 24 feet wide and two that are 8 feet wide. He believes that this will necessarily diminish the number of available parking spaces.

Moving on to the second issue in your letter, you state that "there has, for a long period of time, been questions of legality in regards to who owns what." I beg to differ. I have provided the Town with copies of the plan of the area recorded at the Registry of Deeds and a copy of the two Ferrechio deeds which describe the land that they own as including the fee in the land shown on the plan as "Railroad Ave." In order for the Town to have any ownership rights, they would either have had to acquire a deed for that area from the Ferrechio's or their predecessors in title or have taken the property by eminent domain with a payment to the owners for the value of the land so taken. As I stated in my previous letter, I have examined the records at the Middlesex South Registry of Deeds and can find no record of either of those actions being taken. The mere fact that a Town Meeting in 1940 voted to accept the property as a public way without either a deed from the Ferrechio's or an eminent domain taking results in no rights being conveyed to the Town.

Mr. Walter Sokolowski
November 6, 2000
Page 2

Based upon the foregoing, I hereby request that you stop the installation of the islands shown on the Plan you sent with your letter of November 1.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Connolly', written in a cursive style.

Joseph J. Connolly

pe

cc: Mr. Gerald B. Ferrechio
Mr. Michael Gianotis

TOWN OF MAYNARD
COMMUNITY DEVELOPMENT OFFICE
TOWN BUILDING
195 Main Street
MAYNARD, MASSACHUSETTS 01754
Tel: (978) 897-0568
Fax: (978) 897-0569
E-mail: comdev@acunet.net



To: Joseph Vrabel
From: Madeline Colety *myc*
Date: November 7, 2000

Re: Maynard's FY1999 Street/Sidewalk Project

As you are aware, the Town has received correspondence from Joseph Connelly, an attorney for Mr. Ferrechio of Railroad Street. We have received a letter in response to Walter Sokolowski's letter dated November 1, 2000.

We have delayed work on Railroad Street until this issue is resolved in the short-term. However, we are at the point where we must instruct the contractor to proceed one way or another as soon as possible.

Please review the attached letter. Mike Gianotis would like to discuss this issue with you tomorrow morning, and perhaps you will be able to speak directly to Mr. Connelly to resolve any questions of ownership or the project's plan. I will be available to speak with you if necessary in the morning at (617) 232-0426.

Thank you for your attention to this matter.

TOWN OF MAYNARD
COMMUNITY DEVELOPMENT OFFICE

TOWN BUILDING
195 Main Street
MAYNARD, MASSACHUSETTS 01754
Tel: (978) 897-0568
Fax: (978) 897-0569
E-mail: comdev@acunet.net



MEMORANDUM

To: Joseph Vrabel, Town Counsel
From: Madeline Colety, Program Manager
Date: November 28, 2000

Re: 23 Railroad Street

I am writing to inform you that Ms. Sherri Kivlehan of 23 Railroad Street has contacted her attorney regarding her belief that her property extends across the street to the MBTA railroad bed. This issue has arisen in the past, however, we have been able to work with Ms. Kivlehan to address her concerns regarding the work being completed on Railroad Street. This afternoon, Ms. Kivlehan called the Community Development Office complaining about granite curbing obstructing her parking area. Walter Sokolowski and I went out to the property and were able to address her immediate concerns. However, Ms. Kivlehan indicated that she intended to pursue the "ownership" issue surrounding her property. I do not know the name of her attorney, however he may be in contact with you in the near future.

If you have any questions regarding this matter, please let me know. I can be reached Wednesday afternoon at (617) 232-0426, or my colleague Peter Sanborn is available to discuss this situation in the morning at (617) 542-3300 x304.

Thank you.

cc: Michael Gianotis
Peter Sanborn

Bowditch & Dewey, LLP
ATTORNEYS

161 WORCESTER ROAD, 6th FL.
POST OFFICE BOX 9320
FRAMINGHAM, MA 01701-9320
TELEPHONE (508) 879-5700
FACSIMILE (508) 872-1492
E-MAIL: @bowditch.com
www.bowditch.com

November 30, 2000

Madeline Coiety
Maynard Community Development Office
195 Main Street
Maynard MA 01754

Re: Sherri Kivlehan, 23 Railroad Street, Maynard MA

Dear Madeline:

With respect to your memorandum of November 28, on the above (copy attached) we have already discussed the situation of the Ferrechio ownership of property on Railroad Street and it does not appear to me that our conclusion would be any different with respect to the Railroad Street property owned by Sherri Kivlehan.

The Town has taken the position (and, I believe, rightfully so) that Railroad Street is a public way in the Town of Maynard. Although we are all well aware of the possibility that the acceptance of Railroad Street as a public way at Maynard's 1940 Town meeting might be defective, due to the fact that we have been unable to locate a recorded Taking Plan and an exact layout of Railroad Street, this Town Meeting acceptance, coupled with the fact that Maynard has for approximately 60 years classified Railroad Street as a public way, has spent public funds on its maintenance, has plowed Railroad Street and in all respects regarded it as a public way in the Town of Maynard, leads to the conclusion that Railroad Street is a public way. Even if we are unable to satisfy all legal requirements of the acceptance action itself, I believe the Town has a very supportable position that Railroad Street has become a public way by prescription.

Further, from a review of Mr. Ferrechio's deed and Sherri Kivlehan's deed, there is language in each of those instruments specifying that when they took title to their property, they took "subject to and with the benefit of a right of way in common with other buyers thereon known as Railroad Street, running across lots 71 to 77 inclusive on the southeasterly side thereof as now used and is shown on said plan". It is our position that no matter how we eventually characterize Railroad Street, the Ferrechios and Ms.

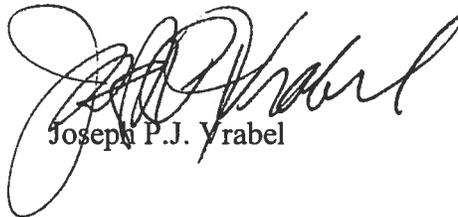
Maynard Community Development Office
November 29, 2000
Page 2

Kivlehan hold title to their property subject to Railroad Street as some sort of public right of way in the Town of Maynard.

Accordingly, the Town should respond to Ms. Kivlehan in the same manner as it has responded to Mr. Ferrechio, namely, that we will proceed with this Community Development Project and try to accommodate them as much as possible, but in no event should their objections or protestations to the Railroad Street improvements stop the project and our use of grant funds to improve Railroad Street. Clearly, once Railroad Street has been repaved and improved, parking areas abutting Railroad Street have been restriped, curbing and islands installed to provide additional safety measures, there should be no credible argument that Railroad Street has been worsened or made unsafe. In fact, the improvements to Railroad Street made by the Town greatly enhance its travelability, its safety and its usefulness for all residents of the Town of Maynard.

Please call if you have any further questions.

Very truly yours,



Joseph P.J. Vrabel

JPJV/bl
Enclosures
cc: Mike Gianotis

RECEIVED BY THE REGISTER DEEDS

KNOW ALL MEN BY THESE PRESENTS

That I, MICHAEL J. SIDOROVICH,

of Maynard, Middlesex County, Massachusetts,

being unmarried, for consideration paid, and in full consideration of One hundred Ten Thousand (\$110,000.00) Dollars

grants to GERALD B. FERRECHIO and ROSE F. FERRECHIO, as Tenants in Common, of 219 Miles Standish Drive, Marlborough, Middlesex County, Massachusetts

~~wherein~~

[Description and encumbrances, if any]

The land, with all buildings thereon, situated in said Maynard and bounded and described as follows:

- SOUTHEASTERLY by land now or formerly of the Marlboro Branch of the Fitchburg Railroad, two hundred and forty-seven (247) feet;
- SOUTHWESTERLY by Lot 74 on the hereinafter mentioned plan, one hundred and forty-four (144) feet;
- NORTHWESTERLY by the Assabet River, two hundred and fifty-one (251) feet; and
- NORTHEASTERLY by Lot 76 on said plan, one hundred and thirty-six (136) feet.

Containing 35,000 square feet. Be all said measurements more or less, and being shown as Lot 75 on a plan entitled, "Plan showing Land and Buildings in Maynard, Mass., owned by Textile Realty Co.," John Franklin, C.E., May 1934, and recorded with said deeds, Book 5846, Page 449.

Said premises are conveyed subject to and with the benefit of rights of way, reservations, restrictions and other rights of record insofar as the same are now in force and applicable.

Being the same premises conveyed to Joseph Sidorovich by deed of Peter Salvucci, et ux dated October 29, 1937 and recorded with said deeds, Book 6163, Page 99.

For my title see Estate of said Joseph Sidorovich, Middlesex Probate No. 388825.

Witness my hand and seal this 9th day of April 1974

Michael J. Sidorovich

The Commonwealth of Massachusetts

Middlesex, ss.

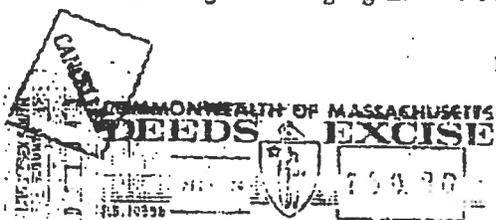
April 9, 1974

Then personally appeared the above named MICHAEL J. SIDOROVICH

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

Louis A. Florio - Notary Public

My commission expires August 9, 1974



nants in Common—Tenants by the Entirety.)

AMENDED BY CHAPTER 497 OF 1969

Witness upon it the full name, residence and post office address of the grantee 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.

NUI 9

I, Metrophane Zayka, Jr. of Bolton, Worcester County, Massachusetts

~~EXECUTOR under the WILL of~~ ~~ADMINISTRATOR of the ESTATE of~~ ~~TRUSTEE of~~ ~~GUARDIAN~~
~~of~~ ~~CONSERVATOR of~~ ~~RECEIVER of the ESTATE of~~ ~~(FIDUCIARY of)~~ ~~COMMISSIONER~~
the property of Raymond Zayka, Grishea Zayka, Paul Zayka and John Zayka
of Boston, Suffolk County, Massachusetts
by power conferred by license of the Probate Court in and for the County
of Suffolk, dated June 18, 1968

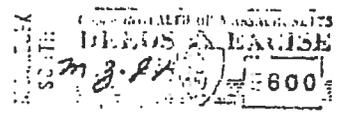
and every other power,

for Three Thousand (\$3,000.00) ----- Dollars
paid, grant to Rose Y. Ferrechio of 20 Ash St., Clinton, Mass., and Gerald E.
Ferrechio of 36 Park St., Clinton, Mass., as tenants in common
the land in- Certain real estate situated in Maynard, in the County of
Middlesex, described as follows:

The land in Maynard, County of Middlesex, said Commonwealth and bounded
and described as follows: Southeastery by land now or formerly of
the Marlboro Branch of the Fitchburg Railroad one hundred seventy-seven
(177) feet; Southwesterly by Lot 73 on the hereinafter mentioned plan
one hundred sixty-six (166) feet; Northerly by the Assabet River one
hundred eighty-three (183) feet; Northeastery by Lot 75 on said plan
one hundred forty-four (144) feet; Containing 26,530 square feet.
Be all said measurements more or less. Subject to and with the benefit
of a right of way, in common with other abutters thereon, known as
Railroad Street, running across lots 71 to 77 inclusive on the
Southeasterly side thereof as now used and as shown on said plan.

Said premises are sold subject to a right of the American Woolen
Company to use the waters of the Assabet River substantially as it
and its predecessors have heretofore done and to release the water
from its dams in said Maynard connected with said river without
liability for florage which may be caused thereby so far as now in
force and applicable.

Lot 74
on plan



Witness my hand and seal this 24th day of JUNE 1968
Metrophane Zayka Jr.

The Commonwealth of Massachusetts

Middlesex ss June 24, 1968

Then personally appeared the above named Metrophane Zayka, Jr.
and acknowledged the foregoing instrument to be his free act and deed, before me

James F. Dittling
Notary Public - Justices of the Peace

My commission expires SEPT. 16 1971

We, Metrophane Zayka of Boston in the County of Suffolk, Vera Vivian of Natick in the County of Middlesex, Mary Ferguson of Holbrook in the County of Norfolk, Peter Zayka, Metrophane Zayka, Jr., Nicholas Zayka, all of Bolton in the County of Worcester, Fannia Zayka of Boston in the County of Suffolk, Helen Giambro of Winchester in the County of Middlesex, all in the Commonwealth of Massachusetts

County: Massachusetts,

being unmarried, for consideration paid, grant to Rosa F. Ferrechio of 20 Ash Street, Clinton, Massachusetts and Gerald B. Ferrechio of 36 Park Street, Clinton, Massachusetts, as tenants in common

of-

with quitclaim covenants

the land in Maynard, County of Middlesex, said Commonwealth and bounded and described as follows:

[Description and encumbrances, if any]

Southeasterly by land now or formerly of the Marlboro Branch of the Fitchburg Railroad one hundred seventy-seven (177) feet;
 Southwesterly by Lot 73 on the hereinafter mentioned plan one hundred sixty-six (166) feet; Northerly by the Assabet River one hundred eighty-three (183) feet; Northeasterly by Lot 75 on said plan one hundred forty-four (144) feet. Containing 26,550 square feet.
 Be all said measurements more or less. Subject to and with the benefit of a right of way, in common with other abutters thereon, known as Railroad Street, running across Lots 71 to 77, inclusive on the Southeasterly side thereof as now used and as shown on said plan. Said premises are sold subject to the right of the American Woolen Company to use the waters of the Assabet River substantially as it and its predecessors have heretofore done and to release the water from its dams in said Maynard connected with said River without liability for flowage which may be caused thereby, so far as now in force and applicable.

For source of our title hereto see deed from Metrophane Zayka et al to Theodora Zayka, dated July 9, 1942 and recorded with Middlesex South District Deeds, Book 6613, Page 403 and estate of Theodora Zayka, Suffolk Probate #443,823.

1E

14-98

AIM DEED

ing unmarried, for consideration paid and in full
(,000), the receipt and sufficiency of which is hereby
23 Railroad Street, Maynard, MA, with Quitclaim

hereon and being shown as Lot 76 on a plan
Maynard, Mass. owned by Textile Realty Co.",
with the Middlesex South District Registry of
Deeds as follows:

Marlboro Branch of the Fitchburg Railroad,

plan, one hundred thirty-six (136) feet;

the Assabet River, thirty-seven and 4/10 (37.4) feet;

NORTHEASTERLY by lot 77 on said plan, one hundred forty (140) feet.

Containing 5,710 square feet, more or less.

Subject to and with the benefit of a right of way in common with other abutters thereon, known as
Railroad Street, running across Lots 71 to 77 inclusive, on the southeasterly side thereof, as now used
and as shown on said plan.

For Grantor's title, see deed of Joseph Gitta and Maria P. Gitta to Sanford C. Bunker and Frances N.
Bunker, dated December 13, 1972, and recorded in said County Registry of Deeds at Book 127-17,
Page 110.

Witness my hand and seal on March 26, 1999.

[Signature]
Sanford C. Bunker

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

March 26, 1999

Then before me personally appeared Sanford C. Bunker, to me known to be the person(s) described in
and who executed the foregoing instrument, and acknowledged this as his free act and deed, before me.

[Signature]
Gregory G. Mitrakas, Notary Public
My commission expires: July 29, 1999
c:\wp51\docs\kivlehan.ded

Handwritten notes:
The Town of
(reg Mitrakas) 8-30
2000 2-11-00 59
Mitrakas 1999
61352

01
1296.40
03/29/99 2:47:28 PM
000000-000000
000000-000000
FEE CANCELLED
CAMBRIDGE
DEEDS REGIS
TRARY SOUTH

Handwritten: 13 Railroad Street

256.48
EXCISE TAX

10-25-2001

To Whom It May Concern,

I would like the road work that is being done on Railroad Street to stop until they find out legally who owns what property. I have a deed which says that I Sheeri Kivlehan own from the Railroad tracks back down to the Assabet River, which I showed this deed to Walter Sacalowski in the Maynard Town Hall which myself and Walter looked at old Blue Prints to prove this point I felt I shouldn't have to go any further than that But now the town continues to think that they own Railroad Street and they don't. I sat and watched these people destroy my property, they told me I would not lose any of my property and it was a lie. The work they are doing is illegal and I'm ready to take legal action. They made the streets thinner which now there is hardly any parking. God forbid if a car is coming up or down Railroad St. and a little child comes out from these vehicles noone and I mean noone is going to this until a child gets hit another thing is there is a dwelling next to my house with who knows how many kids live there and if there was a emergency and Police and fire trucks are called in there will be no room on this Street and that's dangerous

Home owner

Sheeri Kivlehan
Sheeri Kivlehan

TOWN OF MAYNARD
COMMUNITY DEVELOPMENT OFFICE

TOWN BUILDING
195 Main Street
MAYNARD, MASSACHUSETTS 01754
Tel: (978) 897-0568
Fax: (978) 897-0569
E-mail: comdev@acunet.net



MEMORANDUM TO FILE

From: Madeline Colety, Program Manager
Date: October 31, 2000

Re: Meeting with Sherri Kivlehan concerning Railroad Street

Earlier today, a meeting was held with Ms. Sherri Kivlehan of 23 Railroad Street regarding her concerns pertaining to construction on Railroad Street. This meeting was attended by Walter Sokolowski, Superintendent of Maynard DPW, Gerry Flood, Assistant Superintendent of Maynard DPW, Julia Whiteneck, Clerk of the Works, Madeline Colety, Program Manager of Maynard CDO, and Ms. Kivlehan.

As stated in the attached letter, Ms. Kivlehan has several concerns regarding the protection of her property and the safety of the roadway. The above parties met to discuss Ms. Kivlehan's concerns and to explain the construction design in order to ease her concerns.

Ms. Kivlehan stated that she believed she owned the land in front of her home extending into Railroad Street and that the parking spots she was accustomed to using were deeded with her property. Ms. Colety explained that the Town had conducted a land survey as part of the construction project and that the property lines determined by the surveyor appeared on the plans at the back side of the sidewalk. Ms. Colety further stated the disagreement concerning property ownership was not something that they could resolve at that time, and Ms. Kivlehan may need to resolve it in court.

Discussion was then directed to Ms. Kivlehan's concerns regarding parking. Ms. Kivlehan stated that she was accustomed to parking her vehicles across the street and that she wanted to maintain this parking. The plan allowed for three parking spaces in front of her home. Ms. Kivlehan stated that she drove a van to transport disabled children and that the parking would need to accommodate the size of the van. The van measures 17 feet in length. Mr. Flood measured the length of the parking spaces on the plan and stated that they allowed 26 feet of depth per space. It was felt that this was ample room for the van.

Ms. Kivlehan also expressed concern regarding the width of the roadway. The Town explained that the road was narrowed from 22 feet to 13 feet in order to slow traffic down and to provide a safer environment for the residents of the street. It was also explained that the depth of the parking would allow a "buffer" between the backs of cars and the travel lane. This would enable children to be visible to a driver before they were actually

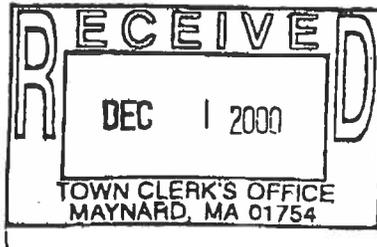
in the path of travel. It was also explained that the plans had been reviewed and approved by the fire chief and there were no concerns about the ability of emergency vehicles to maneuver down the street.

Ms. Kivlehan seemed satisfied with the explanation of the plans.

Commonwealth of Massachusetts
County of Middlesex
The Superior Court

CIVIL DOCKET# MICV2000-05462

Sherri Kivlehan
vs.
Town of Maynard



Ron Hansen

SUMMONS AND ORDER OF NOTICE

12-01-00
DATE OF SERVICE

To the above-named Defendant:

You are hereby summoned and required to serve upon **Sherri Kivlehan**, plaintiff, whose address is **23 Railroad Street, Maynard, MA 01754**, an answer to the complaint which is herewith served upon you. This must be done within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, Judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this Court at Cambridge either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the defendant which arises out of the transaction or occurrence that is the subject matter of the defendant's claim or you will thereafter be barred from making such claim in any other action.

WE ALSO NOTIFY YOU that application has been made in said action, as appears in the complaint, for a preliminary injunction and that a hearing upon such application will be held at the court house at said Middlesex, on **12/05/2000, at 02:00 PM in Rm 12A (Cambridge)**, at which time you may appear and show cause why such application should not be granted.

Witness, **Suzanne V. DeVecchio**, Esquire, Chief Justice of the Superior Court, at Cambridge, Massachusetts this 30th of November, 2000.

Edward J. Lattin

.....
Clerk

(AFFIX RETURN OF SERVICE ON BACK OF SUMMONS)

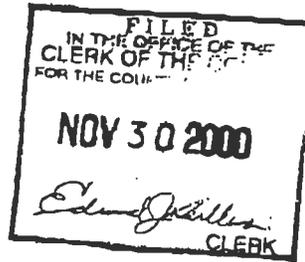
S.O.N TO [unclear]
retn 12/5/00 at 2pm
in 12A

00-5462

Sherri Kivlehan (Plaintiff)

VS

Town of Maynard



- 1.) Sherri Kivlehan (Plaintiff) resides at 23 Railroad St.
Maynard, Ma. 01754
- 2.) Town of Maynard (Defendant) resides at 195 Main St.
Maynard, Ma. 01754
- 3.) On or about November 3, 2000 the Town of Maynard got a grant to do streets and sidewalks over, I agree it would be nice for free, but there was some concerns that I brought about. I would still need my parking where I own and have the deed to prove this. They told me they would not interact with his or take it away which they lied. Second, if god or bid there was an emergency vehicle there is one-way traffic can get through this street because they want to narrow this road. There is a dwelling with twenty apartments god only knows how many children live there, but there always playing and if a child loses a ball and has to get it, the cars will not see them coming out from in between. Use vehicles to stop in time and it would be a safety. Also they contractors broke the foundation on house doing this work. I have no where to park my vehicles if they continue because I have a long van and it hits the curb everytime

I back-up, and now that they narrowed the street I have to back this van back at least 3 times up and back in order to get out of my spot. The town of Maynard does own in front of my property where they could build there bike path but they are trying to cut into my property. Now I have a telephone pole slanting in front of my house because of this work. I'm a single mother collecting disability and the town knows I don't have money for a lawyer so this is why I'm here asking for help.

The Town and I have talked verbal about this I have pictures to be develop and a movie camera with this all being down. They the Town of Maynard told me the only way they'll stop is to get a court order. The last time we talk was two days ago they said they'd move it back were it's suppose to go but then yesterday the Engineer lady told me there not and I asked them to get off my property they did for now. But I'm too ill to be fighting this every other day. I have emphysema this dust there building around me is not helping. I have to park so where else and walk to my house.

Wherefore The Plaintiff Requests This Honorable
court to:

Issue a Restraining order against
the Town of Maynard to stay away from
23 Railroad St. Maynard, Ma. 01754

Signed Under The Pains and Penalties of Perjury
Sheela Kivtehan
Sheela Kivtehan

this is causing Irreparable Harm to myself and
my children I am on medicine for my
nerves now.

Commonwealth of Massachusetts
County of Middlesex
The Superior Court

CIVIL DOCKET# MICV2000-05462

RE: Kivlehan v Maynard

TO: Sherri Kivlehan
23 Railroad Street
Maynard, MA 01754

TRACKING ORDER - F TRACK

You are hereby notified that this case is on the **fast (F) track** as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION

DEADLINE

Service of process made and return filed with the Court	02/28/2001
Response to the complaint filed (also see MRCP 12)	04/29/2001
All motions under MRCP 12, 19, and 20 filed	04/29/2001
All motions under MRCP 15 filed	04/29/2001
All discovery requests and depositions completed	09/26/2001
All motions under MRCP 56 filed and heard	10/26/2001
Final pre-trial conference held and firm trial date set	11/25/2001
Case disposed	01/24/2002

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.

Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

This case is assigned to session **A** sitting in Rm 12A (Cambridge) at Middlesex Superior Court.

Dated: 11/30/2000

Edward J. Sullivan,
Clerk of Courts

BY:

Mark J. Toomey/Jane M. Haviland
Assistant Clerk

Location: Rm 12A (Cambridge)
Telephone: 617-494-4010 EXT 4341

residents of the Town of Maynard, particularly those residing on Railroad Street, with regard to the Project. This meeting was advertised in the local newspaper two consecutive weeks, one time two weeks in advance of the date of the meeting and a second time one week in advance of the date of the meeting. The plaintiff, Sherri Kivlehan, did not attend this meeting.

6. On or about June 10, 2000, the Project Engineer walked the site with members of the public, including Sherri Kivlehan, in order to further discuss the Project and obtain public input. Upon information and belief, Ms. Kivlehan expressed concern about maintaining her parking spaces during this site visit. Although under no obligation to do so, the Town of Maynard made every effort to take the public's comments, including Ms. Kivlehan's, into consideration in creating its final plans for the Project.

7. A true and accurate copy of the final plans depicting the Project are attached hereto as Exhibit A. The plans have been reviewed and approved by the Maynard Fire Chief.

8. Construction of the Project began on or about September 18, 2000, with work commencing on other nearby roadways also undergoing improvement. The improvements to Railroad Street pursuant to the Project are designed to increase public safety on Railroad Street, as well as to improve the aesthetic appearance of the street.

9. As part of the Project, Railroad Street will be completely re-paved. Railroad Street will also be narrowed to approximately 14 feet in order to slow traffic passing through the area. At present, cars travel along Railroad Street at relatively high speeds, thereby endangering the many children who reside in the area. The narrowed

roadway is expected to significantly reduce the speed of vehicles driving along Railroad Street.

10. Additionally, designated parking areas will be delineated as part of the Project. Paved parking spaces will be created in a diagonal fashion. These parking spaces are to be 26 feet in depth and 9 feet in width to ensure public safety. Historically, parking in this area has been unorganized, simply existing on a gravel and dirt area with few marked spaces. Islands will be installed to provide structure to the roadway and the parking.

11. Significant sidewalk improvements are also a part of the Project. The sidewalks are presently in extremely poor condition and present a hazard to pedestrians. The Town of Maynard is installing new granite curbs and concrete sidewalks as part of the Project. The sidewalks will be elevated six inches higher than street level for safety purposes. Without such improvements, the sidewalks would continue to be level with the street in certain places along Railroad Street.

12. Handicap ramps are also being installed at all cross-walks along Railroad Street as part of the Project. In places where handicap ramps already exist, these handicap ramps will be significantly improved.

13. The Project will also improve the aesthetic appearance of Railroad Street and includes adding more green space and tree plantings on the islands.

14. The work being planned and now under construction will not result in any loss of use or reduction in usable parking. There will be 45 parking spaces available as part of the new Project. There will be adequate vehicle passage for cars, trucks and emergency vehicles. The one-way pattern will remain.

15. On or about October 31, 2000, I met Ms. Kivlehan at the Community Development Office with Walter Sokolowski, Gerry Flood and Julia Whiteneck, Clerk of the Works, to discuss the Project in response to her complaints about adequate parking. We showed Ms. Kivlehan the plans for the Project which, at that time, included 3 parking spaces for Ms. Kivlehan. Ms. Kivlehan expressed satisfaction with the plan design.

and the narrowness of the street
↓
whether emergency vehicles could pass + children playing

16. On or about November 28, 2000, I met Ms. Kivlehan at the site with Walter Sokolowski and the General Contractor. Ms. Kivlehan again expressed concern about maintaining her parking spaces. Although under no obligation to do so, we offered to reduce an island in order to provide Ms. Kivlehan with an extra parking space for a total of four spaces. This would give Ms. Kivlehan the same number of spaces she previously enjoyed. We also agreed to set the curb along these spaces another 6 inches back in an effort to further accommodate Ms. Kivlehan. Ms. Kivlehan expressed satisfaction with this proposal. I did not hear from Ms. Kivlehan again until receiving notice of the instant lawsuit.

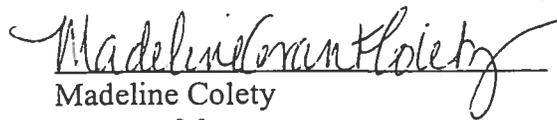
← this was discussed at this mtg w/ her.

17. The Project is, at this point, near completion. Any delay in completing the Project will cost the Town money and may jeopardize its funding. The Town received \$600,000 in grant money for the Project and improvements to other nearby streets. The grant deadline for completion of the Project is December 31, 2000.

18. At present, the sidewalks are torn up and are awaiting the pouring of concrete. The binder on the street is down and is waiting to be paved. All of this must be done before the winter months in order to avoid snowfall. Moreover, if left unfinished, the street and sidewalks will pose a serious safety hazard.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 5

DAY OF DECEMBER, 2000.

A handwritten signature in cursive script, reading "Madeline Colety", written over a horizontal line.

Madeline Colety
Program Manager,
Maynard Community Development Office

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

CIVIL ACTION
NO.: MICV2000-05462

_____)
SHERRI KIVLEHAN,)
)
Plaintiff)
)
v.)
)
TOWN OF MAYNARD,)
)
Defendant)
_____)

AFFIDAVIT OF KELLEY CONWAY

I, Kelley Conway, the undersigned, hereby say and depose as follows:

1. The statements contained herein are based on my own personal knowledge and based upon my personal review of the plans for the improvement of Railroad Street, Maynard, Massachusetts (the "Project") prepared by Guertin & Associates, Inc., 91 Montvale Avenue, Stoneham, Massachusetts ("Guertin").
2. A true and accurate copy of the plans depicting the Project are attached hereto as Exhibit A (the "Plans").
3. I am a registered professional engineer licensed in the Commonwealth of Massachusetts and employed by Guertin. Guertin prepared the Plans on behalf of the Town of Maynard.
4. The Plans depict 45 degree angled parking on Railroad Street after improvements.
5. Sheet number 3 of the Plans depicts the intended total width of Railroad

Street from curb to curb, which includes the travel lane and angled parking, as 31.5 feet after the improvements.

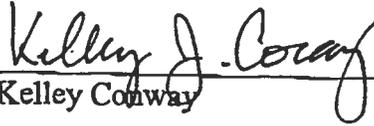
6. I conducted a field measurement of the total width of Railroad Street from curb to curb, which includes the travel lane and angled parking, in order to obtain the actual total width after improvements. This total width measured 32.4 feet, an extra .9 feet or 10.8 inches wider than originally designed.

7. I also conducted a field measurement of the parking spaces laid out in order to obtain the actual length of the parking spaces after improvements. The parking spaces measured 25.1 feet in length.

8. Attached hereto as Exhibit B is an as-built plan I drafted depicting Railroad Street after the improvements. The as-built dimensions are overlaid on the original design.

9. Attached hereto as Exhibit C is a computer generated drawing depicting the turning path of a vehicle 17 feet long and 7 feet wide, with front wheels 1.5 feet back from the front bumper and front and rear wheels 13.3 feet apart from each other, measured from the front of the front wheel to the rear of the rear wheel. Dimensions of the plaintiff's van were provided by the Town of Maynard through field measurements. Exhibit C depicts the path of a vehicle and its wheels for a similar sized vehicle. As depicted, the vehicle should be able to maneuver into and out of the as-built parking spaces.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 8th
DAY OF DECEMBER, 2000.



Kelley Conway

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

CIVIL ACTION
NO.: MICV2000-05462

SHERRI KIVLEHAN,
Plaintiff
v.
TOWN OF MAYNARD,
Defendant

AFFIDAVIT OF JULIA WHITENECK

I, Julia Whiteneck, the undersigned, hereby say and depose as follows:

1. The statements contained herein are based on my own personal knowledge and based upon my personal review of the plans for the improvement of Railroad Street, Maynard, Massachusetts prepared by Guertin & Associates, Inc. (the "Project"). A true and accurate copy of the plans depicting the Project are attached hereto as Exhibit A (the "Plans").
2. I am a registered professional engineer licensed in the Commonwealth of Massachusetts and the Clerk of the Works for the Project. As Clerk of the Works I am responsible for overseeing all of the improvements to Railroad Street.
3. The Plans depict 45 degree angled parking on Railroad Street after improvements.
4. Sheet number 3 of the Plans depicts the intended total width of Railroad

Street from curb to curb, which includes the travel lane and angled parking, as 31.5 feet after the improvements.

5. I conducted a field measurement of the total width of Railroad Street from curb to curb, which includes the travel lane and angled parking, in order to obtain the actual total width after improvements. This total width measured 32.4 feet, an extra .9 feet or 10.8 inches wider than originally designed. This extra 10.8 inches resulted from moving the curbing in front of the angled parking further back in order to provide the plaintiff, Sherri Kivlehan, more room to maneuver her vehicle into and out of the parking spaces.

6. I conducted a field measurement of the parking spaces laid out in order to obtain the actual length of the parking spaces after improvements. The parking spaces measured 25.1 feet in length.

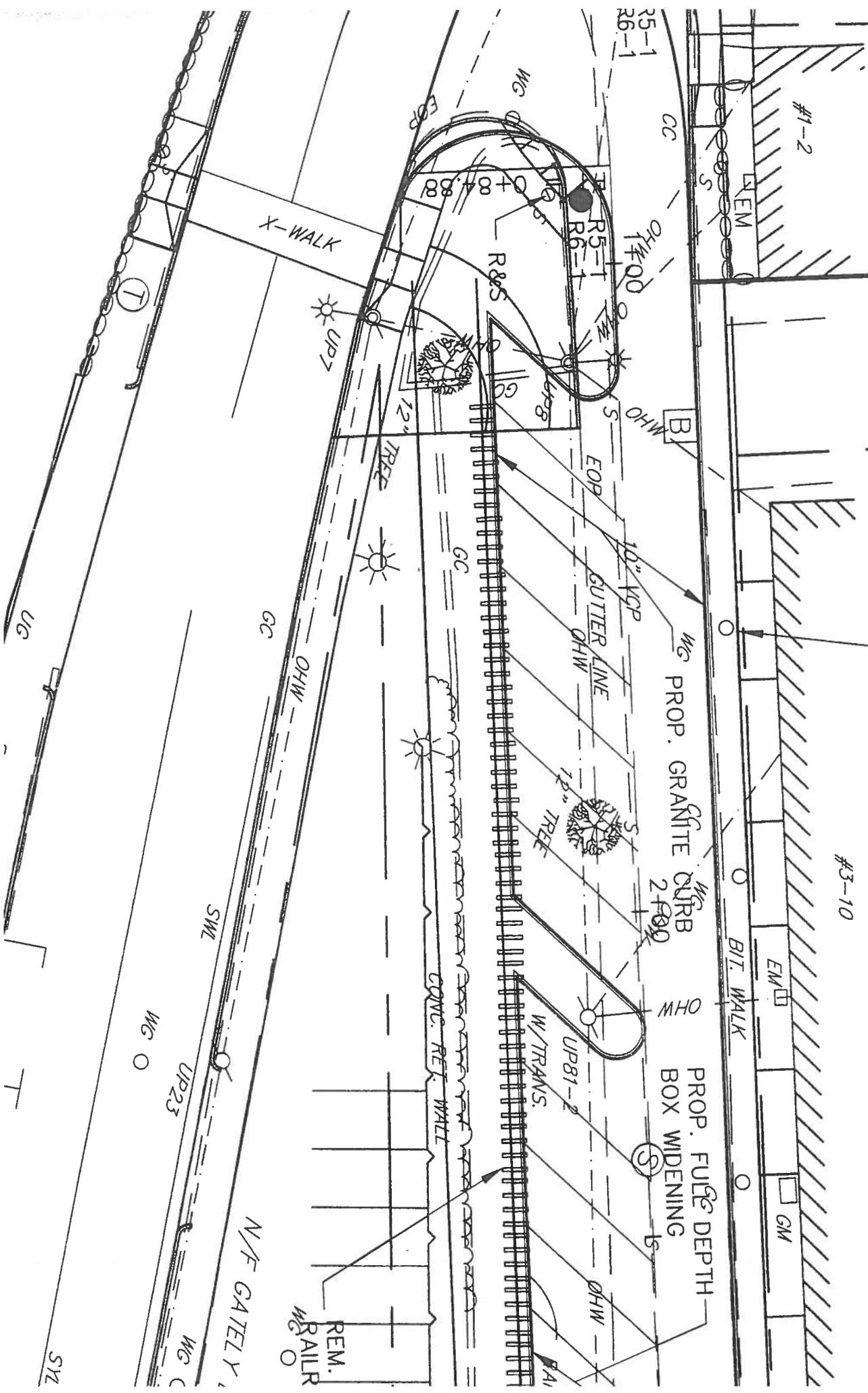
7. I also had the opportunity to measure the length of Ms. Kivlehan's van. It measured 17 feet long, with the front wheels 1.5 feet back from the front bumper and the front and rear wheels 13.3 feet apart from each other, measured from the front of the front wheel to the rear of the rear wheel.

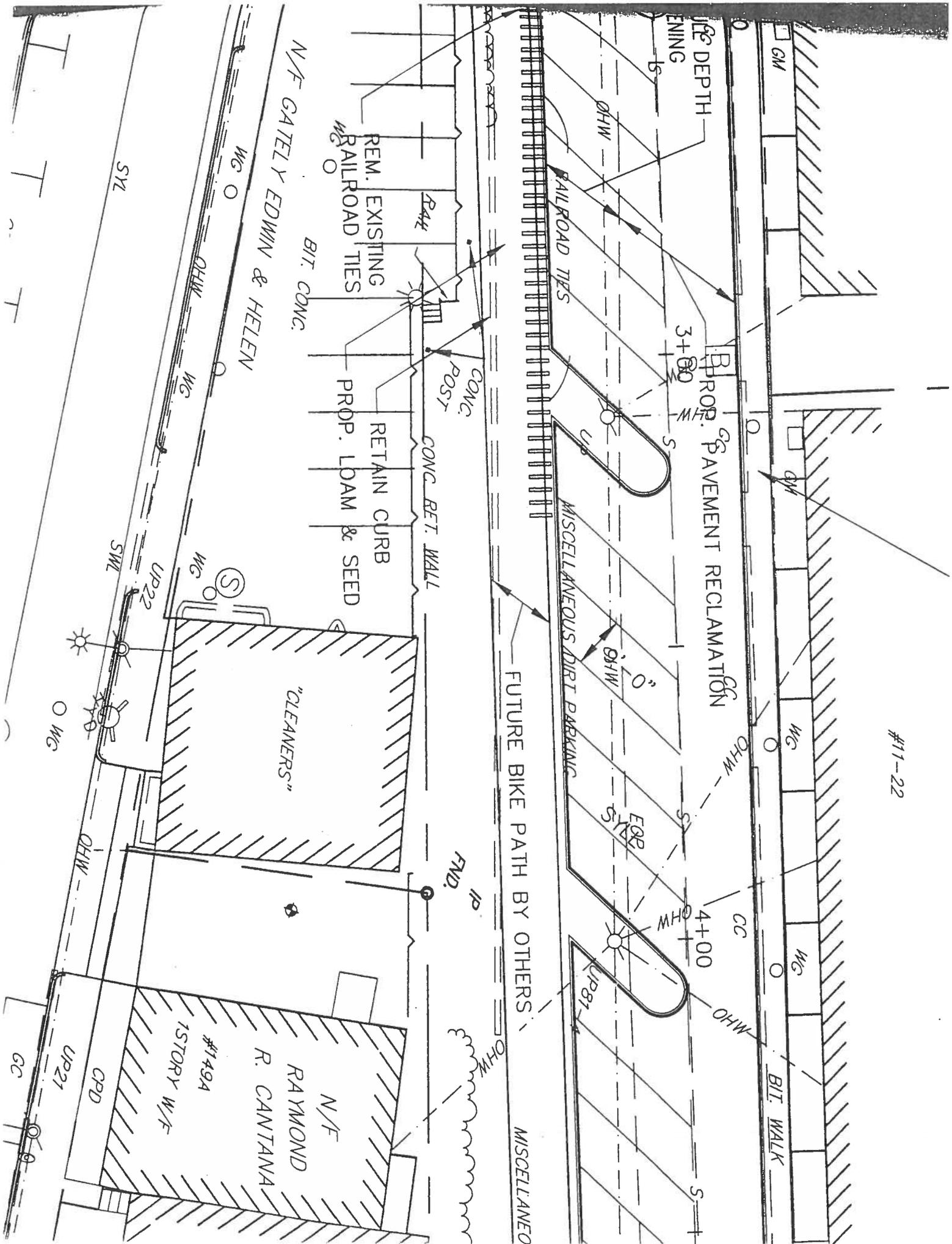
SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 8th
DAY OF DECEMBER, 2000.


Julia Whiteneck

**MEET PROP. SIDEWALK
BY OTHERS**

RAILROAD STR





RAILROAD STR

MEET PROP. SIDEWALK
BY OTHERS

OVERHANG (TRP.)

#3-10

BIT WALK

WG PROP. GRANITE CURB
2.400

PROP. FULL DEPTH
BOX WIDENING

5-1

16-1

OHW 14.00

OHW

EOB

10" KCP

GUTTER LINE

OHW

WG

WG

R&S

R5-1

R6-1

R8-5

UP81-2

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DEED

TOWN OF MAYNARD, Middlesex County, Commonwealth of Massachusetts, by the Board of Selectmen, for consideration of One Thousand Eight Hundred Ninety (\$1,890.00) Dollars paid hereby grants to RAYMOND F. CATANIA and MARIA CATANIA, husband and wife, both of 19 McKinley Street, Maynard, Massachusetts, with QUITCLAIM COVENANTS

The land with the building(s) and improvement(s) thereon in Maynard, Middlesex County, Massachusetts shown as PART PARCEL 1 containing 945 square feet on a plan entitled "Plan of Land in Maynard, Mass. for: Raymond Catania", scale 1" = 10' dated August 19, 1983, by Acton Survey & Engineering, Inc., to be recorded herewith, more particularly bounded and described as follows:

NORTHERLY by PARCEL 1 of Massachusetts Bay Transportation Authority as shown on said Plan, 94.63 feet;
EASTERLY by said PARCEL 1, 10.09 feet;
SOUTHERLY by LOT 1 (which contains 5090 square feet) as shown on said Plan, 94.31 feet;
WESTERLY by PARCEL 5 of Edwin D. & Helen G. Gately and PARCEL 1 as shown on said plan, 10.06 feet.

Being a portion of the premises acquired by the Town of Maynard from the Massachusetts Bay Transportation Authority by deed dated June 20, 1983, recorded in Middlesex South Registry of Deeds in Book 15071 Page 521.

The Board of Selectmen have determined that the land being conveyed herein is no longer needed for public purposes, and hereby certify that there are no real estate taxes owing to the Town of Maynard with respect to such land.

IN WITNESS WHEREOF, on the 11th day of April, 1985, the Town of Maynard has caused this Deed to be executed by its Board of Selectmen, duly authorized.

SEAL

For authority see Special Town Meeting Vote recorded in Middlesex South Registry of Deeds in Book 15442, Page 245.

TOWN OF MAYNARD
BOARD OF SELECTMEN


Robert P. Gilligan


Mark L. Waldron


Ann D. Flood

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

April 11, 1985

Then personally appeared before me the above named Robert P. Gilligan, Mark L. Waldron and Ann D. Flood, Selectmen for the Town of Maynard, and acknowledged the foregoing instrument to be their free act and deed.

Marist Durie
Notary Public

Print Name
Jan 21, 1988
Date Commission Expires

CL51/C/D
4/11/85