

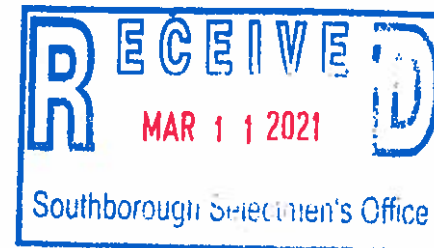
WILLIAM M. PEZZONI
Attorney at Law

One Federal Street, 29th Floor
Boston, MA 02110
T: (617) 345-4777 F: (617) 206-9339
wpezzoni@daypitney.com

March 9, 2021

VIA OVERNIGHT DELIVERY

Zoning Board of Appeals
Town of Southborough
Southborough Town House
17 Common Street
Southborough, MA 01772
Attention: Katie Barry



Re: Special Permit Application
Map 26, Lots 10 and 2
325 Turnpike Road, Southborough, Massachusetts 01772

Dear Sir/Madam:

On behalf of Ken's Foods, Inc., enclosed for filing please find two (2) copies of an application for modification of special permit and related documents, including the abutter's list and current plan and rendering, in connection with the above-referenced property. Also enclosed is the check for \$300.00 for the filing fee. Please place these matters on your April 21, 2021 agenda.

Please let me know if there are any questions regarding this application

Best regards,

A handwritten signature in black ink, appearing to be "W. Pezzoni", written over a circular scribble.

William M. Pezzoni

WMP/grc
Enclosures
Jim Bourne



**TOWN OF SOUTHBOROUGH
BOARD OF APPEALS**
SPECIAL PERMIT APPLICATION FORM
(PLEASE ANSWER ALL OF THE FOLLOWING—USE ADDITIONAL PAGES AS NECESSARY)

Rev. 11.16.20

SP

1. **Applicant's Name:** Ken's Foods, Inc.
2. **Applicant's Address:** One D'Angelo Drive, Marlborough, MA 01752
3. **Contact Telephone #(s)** (617) 345-4777 **Email Contact:** wpezzoni@daypitney.com
4. **Applicant Is:** Owner: ☒ Tenant: ☐ Licensee: ☐ Prospective Buyer: ☐ Other: ☐
5. **Property Owner's Name:** N/A
(if different from Applicant)
6. **Property Owner's Address:** N/A
(if different from Applicant)
7. **Location Of Property:** 325 Turnpike Road, Southborough, MA
8. **Zoning District(s) Of All Properties:** Industrial Park and Residential A
9. **Map/Lot/Book/Page Identification For All Properties:** Map 26 Lots 10 and 2
10. **Sections Of Zoning Regulations Petition Is Regarding:** Sections 174-9 and 174-25(A)(2); special permit required for all permitted uses in the Industrial Park District that exceed 50,000 sf (Section 174-8.6(C)(1))
11. **Specific Relief Requested:** To allow expansion of the existing building for the existing allowed and permitted use of wholesale distribution, storage, and manufacturing. See attached site plan and sketch plan of expansion.
12. **Description of Petition, and Applicant's Reasons for the Board to Approve the Petition:**
The Applicant will be making a substantial investment in the internal operations of its business by purchasing additional equipment and will require a 62,500 gross square foot expansion to the existing facility building at the site. The added tax benefits and positive steps for non-invasive economic development provided by the Applicant will outweigh any adverse effects on the Town or the vicinity, as the Applicant is not altering its (i) operational location (other than the proposed expansion), (ii) activity type or mix, (iii) visual consequences (other than the addition to the existing building to the east), (iv) access, or (v) development rate. See attached memorandum for further description.

13. Please list any Applicant representatives* who will be present for or will prepare materials for the public hearing(s):

Name	Role (c.g., attorney, architect, etc.)	Address	Telephone Number
William M. Pezzoni	Attorney	Day Pitney LLP One Federal Street, 29th Floor Boston, MA 02110	(617) 345-4777
James Bourne	Ken's - Site Supervisor	One D'Angelo Drive Marlborough, MA 01752	N/A

(If there are more than five Applicant representatives, please identify them on a separate sheet.)

***NOTE:** Any such Applicant representatives whose statements or work product are presented to the Board must disclose the nature and extent of any personal interest (beyond payment of customary fees for their services) related to the Application.



SP

14. Have any prior variances or special permits been granted for this property?	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES (if "Yes", please provide details on a separate sheet) See prior decisions attached.
15. Are there any outstanding enforcement actions or regulatory issues related to this property (including, but not limited to, EPA/DEP, Town Boards, Federal or State Government agencies) or have there been any such issues related to this property at any time in the past five years?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (if "Yes", please provide details on a separate sheet)
16. Are there any other pending applications with other Town Boards or necessary approvals from other Town Boards related to this application (including, but not limited to, Planning Board, Conservation Commission, Board of Health)? With other Towns? The State of MA?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES (if "Yes", please provide details on a separate sheet)

I hereby request a hearing before the Board of Appeals with reference to the above noted petition, and I hereby authorize the Board members and other Town officials, in their official capacity as related to this petition, to have unrestricted access to the subject property for purposes of viewing the subject property in relation to such hearing(s).

Signature Of Applicant: William M. Pezzoni Date: 3/9/2021
William M. Pezzoni, as Attorney for Applicant
Property Owner's Signature (if not the Applicant) _____ Date: _____

Applicants are advised that all papers filed with the Board appealing a decision of the Southborough Building Inspector, seeking a variance, seeking a special permit, or seeking any other relief from or action by the Board, shall be signed and dated by the party on whose behalf the filing is made or by the party's authorized representative and shall state the address, telephone number, facsimile number, and (if available) electronic mail ("e-mail") address of the party or authorized representative. This signature shall constitute a certification that the signer has read the document and believes the content of the document is true and accurate, and that the document is not interposed for delay. Signature by an authorized representative also certifies the full power and authority to represent the party. Any paper filed with the Board that contains false, inaccurate, or misleading information may be grounds for the Board to deny any relief sought from, or request made to, the Board by any party.

Applicants are also advised that at any public hearing the Board Chairman, at his/her discretion, may elect to have the Applicant and/or the Applicant's representatives sworn in relative to the statements that they make to the Board.

The Board, at its discretion and by majority vote, may require that the Applicant submit additional information related to the Application, including, but not limited to, a proposed "Memo of Decision" specifying proposed findings and conditions.

FOR BOARD USE ONLY

Application Pre-Filing Signature Date: _____

Application Filing Date: _____

Initial Public Hearing Date: _____

90 Day Period Expiration: _____

Town of Southborough: Special Permit Application Form



TOWN OF SOUTHBOROUGH

BOARD OF APPEALS

SP

SPECIAL PERMIT APPLICATION INSTRUCTIONS

Rev. 11/16/2020

INSTRUCTIONS – APPLICANT RESPONSIBILITIES

1. Complete the Special Permit Application form and submit to the Building Department. Application must be complete and legible and accompany the required supporting materials ("Application Packet"). The Application Packet must be submitted by the first business day of the month prior to the scheduled hearing.
2. Bring completed application packet to the Building Department for the Building Commissioner to sign. Once signed, bring the packet to the Town Clerk, 17 Common Street, to have stamped to establish the official filing date.
3. Obtain a copy of the Building Commissioner/Zoning Enforcement Officer's and/or the administrative decision being appealed. This must be included in the Application Packet.
4. Make two (2) copies of the Town Clerk stamped Application Packet and return to the Building Department. See the *Zoning Board of Appeals Handbook* for more information on what documents shall be included in the Application Packet.
5. Submit the two (2) copies of the Application Packet along with a check made payable to the Town of Southborough for the application fee. See the *Zoning Board of Appeals Handbook* for a list of application fees. Any additional material submitted later than ten days prior to the meeting may, at the Board's discretion, constitute a constructive request by the Applicant for a continuation of the hearing if, in the opinion of the Board, the Board, Town staff or the public have not had adequate time to appropriately consider such material.
6. Visit the Assessor's Office at Town Hall, 17 Common Street to obtain a recent list of abutters (no more than three months old) to include in the Application Packet. *If the property abuts another city/town, make sure you obtain the list of abutters from that city/town.*
7. Applicants (or their agent or representative) must attend the public hearing (s). An Applicant's consultants, engineers, surveyors, etc., whose signatures and/or stamps are on drawings or plans submitted to the Board, are expected to be available at public hearings to answer questions that the Board of the public may have about the materials they have prepared.
8. A Hearing Notice will be prepared by the Zoning Board of Appeals Principle Administrator and mailed to the applicant. The Applicant must mail a copy of this Hearing Notice to all abutters by Certified mail no less than two (2) weeks before the public hearing. Note Please see attached document for estimated costs.
9. Applicant must sign the Billing Authorization form authorizing GateHouse Media (owners of the Metro West Daily News) to bill the applicant directly for the publication of the public hearing in newspaper twice. The Town will mail this notice to GateHouse Media. Note: Please see attached document for estimated costs.
10. The Applicant must submit to the Zoning Department (9 Cordaville Road, lower level) delivery receipts as proof of the Hearing Notice being mailed to all abutters prior to the hearing.

APPLICANT BURDEN OF PROOF:

Applicants for a Special Permit are advised that their Application submission and presentation in a public hearing must, according to the Town Zoning By-Law, specifically address the areas detailed in the By-Law, Section 174-9. While there are a number of specific points detailed in Sections 174-9 of the By-Law, depending on the specific type of application, the general requirement in the By-Law for Board approval of a Special Permit is:

"No special permit shall issue except upon a general finding that the use sought and its characteristics shall be in harmony with the intent and purpose of this chapter, shall not be in conflict with public health, safety, convenience, and welfare and shall not be substantially detrimental or offensive to the neighborhood or destructive of property values herein."

TOWN RESPONSIBILITIES

The Principal Assistant to the Zoning Board of Appeals will:

1. Prepare the Public Hearing Notice and distribute to the applicant and to Gatehouse Media (after applicant signs the Billing Authorization form).
2. Distribute the Application Packet copies to the members of the Zoning Board of Appeals for their review prior to the hearing date.
3. After the hearing, within fourteen (14) days, a decision will be prepared and submitted to the Town Clerk to be recorded as the official recording date of the decision. This decision will be mailed to the Applicant and to all the abutters.



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Rev.11/16/20

APPLICATION SUBMISSION CHECKLIST

☒ **A. Two (2) copies (1 for the Town Clerk and 1 for the ZBA) of the Application Packet including the following:**

- ☒ 1. Completed Appeal Application
- N/A 2. The Zoning Officer's opinion and/or the formal decision being appealed.
- ☒ 3. Current plans as appropriate (no older than five years), no larger than 11" X 17" to scale, signed and stamped by a Massachusetts-registered land surveyor, engineer, architect, etc., showing at least the following:
 - ☒ The subject property location, square footage, and dimensions
 - ☒ The location, size, and description of all structures on the property including the setbacks of all such structures from the property lines and other relevant features, such as driveways, parking, easements, streams, wetlands, wells, septic systems, etc.
 - ☒ The setbacks required by the by-law for all property boundary lines
 - ☒ The details of the proposed construction that is related to the Application, including any necessary supporting calculations related to the Application
 - ☒ The location of all direct abutters and those across the street from the subject property
- N/A As necessary, copies of required Purchase and Sale Agreement confirming the Applicant's standing
- ☒ 4. Certified list of abutters, as obtained by the Assessors' office.
- N/A 5. Current photographs of the subject property, illustrating the appeal point(s).

☒ **B. The required filing fee (in the form of a check made payable to the Town of Southborough)**

☒ **C. One full size version of any plans provided for the Building Department files.**

POST APPLICATION SUBMISSION CHECKLIST

☐ **D. Documentation receipts of the mailing and delivery confirmations for the abutters notices submitted to the Zoning Department at least five (5) days prior to the hearing.**

☐ **E. Ten (10) copies of any additional material not initially included in the Application Packet that will be referred to by the Applicant/Applicant Representative at the public hearing submitted to the Zoning Dept. at least ten (10) days prior to the hearing.**

☐ **F. There is a twenty (20) day appeal period that starts on the decision filing date. The appeal period must lapse before the Town Clerk can certify the decision. During this appeal period the Board's decision may be appealed to the appropriate appellate body. If an appeal is made, the Town Clerk cannot certify the decision until the appeal has been fully adjudicated.**

☐ **G. After a decision has been certified by the Town Clerk, the Applicant must have this approval recorded at the Registry of Deeds. Documentation of recording must be provided to the Building Department before a building permit will be issued.**

Worcester South District Registry of Deeds Electronically Recorded Document

This is the first page of the document – Do not remove

Recording Information

Document Number	: 37870
Document Type	: DECN
Recorded Date	: April 30, 2019
Recorded Time	: 11:10:08 AM
Recorded Book and Page	: 60335 / 358
Number of Pages(including cover sheet)	: 4
Receipt Number	: 1141590
Recording Fee	: \$75.00

Worcester South District Registry of Deeds
Kathryn A. Toomey, Register
90 Front St
Worcester, MA 01608
(508) 798-7717

Town of Southborough
BOARD OF APPEALS
SOUTHBOROUGH, MASSACHUSETTS 01772

9 CORDAVILLE ROAD
SOUTHBOROUGH, MASSACHUSETTS 01772-1662
508-885-0717 ext. 1

RECEIVED
TOWN CLERK'S OFFICE

2019 APR -3 A 11: 52

SOUTHBOROUGH, MA

Jim Hegarty
Town Clerk
Town House
Southborough, MA 01772

April 3, 2019

Notice of Decision on Application for Variance

Property Address: 325 Turnpike Road, Southborough, MA 01772, Map 26, Parcel 26-0000-010-0; Recorded Worcester Registry of Deeds Book 49986, Page 52 (the "Property")

Applicant: Ken's Food Inc. ("Ken's"), One D'Angelo Drive, Marlborough, MA 01752

Sitting as a Board: Andrew R. Dennington, Acting Chair
David Williams
Paul Depranos
Debbie DeMuria
Michael Robbins

Applicants' Counsel: William Pezzoni, Esq.
Day Pitney
One International Place
Boston, MA 02110

Procedural History:

1. Ken's filed an application on February 20, 2019 seeking a variance to allow a 137.5 square feet sign on the front of its building facing Route 9. The proposed wall sign would say "Ken's." Specifically, Ken's sought a variance from the dimensional requirements of Section 174-11(E)(1)(d)[3] of the Southborough Zoning Bylaw, which otherwise would restrict the size of the sign to 100 square feet.
2. The variance request is related to a large-scale renovation of the Property that Ken's has been working on for several years. Several members of the Zoning Board of Appeals (the "Board") are familiar with that renovation having sat on prior public hearings in which Ken's sought other forms of relief from the Board.
3. In compliance with Section 174-11(E)(2) of the Southborough Zoning Bylaw, prior to acting on the variance application, the Board received a favorable report from Southborough Planning Board dated March 12, 2019 regarding the sign proposal in question.
4. A public hearing before the Zoning Board of Appeals was duly noticed in the Metro West Daily News on Wednesday March 6, 2019 and Wednesday March 13, 2019.
5. The Board opened the public hearing on March 20, 2019 and closed it on the same evening.

Plans / Documents submitted to the Board:

1. Color photographs of current conditions comparing the otherwise allowable wall sign vs. the proposed 137.5 square foot wall sign.
2. Crowe Associates Building Sign Site Plan dated March 19, 2019.
3. Guerriere & Halnon survey/plan "Proposed Addition & Site Improvement Plan of Land" dated January 26, 2016.
4. Undated letter from the Building Commissioner / Zoning Enforcement Officer Laurie Livoli to Mark Evangelous regarding January 9, 2019 building permit application.
5. Certified assessors abutters list dated February 19, 2019.
6. Favorable report from Southborough Planning Board dated March 12, 2019.


Findings:

1. The Property is located in the Industrial Park & Residential A zoning district(s).
2. The Property is located along a busy section of Route 9, and the proposed wall sign would be visible only from Route 9. The proposed wall sign would not be visible from any nearby residence(s).
3. The wall sign variance request relates to an ongoing large-scale renovation project that the Board has carefully considered over the past several years in connection with prior requests for relief from Ken's.
4. The front of the Ken's building is set back 412 feet from Route 9. The Ken's building is plus/minus 600 feet wide and plus/minus 32 feet wide, and is located on plus/minus 55 acres of land.
5. The large front set back is due in part to a high water table and poor drainage at the front of the Property that render it unsuitable for building construction. These challenges do not generally occur together within the zoning district in question.
6. Due to the long shape of the building, the large front set back, and the resulting visual angles and scale, the larger sign is appropriate for this area. A wall sign limited to 100 square feet would be difficult to see from vehicular traffic on Route 9 412 feet away. Considering the large scale of the Property and the building, the relief sought is relatively de minimis.
7. There was no opposition presented to the variance application from any party.
8. Due to circumstances relating to soil conditions, topography or shape of land or structures and especially affecting such land or structures but not affecting generally the zoning district in which they are located, literal enforcement of Section 174-11(E)(1)(d)(3) of the Southborough Zoning Bylaw would involve substantial hardship to Ken's and that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this the Southborough Zoning Bylaw.

Decision and Vote of the Board:

After review of all evidence and facts presented at this hearing, and after deliberations on the same, at its meeting on March 20, 2019, the Zoning Board of Appeals voted unanimously (5-0) on a motion made by Ms. DeMuria and seconded by Mr. Drepanos to grant Ken's a variance to construct a "Ken's" wall sign with 137.5 square feet of lettering on the front of its building facing Route 9.

Andrew Dennington	Approve
Debbie DeMuria	Approve
David Williams	Approve
Paul Drepanos	Approve
Michael Robbins	Approve

 4/13/19

Andrew R. Dennington, Acting Chair

Signing on behalf of the Zoning Board of Appeals

**** NOT VALID FOR RECORDING UNTIL CERTIFIED BY THE TOWN CLERK OF SOUTHBOROUGH****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Law, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Southborough Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest:


James F. Hegarty, Town Clerk

210042 09569.001

325 Turnpike Road

Date: 4/24/19



Page 3 of 3

ATTEST: WORC Kathryn A. Toomey, Register

Town of Southborough
BOARD OF APPEALS

SOUTHBOROUGH, MASSACHUSETTS 01772

5 James F. Hegarty
Town Clerk
Town House
Southborough, MA 01772

17 COMMON STREET
SOUTHBOROUGH, MASSACHUSETTS 01772-1662
508-485-0717 ext. 1

RECEIVED
TOWN CLERK'S OFFICE
2016 JUL 12 P 3:38
SOUTHBOROUGH, MA JA

July 3, 2016

Notice of Decision for an Application for a Special Permit & Variance

Property Address: 325 Turnpike Rd.

Appellants: Ken's Foods, Inc.

Application Filed: May 17, 2016



2016 00091667
BK: 55824 Pg: 364
Page: 1 of 5 08/19/2016 10:35 AM WD

BK 49986 PG 52

The Board opened the public hearing on June 15, 2016 at 6:30pm in the Public Meeting Room of Southborough Town Hall with regard to the petition for the appellants for the following:

Petition: Special Permit and Variance request(s) to allow the expansion of the existing building that exceeds the maximum height requirement for the existing allowed and permitted use of wholesale distribution, storage and manufacturing. The Special Permit and Variance are pursuant to Sec. 174-9 and 174.25A(2).

Sitting as a Board: Leo F. Bartolini Jr., Chairperson
Paul Drepanos
Andrew R. Dennington
Jeff Walker
David Williams

For the Appellants: James Bourne, Site Supervisor
One D'Angelo Dr.
Marlborough, MA 01752

William Pezzoni, Attorney for Applicant
Day Pitney LLP
One International Place
Boston, MA 02110

Procedural History:

1. An application for a Special Permit and Variance were filed in the Office of Southborough Building Department on May 17, 2016
2. The application for a Special Permit and Variance is to allow the expansion of the existing building that exceeds the maximum height requirement for wholesale distribution, storage and manufacturing.

3. Specifically, the Special Permit allows the expansion of the use with the construction of a 95,117 square foot addition.
4. Specifically, the Variance allows for height of the addition up to and not to exceed 65 feet.
5. The applicant is seeking a Special Permit and Variance relief from Sec. 174-9 and 174.25A(2)
6. The Record Owner of the subject property is Ken's Foods Inc.
7. A public hearing before the Zoning Board of Appeals was duly noticed and opened on June 15, 2016. It was continued to June 29, 2016 and closed on this same evening.

Plans/ Documents:

1. Email with two pictures from Paul Pisinski, Public Health Director to the Applicant dated June 27, 2016.
2. Narrative addressing the criteria under Sec. 174.9 of the zoning bylaw from the Applicant to the Zoning Board of Appeals dated June 15, 2016.
3. Letter from the Building Commissioner/ Zoning Officer Mark Robidoux to James Bourne dated May 3, 2016.
4. Previously approved decision from the Zoning Board of Appeals, dated October 1, 2014.
5. Two (2) pages of site plan drawings from the applicant dated March 28, 2016.
6. Elevations presented from the applicant during the public hearing process.
7. Pictures of balloon test conducted by the applicant during the June 15, 2016 portion of the hearing.
8. Two (2) prior decisions relative to the current use: one from October 1, 2014 and one from December 3, 2015.
9. Applicant is requesting a modification of its existing Special Permits, as amended on October 1, 2014 and December 3, 2015 ("Decisions").

Findings:

The Southborough Zoning Board of Appeals specifically finds owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by law.

Because of the location of the property (Route 9 and Deerfoot Rd) its infrastructure, landscaping and the location of the existing structures thereon, the property's shape, topography and geological makeup, including the constraints of the wetlands and protected resources (riverfront) on a large amount of the site, the Applicant requests a Variance in order to possibly preserve its ability to financially stay at the property. The property is an integral part of the Route 9 streetscape and the planned relocation of the Crystal Pond intersection modifications will impact this site and its front yard. Requested relief specifically addresses and affects the uniqueness of this property and not other properties within the Industrial Park District. Furthermore, a literal enforcement of the bylaw would involve substantial hardship to the owner, abutters and the community when the relief requested may be granted without substantial detriment to the public good and without nuffifying or derogating the intent of the bylaw.

1. The proposal constitutes a Special Permit and Variance request under the Town of Southborough Zoning Bylaw.
2. The Property is located in the I (Industrial Park) and Residential A zoning district.
3. The applicant is proposing to allow the expansion of the existing building that exceeds the maximum height requirement for wholesale distribution, storage and manufacturing.
4. The proposal meets all dimensional setback requirements.
5. The proposal shall mitigate trucks from parking within the access drive in order to accommodate emergency vehicle access.
6. The proponent shall work with the Southborough DPW in order to prevent trucks from parking along Rt. 9.
7. The applicant's attorney, William Pezzoni of Day Pitney LLP, provided information in order to address both the necessary Special Permit and Variance criteria necessary for the project, with both documents dated June 15, 2016.
8. The applicant provided suggested conditions and of approval, which were discussed and modified with the Board.
9. The Board agrees with the findings identified in the memorandum presented by Atty. Pezzoni dated June 15, 2016, and thereby the proposed addition of approximately 95, 117 square feet may be allowed via the requested Special Permit.

Decision and Vote of the Board:

At its meeting on June 15, 2016, the Zoning Board of Appeals voted 5-0 to grant the Special Permit and Variance pursuant to Sec. 174-9 and 174.25A(2) for the expansion of the existing building that exceeds the maximum height requirement for the existing allowed and permitted use of wholesale distribution, storage and manufacturing.

After review of all evidence and facts presented at this hearing, and after deliberations on the same, voted unanimously 5-0 on a motion made by A. Dennington, and seconded by D. Williams, with members voting as follows to grant the requested Special Permit and Variance with the following condition(s):

- (i) Commitment by the Applicant to have its Architectural Team commit to an exterior design using massing techniques on the upper half of the addition, such as color variations, trim and detail;
- (ii) Commitment by the Applicant to assist the Southborough Public Works Director on posting signs on Middle Road noting a "Truck Exclusion" pursuant to Permit No. B-1632 and in pursuing "No Parking" signs on Rte. 9 in front of the Kens facility;
- (iii) Commitment by the Applicant to incorporate plantings with the assistance of a Landscaping Architect on the property of the abutters at 74 and 76 Deerfoot Road utilizing evergreen trees of a reasonable number and suitable type and size as mutually agreed to by the abutters and the Applicant in wells if needed as detailed in the email from Paul Pisinski, Southborough Board of Health. Said planting scheme to be submitted during the Planning Boards Major Site Plan Review;
- (iv) Subject to Major Site Plan Review, Conservation Review and other necessary Town and State departmental review; and
- (v) Commitment by the Applicant to monitor and advise its trucks/drivers to stay off Southborough side roads using Route 9 as its access and egress to the site and to prohibit it's drivers from making U-turns at Middle Road, utilizing the Route 85 interchange as previously agreed.
- (vi) The Applicant will not allow its truck traffic to park within 250' of Rte.9 on its driveway entrance way.

Leo F. Bartolini Jr.	Yes
Paul Drepanos	Yes
Andrew R. Dennington	Yes
Jeff Walker	Yes
David Williams	Yes



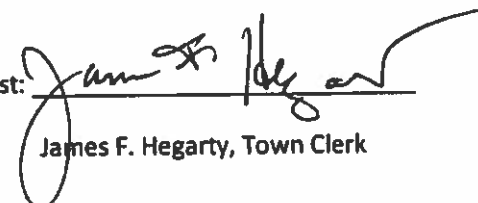
Leo Bartolini, Chairperson


Signing on behalf of the Zoning Board of Appeals

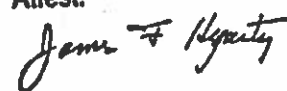
Filed with the Town Clerk on: 7/12/16

****NOT VALID FOR RECORDING UNTIL CERTIFIED BY THE TOWN CLERK OF SOUTHBOROUGH****

In accordance with Sec. 11 of Ch. 40A of Massachusetts General Laws, I hereby certify that twenty (20) days have elapsed after the within decision was filed in the office of the Southborough Town Clerk, and that no appeal has been filed, or that if such appeal has been filed, that it has been dismissed or denied.

Attest: 
James F. Hegarty, Town Clerk

 8/1/16
Date

A True Copy
Attest:

Town Clerk, Southborough

325 Turnpike Road
5 of 5

ATTEST: WORC. Anthony J. Vigliotti, Register



TOWN OF SOUTHBOROUGH

Office of the Town Clerk
17 Common Street
Southborough, MA 01772-1662
508.485.0710 ext 3005
TownClerk@southboroughma.com



Bk: 54889 Pg: 164
Page: 1 of 5 01/27/2016 11:22 AM WD

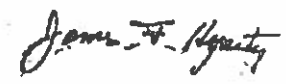
**BOARD OF APPEALS
CERTIFICATION
(20 DAYS HAVE ELAPSED)**

I, James F. Hegarty, Town Clerk of the Town of Southborough, Massachusetts, hereby certify as follows:

1. The original Zoning Board of Appeals Application thereof was filed with me as said Town Clerk on September 28, 2015 at 2:31 PM.
2. The Southborough Board of Appeals Decision dated October 28, 2015 relative to a petition of Ken's Foods, Inc., 325 Turnpike Road, for Special Permits and uses in the Industrial Park District was filed with the Town Clerk on November 12, 2015 at 11:27AM.
3. Twenty (20) days have elapsed since filing the Zoning Board of Appeals Decision with the Town Clerk; and
4. No appeal therefore has been filed.

Witness my hand and the Town Seal of Southborough this 3rd day of December 2015
at 9:00 A.M.

A True Copy Attest:


James F. Hegarty, Town Clerk

TOWN SEAL

5WB

Town Of Southborough
Board of Appeals
Southborough, Massachusetts 01772
17 Common Street
P.O. Box 9109
Southborough, MA. 01772-9109
508-485-0710

RECEIVED
TOWN CLERK'S OFFICE
2015 NOV 12 A 11: 27
SOUTHBOROUGH, MA

James F. Hegarty
Town Clerk
Town House
Southborough, MA 01772

Book: 49986 Page: 52

**NOTICE OF DECISION
SPECIAL PERMIT APPLICATION**

**Ken's Foods, Inc.
325 Turnpike Road
(Map 26, Lots 10 and 2)**

The Board of Appeals of the Town of Southborough held a public hearing in the Hearing Room of Southborough Town House on Wednesday, October 28, 2015 beginning at 8:30PM with regard to the petition of Ken's Foods, Inc. seeking a Special Permit to allow expansion of the existing building for the existing allowed and permitted use of wholesale distribution, storage and manufacturing pursuant to the Southborough Zoning Code Section 174.9; 174.25A (2); special permits and uses in the Industrial Park District (174.8.6C(1)).

Sitting as a Board: Leo F. Bartolini, Jr., Chairman
Thomas Bhisitkul
Andrew Dennington
Paul Drepanos
Jeff Walker

For Petitioner: Attorney William M. Pezzoni
Day Pitney LLP
One International Place
Boston, MA 02110

And: James Bourne
Ken's Foods, Inc.
One D'Angelo Drive
Marlborough, MA 01752

A True Copy
Attest:
James F. Hegarty
Town Clerk, Southborough

Evidence Presented

1. Petitioner submitted an overview plan of an internal automation, building expansion and exterior renovation of façade and plantings. The expansion/addition will be approximately 145,000 square feet and will be located in the front of the building, 160 feet from the existing building toward route 9 and 120 feet toward the Easterly side of the building. The expansion/addition will provide for better logistics however, may result in slightly more trucking activity toward the front of the building. Pavement in the back of the facility will be reserved for employee parking. Approximate cost of the expansion/addition expected to be 20 to 30 million dollars which will provide an additional \$90,000 to \$100,000 in additional tax revenue for the town of Southborough.
2. The Applicant, neighbors and ZBA members discussed Section 11 (b)(ii) of the Conditions of the Special Permit Modification dated October 1, 2014, specifically relative to the requirement to move a portion of the constructed First Wall (sound wall) to buffer the Northeast corner of the facility where staging was previously intended to occur after the implementation of automation and the intended future activity (expansion) at the site. As the Applicant represented that the area was no longer going to be utilized for staging and was going to be for employee parking, the consensus between the Applicant, neighbors and ZBA members was that the moving of the First Wall would not be appropriate.
3. Chairman Bartolini asked if Ken's Foods trucks are currently registered with the Town of Southborough.
4. Member Mr. Drepanos stated that he has seen Ken's Foods Trucks continue to use the turn around on Route 9.
5. Mr. Robert Kamanitz, 10 Orchard Rd. applauds Ken's Foods for being proactive with the neighbors and anticipating the neighbor's concerns.
6. Member Mr. Bhisitkul agreed that the applicant should not have to move the wall/sound barrier.
7. Mr. Chris Robbins, EDC Committee praised Ken's Foods for upgrading the building, adding new jobs and additional tax revenue.

Ken's Foods Inc.
325 Turnpike Rd. (map 26, Lots 10 and 2)
Special Permit
November 12, 2015

Findings and Decision

Applicant's petition, subject to the follow:

1. No tractor-trailers, shipping or delivery vehicles requiring a license to operate them other than a normal automobile/passenger vehicle license and/or emergency vehicles shall be allowed to use the roadway at the rear (Northside) of the facility.
2. The parking area in the Northeast portion of the property may not be used for staging.

Therefore, the Board of Appeals, based on the evidence presented at the hearing, including but not limited to the facts presented above, on a motion by Mr. Bhisitkul, seconded by Mr. Walker, unanimously voted to GRANT THE SPECIAL PERMIT as requested in the Special Permit Application dated September 28, 2015, Ken's Foods, Inc., 325 Turnpike Road, Southborough MA to allow 145,000 square feet expansion/addition to be located in the front of the existing building. In favor: Bartolini, Bhisitkul, Dennington, Drepanos, Walker



Leo F. Bartolini, Jr. Chairman

Appeals, if any, shall be made pursuant to MGL, C. 40A, s.17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Southborough Town Clerk.

The Commonwealth of Massachusetts
Town of Southborough
Board of Appeals

Date: November 12, 2015

Certificate of Granting of Special Permit
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Southborough hereby certifies that a Special Permit is confirmed and GRANTED subject to the conditions contained in the Decision:

To: Ken's Foods, Inc.

Address: 325 Turnpike Road (map 26, lots 10 and 2)

Town: Southborough, Massachusetts

Affecting the rights of the owner with respect to land or buildings at:

325 Turnpike Road, Southborough, Massachusetts (map 26, lots 10 and 2)

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said Special Permit and that copies of said decision, and of all plans referred to in the decision, have been filed with the Zoning Board of Appeals and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no Special Permit or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner or record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.



Leo F. Bartolini, Jr. Chairman

Town Clerk

ATTEST: WORC. Anthony J. Vigliotti, Register



TOWN OF SOUTHBOROUGH

Office of the Town Clerk
17 Common Street
Southborough, MA 01772-1662
508.485.0710 ext 3005
TownClerk@southboroughma.com



2014 00104062
Bk: 52999 Pg: 325
Page: 1 of 8 11/04/2014 10:34 AM WD

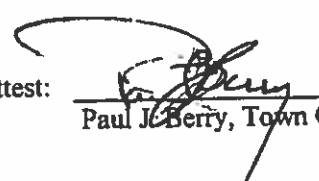
**BOARD OF APPEALS
CERTIFICATION
(20 DAYS HAVE ELAPSED)**

I, Paul J. Berry, Town Clerk of the Town of Southborough, Massachusetts, hereby certify as follows:

1. The original Zoning Board of Appeals Application thereof was filed with me as said Town Clerk on **January 28, 2014 at 6:44 PM.**
2. The Southborough Board of Appeals Decision dated **September 17, 2014** relative to a petition of **Ken's Foods, Inc., 325 Turnpike Road**, for a **Special Permit to Grant the Requested Relief** was filed with the Town Clerk on **October 1, 2014 at 1:51 PM.**
3. **Twenty (20) days have elapsed** since filing the Zoning Board of Appeals Decision with the Town Clerk; and
4. No appeal therefore has been filed.

Witness my hand and the Town Seal of Southborough this **22nd** day of **October 2014** at **9:00 A.M.**

A True Copy Attest:


Paul J. Berry, Town Clerk

TOWN SEAL

M.R. Book 49986-52



Town of Southborough
Board of Appeals
Southborough, Massachusetts 01772
17 Common Street
P.O. Box 9109
Southborough, MA 01772-9109
508-485-0710

RECEIVED
TOWN OF SOUTHBOROUGH OFFICE
OCT -1 P 1:51
SOUTHBOROUGH, MA
ng

Paul J. Berry
Town Clerk
Town House
Southborough, MA 01772

Book 4986 Page 52

**NOTICE OF DECISION
SPECIAL PERMIT APPLICATION**

**Ken's Foods, Inc.
325 Turnpike Road
(Map 26, Lots 10 and 2)**

The Board of Appeals of the Town of Southborough held a public hearing in the Hearing Room of the Southborough Town House on Wednesday, February 26, 2014 beginning at 8:00PM then continued to March 26, 2014, April 23, 2014, June 18, 2014, June 25, 2014, July 15, 2014, July 25, 2014, August 6, 2014, August 27, 2014 and September 17, 2014, with regard to the petition of **Ken's Foods, Inc.** for clarification of hours of operation per Special Permit granted on July 8, 1970 and if required a modification to extend operations for its facility in the Industrial Park District to 24 hours per day pursuant to the Southborough Zoning Code Section 174: 25 (A) (2) and 174-9.

Sitting as a Board: Leo Bartolini, Chairman
 Lisa M. Cappello
 Thomas Bhisitkul
 Paul W. Drapanos
 Arlon Brown (Resigned during process)

For Petitioner: Attorney William M. Pezzoni
 Day Pitney LLP
 One International Place
 Boston, MA 02110

and: James Bourne
 Kens Foods, Inc.
 One D'Angelo Drive
 Marlborough, MA 01752

A True Copy
Attest
Paul J. Berry
Town Clerk, Southborough

Ken's Foods, Inc.
325 Turnpike Road (Map 26, Lots 10 and 2)
Special Permit
October 1, 2014—Page 2

Evidence Presented

1. Petitioner submitted that it owns property in the Residential A and Industrial Park Districts; however, the existing warehouse and distribution center is contained within the Industrial Park District and the Residential A property creates a permanent wooded and wetlands buffer to adjacent residential properties. Petitioner submitted that many uses allowed in the Industrial Park District are by nature operating 24/7 and that other warehouse and distribution facilities in Southborough operate 24/7, including the predecessors in interest at this facility.
2. Petitioner submitted that the facility on the site and its use were approved by the Southborough Board of Selectmen in 1970, and it is clear that the Board of Selectmen intended that the use be able to be continued without detriment to the petitioner or its successors-in-interest, as Town boards have legally authorized expansion of certain aspects of the facility since issuance of the original permits. Petitioner further submitted that the warehouse and distribution use is compatible to the area as it is located within the Industrial Park District, is a previously approved and ongoing use, is not offensive, provides diversity of services to the Town of Southborough and the relief requested will create further taxable value to the Town and contribute to creating a strong business base.
3. The Petitioner submitted that present conditions of the facility will not substantially change and, in fact, it is intended that the use of several bay doors near the Residential District (B, C, D and E) will be eliminated and agreed to operational and site modifications will create a more neighborhood friendly facility 24/7.
4. Petitioner and others submitted and presented testimony and documentation during the hearing regarding the following:
 - (i) Original Special Permit Decision dated July 8, 1970;
 - (ii) Letter dated May 28, 2014 from David Coate Consulting ("DCC") regarding noise remediation and blow-ups of sound mapping exhibits;
 - (iii) Correspondence dated August 12, 2014 of Acentech regarding peer review of the DCC correspondence;
 - (iv) Correspondence dated August 26, 2014 on behalf of the Petitioner responding to Acentech's August 12, 2014 correspondence;
 - (v) Pamphlet on types of Sound Walls and Specifications from BGR Bridge AIL Sound Walls;
 - (vi) Memorandum of Conditions from William Pezzoni dated August 27, 2014 and updated through September 16, 2014;
 - (vii) Proposed Conditions of Dineen/Kamanitz/Dakers/Montondis;

Ken's Foods, Inc.
325 Turnpike Road (Map 26, Lots 10 and 2)
Special Permit
October 1, 2014—Page 3

- (viii) A markup of the ALTA/ACSM Land Title Plan TI-1 last revised December 10, 2007 detailing current operations at bay doors A, B, C, D, E and F;
 - (ix) Miscellaneous submittals by Applicant, including signs being posted and internal operational memos;
 - (x) Correspondence of Building Commissioner dated August 20, 2014 regarding Mass DEP authority as to noise pollution; and
 - (xi) A memorandum from William Pezzoni dated September 16, 2014 detailing the requirements for granting a Special Permit, noting how the Petitioner complies with and meets or exceeds the criteria.
5. Several abutters and Attorney Douglas Resnick, on behalf of several abutters, spoke in opposition to the request.
6. Upon motion of Mr. Bhisitkul, seconded by Ms. Cappello, the Public Hearing was closed on September 17, 2014.

Findings and Decision

Therefore, the **Board of Appeals**, based on the evidence presented at the hearings, including but not limited to the facts and documents presented above, in that the relief sought regarding the Special Permit is in harmony with the intent and purpose of the Southborough Zoning By-law is not in conflict with public health, safety and welfare, and shall not be substantially detrimental or offensive to the neighborhood or destructive to property values and further as it is determined that the proposed benefits to the Town outweigh any adverse effect for the Town or neighborhood vicinity, found that the Applicant met the requirements for the granting of its requests and voted to approve the Applicant's petition, subject to the following conditions:

The Applicant in order to appropriately help mitigate sound and activity issues raised by the ZBA and abutters, shall (and 24 hour operation at the facility may not commence until the conditions in paragraphs 4, 6, 7, 8 and 10 below are completed and satisfied):

1. Repost, maintain and clear brush from around "Go Slow" signs, and provide further signs and handouts relative to beeping, loud music, keeping bay doors closed and noise sensitivity.

Ken's Foods, Inc.
325 Turnpike Road (Map 26, Lots 10 and 2)
Special Permit
October 1, 2014—Page 4

2. Provide cell phones and/or equivalent communications devices for truck drivers to contact warehouse in order to open bays and to accept delivery.
3. Hire and maintain, until a night shift supervisor is hired full-time, an evening security detail to keep adequate controls and noise levels down, and to be sure trucks and drivers are not idling for long periods during the day or at night and/or speeding.
4. Move the dumpster which was in the northerly side of the building to the westerly side of the building and request the waste company erect a fence on the northerly side of the dumpster (or provide some other noise remediation, if such fence is not constructed).
5. Continue to provide all drivers with directions on the turn around activity on Route 9 to be at the Route 85 intersection, and not at the Breakneck Hill Road or Middle Road areas.
6. To pave, maintain, repair and update the portion of the driveway (and continue ongoing future maintenance of same) between the area near bay/door "C" on the west side of the building to and including the truck staging area on the east side of the building (near loading bay/door "F" as shown and designated on plans presented by the Applicant). To the extent any such work requires a Request for Determination of Applicability ("RDA") or an Order of Conditions from the Conservation Commission, said work is to be completed in accordance with such Order of Conditions or RDA as issued by the Conservation Commission.
7. To construct a 300+/- foot sound barrier, 20 feet high (the "First Wall") in the location and with the specifications presented by the Applicant—i.e., along the northerly side of the property in the area of loading bay/ door designated as "F" on plans presented by the Applicant (hereinafter referred to as the "F Door", currently situated on the northeasterly portion of the existing building). Said sound barrier to be between the edge of pavement and the wetlands, within the disturbed shoulder area subject to approval by the Conservation Commission as to actual distance and location from the

Ken's Foods, Inc.
325 Turnpike Road (Map 26, Lots 10 and 2)
Special Permit
October 1, 2014—Page 5

wetlands resource areas and the river, and said work is to be completed in accordance with such Order of Conditions as issued by the Conservation Commission.

8. To install a buffer line of trees from the easterly end of the First Wall described in par. 7 above, to one hundred feet (100') beyond the truck staging area in the northeasterly side of the property. Said tree barrier to be between the edge of pavement and the wetlands, within the disturbed shoulder area subject to the terms of such Order of Conditions as issued from the Conservation Commission as to actual distance from the wetlands resource areas and the river. The type, number, layout and orientation of trees included in the buffer line are to be determined and prescribed by the Town Planner (but shall not be less than 6'± tall, 6'-8' on center) with the primary objective being insulation and containment of noise.
9. Newly registered trucks and vehicles used at the facility in Southborough will be registered in the Town of Southborough for future excise tax benefits.
10. Closure of loading doors/bays "B", "C", "D" and "E" on the building (as such doors were so designated on plans presented by Applicant to the Board). Any future reopening/use of any of such loading doors/bays shall require an application to this Board for an amendment to the Special Permit (as modified by this Decision) to allow for such re-opening.
11. **Future Activity:**
 - (a) If, despite the implementation of the noise mitigation measures required above in conditions 4, 6, 7, 8 and 10, and after the date that is six (6) months following the filing of this Decision with the Town Clerk (or, if an appeal is filed regarding this Decision or any decision of the Conservation Commission, then after the date that is six (6) months following the final judgment or earlier dismissal of such appeal), it is determined by the Building Inspector, the Board or other applicable state

Ken's Foods, Inc.
325 Turnpike Road (Map 26, Lots 10 and 2)
Special Permit
October 1, 2014—Page 6

agency in response to a request by any party in interest and presentation of substantive evidence (which may include, but shall not be limited to, appropriate sound testing/studies, to determine compliance with Mass DEP Noise Policy standards) that the noise levels exceed the Massachusetts Department of Environmental Protection (MADEP) noise policy standards and regulations (which shall be deemed applicable to the property for purposes of this Decision), then, within six (6) months after such determination, the Applicant shall be required to either: (i) construct a second sound barrier wall (equivalent to the First Wall described above)(the "Second Wall") behind the staging area in the northeasterly area of the property (which Second Wall shall run from the easterly end of the First Wall (to create a total of 600+/- feet of sound barrier wall behind the F Door and the staging area), in accordance with the terms of any Order of Conditions issued by the Conservation Commission as to any portions of same located within areas regulated by the Conservation Commission; or (ii) close the F Door and relocate same to a new location at the southwesterly corner of the facility, and relocate the First Wall to the area behind the staging area (i.e., in substantially the same location as the Second Wall would have been installed in accordance with any Order of Conditions issued by the Conservation Commission).

(b) If and when Ken's implements internal automation activity or creates new internal logistics for moving its freight within the facility, they will both: (i) move all truck bays and loading and unloading activities, to be located in the westerly and/or southerly sides of the building in the area of Bay Doors A and the front southwesterly corner of the building (including closure of the F Door in its present location in the northeasterly corner of the facility); and (ii) if the Second Wall has not been installed (or otherwise required to be installed),relocate the First Wall to the area behind the staging area in the northeasterly area of the property (i.e., in substantially the same location as the Second Wall would have been installed in accordance with any Order of Conditions

Ken's Foods, Inc.
325 Turnpike Road (Map 26, Lots 10 and 2)
Special Permit
October 1, 2014—Page 7

issued by the Conservation Commission regarding same). The relocation of the F Door may require re-configuration of site circulation in the front of the building in the area of the access to Rte. 9 and the "A" loading doors.

(c) If either of the conditions stated in paragraph 11(a) or 11(b) above are applicable and/or required and they are not timely implemented and completed in accordance with the terms of this Decision, the Board's approval of 24/7 operations will be stayed and operating hours will be restricted to 7:00 a.m. to 11:30 p.m. until such time as the applicable conditions in paragraph 11(a) or 11(b) above implemented.

and Voted, on a motion made by Board Member Bhisitkul and seconded by Board Member Cappello, to Grant the Requested Relief as

Yea: Bhisitkul, Bartolini, Cappello, Drapanos; Nay: N/A


Leo Bartolini, Chairman

Notice: Appeals, if any, shall be made pursuant to Massachusetts General Law, Chapter 40A, s.17, and shall be filed within twenty (20) days after the filing of this notice in the Office of the Town Clerk, Town Hall, Southborough, Massachusetts.



The Commonwealth of Massachusetts
Town of Southborough
Board of Appeals

RECEIVED
TOWN CLERK'S OFFICE

DATE OCT - 1 P 1:51
Date: October 1, 2014
SOUTHBOROUGH, MA

Certificate of Special Permit
(General Laws Chapter 40A, Section 11)

The Board of Appeals of the Town of Southborough hereby certifies that a Special Permit is confirmed and GRANTED subject to the conditions contained in the Decision:

To: Ken's Foods, Inc.

Address: 325 Turnpike Road (Map 26, Lots 10 and 2)

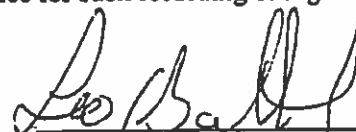
Town: Southborough, Massachusetts

affecting the rights with respect to land or buildings at:

325 Turnpike Road (map 26, Lots 10 and 2)

And the said Board of Appeals further certifies that the decision attached hereto is a true and correct copy of its decision granting said special permit rights, and that copies of said decision, and of all plans referred to in the decision, have been filed with the Zoning Board of Appeals and the Town Clerk.

The Board of Appeals also calls to the attention of the owner or applicant that General Laws, Chapter 40A, Section 11 (last paragraph) provides that no variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the Town Clerk that twenty days have elapsed after the decision has been filed in the Office of the Town Clerk and no appeal has been filed or that, if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for such recording or registering shall be paid by the owner or applicant.


Leo Bartolini, Chairman

Town Clerk



Note: Not of record
obtained from Town Clerk

Town of Southborough
Board of Appeals

A True Copy
Attest:
Paul J. Barry
Town Clerk, Southborough

325
Turnpike

PETITION OF WESTERN ELECTRIC COMPANY

FINDINGS OF FACT AND DECISION

Hearing was held by the Board of Appeals for the Town of Southborough at the Town Hall in Southborough on July 8, 1970, at 8:00 p.m. on the petition of Western Electric Company, 222 Broadway, New York, New York, requesting a determination by this Board that the activities outlined in the petition are permissible uses as set out in paragraph 7 A (7) and (8) of Article IV of the Zoning By-Laws.

Sitting as a Board were the members Gibelli, Falconi, Hasbrouck, Maguire and Bousquet.

The Petitioner intends to construct a warehouse of approximately 350,000 square feet for the purpose of operating a wholesale products storage and distribution center for telephone equipment and associated supplies; also, there will be a cable cutting operation.

The property is a parcel of undeveloped land located on the west side of Deerfoot Road and north of the Boston Worcester Turnpike and is situated in an Industrial Park District. It is presently owned by trustees under Edward P. Offutt Revocable Trust, dated August 14, 1967.

Appearing for Western Electric Company was Andrew C. Bailey, Esquire of Powers, Hall Montgomery and Weston of Boston.

Received and filed in the office of the Town Clerk August 4, 1970 at 7:45 P.M.

Paul J. Barry
Town Clerk

A True Copy
Attest:
Paul J. Bang
Town Clerk, Southborough

It was represented to the Board by the Petitioner, and the Board finds as follows:

The building as shown on a plan on file with the Board is to be of poured concrete and concrete block construction. It is to be 560 feet long in front, 525 feet from front to back with a cable dock of 230 feet in front and 175 feet on the side.

The building is to be used as a warehouse and will be a distribution center for the Bell System; there will be storage of telephone equipment and large wooden reels with cable, and the cutting of cable to various sizes. The dock area will be covered. Normal operating hours will be 7:00 a.m. to 11:30 p.m., with a normal work force of about 100 employees most of whom will be employed in warehouse work.

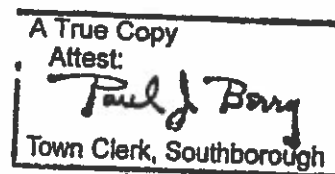
Trees along Deerfoot Road will be left and some shrubs will be planted. The roof will be designed to control the flow of water, and there will be culverts under the driveway from Route 9.

Most vehicular traffic onto and off of the premises will be from Route 9, and the Petitioner upon request will cooperate in any way possible in the event of a traffic hazard involving the new school nearby.

The outside will be lighted, but most lights will be extinguished after 11:30 p.m.

Natural screening of shrubs and trees as indicated on the plan on file is a condition of the permit.

No one appeared in opposition to the petition.



The Board finds that the property and uses as above meet
all the requirements set forth in the Zoning By-Law for Industrial
Parks.

It was voted by the members Cibelli, Falconi, Hasbrouck,
Maguire and Bousquet to grant the petition.

Therefore, the petition is

GRANTED.

BOARD OF APPEALS

By


Francis J. Bousquet,
Chairman

DAY PITNEY LLP

MEMORANDUM

One International Place
Boston, MA 02110
T: (617) 345-4777
F: (617) 206-9339

Boston Connecticut Florida New Jersey New York Washington, DC

TO: Town of Southborough Zoning Board of Appeals ("ZBA")
FROM: William M. Pezzoni, Esq.
DATE: March 9, 2021
RE: Special Permit Modification – 325 Turnpike Road, Southborough, Massachusetts

The Applicant is requesting a modification of its existing Special Permits, as amended on October 1, 2014, December 3, 2015, and July 12, 2016 (collectively, "Special Permits"), where it was allowed (i) to extend its hours of operation to twenty-four (24) hours per day, (ii) to increase its building footprint and square footage by an additional 145,000± sq. ft. by modifying the site development and circulation, as well as expanding the existing facility by approximately 160 feet towards Route 9 on the southwest side of the existing building and 120 feet on the southeasterly side of the existing building, and (ii) to increase the dimensions of the prior expansion footprint modification on the southeasterly side of the existing building by approximately 95,117 sq. ft. and further modifying site development and site circulation. The present request is to further supplement the dimensions of the prior expansion footprint modification with a plan of expansion on the easterly side of the facility of approximately 62,500 sq. ft. The Applicant has and is making a substantial investment in the internal operations of its business by purchasing additional equipment for storage and distribution, which will require space to be added to the existing facility building; however, it will not substantively affect other site operational development or circulation.

Furthermore, the Applicant has addressed and complied with all Special Permit Requirements of the Southborough Zoning By-Law and has recently taken steps and will continue to take steps to address issues raised by the ZBA and abutters, as well as commit to potential further actions as a definitive showing of good faith. As you are aware, the Applicant has a history of working cooperatively with the community and providing high quality development.

Pursuant to the Southborough Zoning By-Law, the granting of a modification of the Special Permits to allow the requested expansion of approximately 62,500 sq. ft. is supported by the filings and evidence to be presented to the ZBA, as well as the following:

I. General Criteria for Use: Section 174-9 of the Southborough Zoning By-Law

The Criteria for Approval set forth in the Southborough Zoning By-Law states: "No special permit shall issue except upon a general finding that":

(i) “the use sought and its characteristics shall be in harmony with the intent and purpose of this chapter”:

This petition and modification is consistent with the public interest as it supports the growing need for quality businesses in Southborough to create a solid, continuing Business Tax Base, and the past, present and continued future use and proposed expansion for this facility fits within the character of the Industrial Park District along Route 9, as well as being in the community’s best interest. Therefore, the proposed project is in harmony with the interest and purpose of the By-Law.

(ii) “shall not be in conflict with the public health, safety, convenience and welfare”:

Although the Applicant’s property is partially situated in the Residential District, the use, operational characteristics, and expansion of the facility are in the Industrial Park District, and the use has been permitted and allowed since 1970. The portion of the property located in the Residential District, as well as much of the remainder of the property located in the Industrial Park District, is primarily wetlands and woodlands, creating a substantial natural buffer from the residents on all sides of the site. The Applicant’s proposed expansion of the facility is relatively passive and unobtrusive, as it is a small building expansion of the existing warehouse facility with all substantive activity being within or buffered by the facility itself, as well as the undeveloped portion of the property. Furthermore, the proposed building expansion does not alter the location of truck activity, which continues to be buffered from abutters, and provides compatibility between the facility and residential abutters.

(iii) “shall not be substantially detrimental or offensive to the neighborhood or destructive of property values therein”:

The Project as proposed and presented does not provide any additional substantial noises, vibration, smoke, gas, fumes, odor, dust, or other objectionable features. The Applicant’s past and present steps to mitigate any present and future perceived issues have been substantial and shall continue in its attempt to mitigate substantive issues raised by abutters and/or the Town.

The requirement that “[n]o special permit shall issue except upon a general finding that the use sought and its characteristics shall be in harmony with the intent and purpose of this chapter, shall not be in conflict with the public health, safety, convenience and welfare and shall not be substantially detrimental or offensive to the neighborhood or destructive of property values therein” has clearly been met and the proposal is in compliance with these requirements.

In addition, the following special requirements set forth in Section 174-9(A) of the Southborough Zoning By-Law shall apply:

A. Decision considerations. Special permits shall be granted only if the special permit granting authority determines that the proposal’s benefits to the Town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:

(1) Location.

- (a) The proposal should be located near uses which are similar to the proposed use, or if not, the nearby uses should be ones likely to benefit from rather than be damaged by having the proposal nearby or be permanently buffered from it.**

The proposal is an expansion of an existing properly permitted facility and within the Industrial Park District on Route 9 near Route 495. It is in the heart of the designated Industrial Park District and there is a natural permanent buffer of woodlands and wetlands bordering the facility between the facility and residential abutters. The expansion has been designed to maintain all traffic and operational logistics as presently developed at the facility and the addition will in fact enhance and further buffer the residential abutters from existing Route 9 and 495 traffic noise.

- (b) Providing adequate water and drainage for this location should pose no special public problems.**

There is no additional water or drainage anticipated for the proposed expansion, other than the addition of minor site drainage and storm water maintenance for the addition and site work and will be appropriately regulated, approved and monitored by the Planning Board, Conservation Commission and other regulatory boards, as required..

- (c) The site should be able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets.**

There is no such damage or loss as the proposed expansion is within previously disturbed areas and will be appropriately regulated, approved and monitored by the Planning Board, Conservation Commission and other regulatory boards, as required.

(2) Activity type and mix.

- (a) Nonresidential proposals should contribute to the diversity of services available locally.**

Considering the past and continued use of the facility by a world class operation such as Ken's Foods, Inc. is a direct local contributor of tax revenue and services. Furthermore, there is not an abundance of warehouse and distribution facilities in Southborough and the Applicant's proposed investment in the building's internal operations and this expansion not only allow Ken's to fully utilize this site, but also it will increase the real estate taxes and provide a long-term commitment to the

site and facility. Since the Applicant acquired the property, the assessed value has increased by over a million dollars and this expansion will continue to enhance that number.

- (b) **Residential proposals should serve housing needs of local residents.**

N/A

(3) **Visual consequences.**

- (a) **Scenic views from public ways and developed properties should be considerably treated in the site arrangement and building design.**

There will be no substantive impact to scenic views, with all construction being within previously disturbed areas on an existing industrial site. The view from the residential sides will be buffered by the existing wetlands and woods, and architectural masking will be incorporated to soften the exterior appearance of the addition.

- (b) **Visibility of parking and service areas from public streets should be minimized through site arrangement, and such areas should be screened from abutting premises.**

There will be no substantive changes to parking and services as they exist and employee parking will be maintained in the northeastern corner of the building in the area of an existing paved area and access doors. All truck traffic, circulation and other services will remain where they exist today.

- (c) **Except on Route 9 and in special circumstances, domestic scale should be maintained in the building's design through massing devices, such as breaks in wall and roof planes and through the design of architectural features.**

As the site is on Route 9, this section is not applicable. Notwithstanding, the building design and exterior shall be consistent with the existing building architectural features.

(4) **Access.**

- (a) **Access to the location should increase existing traffic by no more than 10% at any point, taking into consideration any special access provisions committed (ride-sharing, etc.).**

As the proposed expansion will not increase traffic to/from the site, there is no substantive impact. The expansion will accommodate greater storage capacity and will decrease the number of deliveries coming

to/from the Ken's facility in Marlborough, which will offset any potential truck traffic transporting product from the site. Furthermore, the facility is located on Route 9 and any increase in traffic to or from the facility would be negligible.

- (b) **Pedestrian and vehicular movement to, from and within the site should be safe and convenient and arranged so as not to disturb abutting properties.**

Pedestrian and vehicular movement is not substantively changing as direct access and egress are remaining the same and the emergency roadway around the facility is not being substantively modified. Access and egress being presently directly onto Route 9, with emergency access only from the rear at Deerfoot Road, all as previously approved and permitted.

(5) **Development rate.**

- (a) **Townwide, development should not outpace the ability of the Town to provide necessary off-site services, including schools, water and local road capacity.**

Not applicable, as there is no impact.

- (b) **Development making unusually large demands on service capacities should not be allowed to preempt smaller developments from gaining a fair share of that capacity.**

Not applicable, as there is no substantive further demands on service capacities.



Town of Southborough
Board of Assessors
Abutters List

Date: 03/01/2021
Address: 325 TURNPIKE
ROAD
Parcel ID: 26-0000-010-0
Parcel ID: 26-0000-002-0
Distance: 300 feet

Property Location	Owner of Record	Deed Information
COSLIN/CRYSTAL POND 17-0000-002-0	EMC CORPORATION ATTN FACILITIES DEPT 228 SOUTH STREET HOPKINTON, MA 01748	5162-213
333 TURNPIKE ROAD 25-0000-012-A	SOUTHBOROUGH BUSINESS CENTER LLC C/O GOODWIN PARTNERS LLP 200 WHEELER ROAD, SUITE 210 BURLINGTON, MA 01803	55322-287
TURNPIKE ROAD 26-0000-003-0	BARTOLINI, JOHN A AND MARGUERITE F 41 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	7113-176
300 TURNPIKE ROAD 26-0000-007-0	ASPESI PETER M TRS 300 TURNPIKE ROAD REALTY TRUST 300 TURNPIKE ROAD SOUTHBOROUGH, MA 01772	53161-352
302 TURNPIKE ROAD 26-0000-007-A	FPP REALTY LLC P O BOX 408 SOUTHBOROUGH, MA 01772	44495-121
TURNPIKE ROAD 26-0000-009-0	EMC CORPORATION ATTN FACILITIES DEPT 228 SOUTH STREET HOPKINTON, MA 01748	23133-44
TURNPIKE ROAD 26-0000-012-0	OLD IRON LLC 4 WYETH CIRCLE SOUTHBOROUGH, MA 01772	52266-215

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Town of Southborough
Board of Assessors
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TURNPIKE ROAD 26-0000-014-0	OLD IRON LLC 4 WYETH CIRCLE SOUTHBOROUGH, MA 01772	52266-215
TURNPIKE ROAD 26-0000-015-0	OLD IRON LLC 4 WYETH CIRCLE SOUTHBOROUGH, MA 01772	52266-215
259 TURNPIKE ROAD UNIT 100 27-0100-007-0	259 TURNPIKE ROAD SUITE 100 LLC 259 TURNPIKE ROAD #100 SOUTHBOROUGH, MA 01772	18561-224
259 TURNPIKE ROAD UNIT 100 27-0110-007-0	259 TURNPIKE ROAD SUITE 110 LL 259 TURNPIKE ROAD #110 SOUTHBOROUGH, MA 01772	18561-221
TURNPIKE ROAD OFF 33-0000-030-A	SOUTHBOROUGH OPEN LAND FOUNDATION PO BOX 345 SOUTHBOROUGH, MA 01772	13709-322
7 EASTBROOK FARM LANE 33-0000-067-0	RUBIN F MARC AND MEREDITH 7 EASTBROOK FARM LANE SOUTHBOROUGH, MA 01772	92-100

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Board of Assessors
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Parcel ID: 26-0000-002-0
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Property Location	Owner of Record	Deed Information
77 DEERFOOT ROAD 34-0000-001-0	MOOREHEAD ELLEN AND MICHAEL 77 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	60314-128
ORCHARD ROAD 34-0000-016-0	SOUTHBOROUGH TOWN OF 17 COMMON STREET SOUTHBOROUGH, MA 01772	45257-288
6 ORCHARD ROAD 34-0000-032-0	LI BIN AND XIANGMEI GU 6 ORCHARD ROAD SOUTHBOROUGH, MA 01772	57343-330
8 ORCHARD ROAD 34-0000-033-0	YATIM FOUAD AND YASMIN DABBOUS 8 ORCHARD ROAD SOUTHBOROUGH, MA 01772	49529-309
10 ORCHARD ROAD 34-0000-034-0	KAMANITZ ROBERT S AND DARCEY A 10 ORCHARD ROAD SOUTHBOROUGH, MA 01772	52300-34
3 ORCHARD ROAD 34-0000-047-0	THOMAS TIMOTHY W.S. & ANDREA L 3 ORCHARD ROAD SOUTHBOROUGH, MA 01772	58031-192
78 DEERFOOT ROAD 34-0000-050-0	JOSHAR PROPERTY MANAGEMENT LLC 78 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	36316-56

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**Town of Southborough
Board of Assessors
Abutters List**

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Address: 325 TURNPIKE
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Parcel ID: 26-0000-010-0
Parcel ID: 26-0000-002-0
Distance: 300 feet**

Property Location	Owner of Record	Deed Information
83 DEERFOOT ROAD 34-0000-052-0	TYAGI BHAWNA B 83 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	59283-58
81 DEERFOOT ROAD 34-0000-053-0	CHEMMANUR, THOMAS J AND ANNIE T 81 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	41152-348
79 DEERFOOT ROAD 34-0000-054-0	PARULKAR SIDDHARTH AND POOJA 79 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	60416-90
75 DEERFOOT ROAD 34-0000-055-0	MARTIN, KETURAH AND SUZANNE 75 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	47967-363
12 ORCHARD ROAD 34-0000-056-0	BELLEFONTAINE KERRY A AND CHRISTIAN 41 BANKS STREET WALTHAM, MA 02451	59404-235
14 ORCHARD ROAD 34-0000-057-0	JOHNSON ROBERT AND MICHELLE JONES-JOHNSON 14 ORCHARD ROAD SOUTHBOROUGH, MA 01772	62895-119
16 ORCHARD ROAD 34-0000-058-0	ZELNICK, KEVIN A AND KAREN S 16 ORCHARD ROAD SOUTHBOROUGH, MA 01772	34103-181

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Town of Southborough
Board of Assessors
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Date: 03/01/2021
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Parcel ID: 26-0000-002-0
Distance: 300 feet

Property Location	Owner of Record	Deed Information
19 ORCHARD ROAD 34-0000-059-0	STRINGER PAUL W AND HELEN D 19 ORCHARD ROAD SOUTHBOROUGH, MA 01772	60314-36
74 DEERFOOT ROAD 34-0000-062-0	SEARS DAVID M AND LUCIA 74 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	50853-208
76 DEERFOOT ROAD 34-0000-063-0	PINGLE SNEH AND MEENAKSHI GUPTA 76 DEERFOOT ROAD SOUTHBOROUGH, MA 01772	62718-214
1 KENLEY LANE 34-0000-064-0	DIXON PHILIP P AND JILL A 1 KENLEY LANE SOUTHBOROUGH, MA 01772	52552-98
3 KENLEY LANE 34-0000-065-0	1/2 MEROLA JUSTIN R TRS JRM 1/2 METSMAA MEROLA K TRS KMM 3 KENLEY LANE SOUTHBOROUGH, MA 01772	55838-341
5 KENLEY LANE 34-0000-066-0	ZIMMEL CHRISTOPHER 5 KENLEY LANE SOUTHBOROUGH, MA 01772	63041-284
7 KENLEY LANE 34-0000-067-0	PAQUETTE, DAVID F AND SHERI N 7 KENLEY LANE SOUTHBOROUGH, MA 01772	51887-245

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Town of Southborough
Board of Assessors
Abutters List

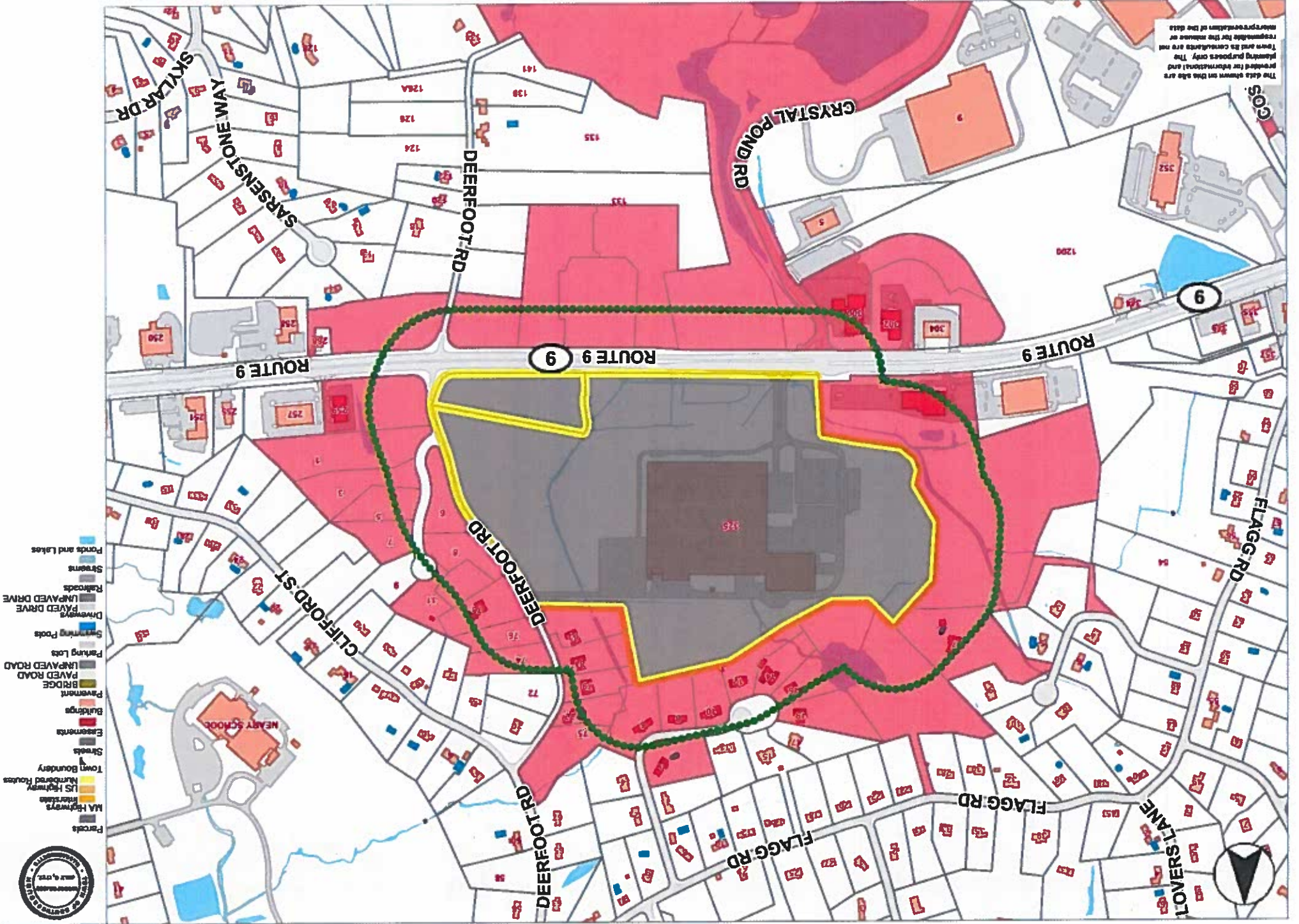
Date: 03/01/2021
Address: 325 TURNPIKE
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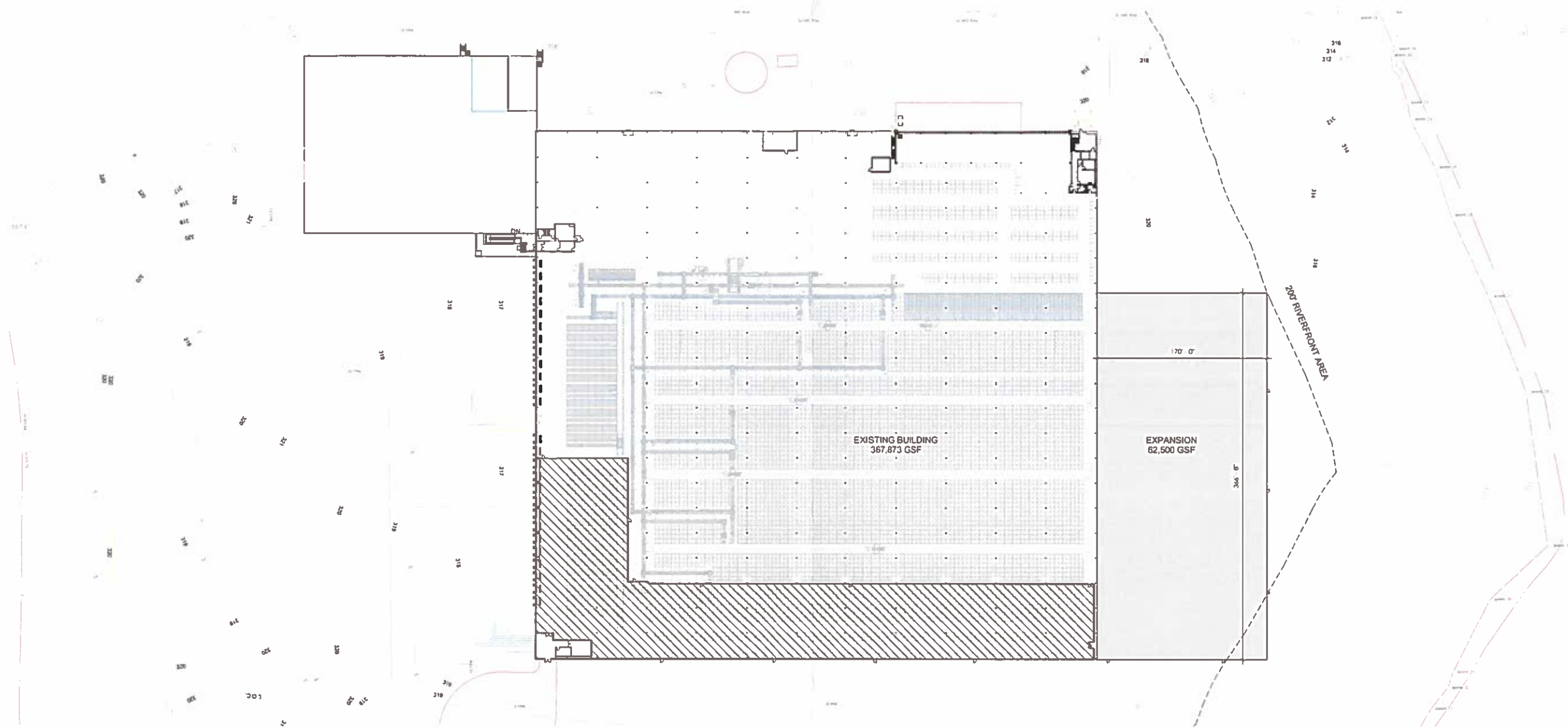
Property Location	Owner of Record	Deed Information
11 KENLEY LANE 34-0000-069-0	QUIRK CHRISTOPHER P 11 KENLEY LANE SOUTHBOROUGH, MA 01772	53180-377
8 KENLEY LANE 34-0000-070-0	MASRI EDGAR AND GRACE NADDAF T EDGAR MASRI 2006 REVOCABLE TRU PO BOX 485 SOUTHBOROUGH, MA 01772	54237-80
KENLEY LANE 34-0000-071-0	ESTATES AT DEERFOOT HOME ASSOC C/O JINESH GANDHI 6 KENLEY LANE SOUTHBOROUGH, MA 01772	51991-319
6 KENLEY LANE 34-0000-072-0	GANDHI JINESH AND RUCHI SHAH 6 KENLEY LANE SOUTHBOROUGH, MA 01772	52734-132

This list contains the certified list of owners on record with the Town of Southborough. The Record Owner is the property owner as of July 1st.

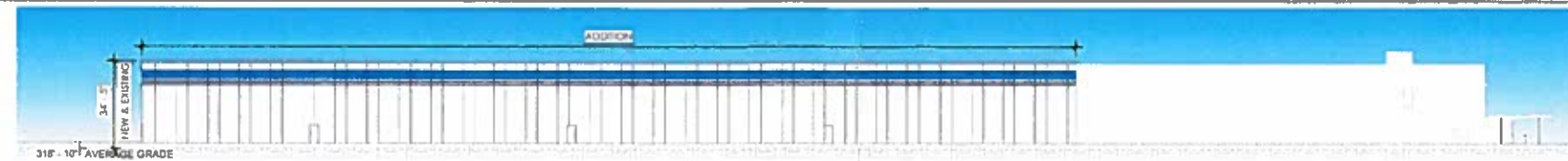
Corryn Dias
Authorized Signature

CERTIFIED COPY





② ADDITION - SOUTH ELEVATION (ROUTE 9)
SCALE: 1" = 30'-0"



③ ADDITION - EAST ELEVATION
SCALE: 1" = 30'-0"



④ ADDITION - NORTH ELEVATION
SCALE: 1" = 30'-0"

KNS21A.00 2/19/2021 9:13:25 AM

ZONING DIMENSIONAL TABLE	Allowable	Existing	Proposed
Minimum Lot Area	43,560 sf	4,169,472 sf	4,169,472 sf
Minimum Non-wetland Lot Area	20,000 sf	much > 20,000 sf*	much > 20,000 sf*
Minimum Front Setback (Route 9)	75 ft	413.2 ft	413.2 ft
Minimum Rear and Side Setback	50 ft	83.7 ft	83.7 ft
Maximum Building Height	45 ft	34.36 ft**	34.36 ft
Gross Floor Area	N/A	371,493 sf***	430,373 sf
Maximum Floor Area Ratio	0.60	0.09	0.10

* evidence for this fact: building footprint is > 400,000 sf and not in wetland area

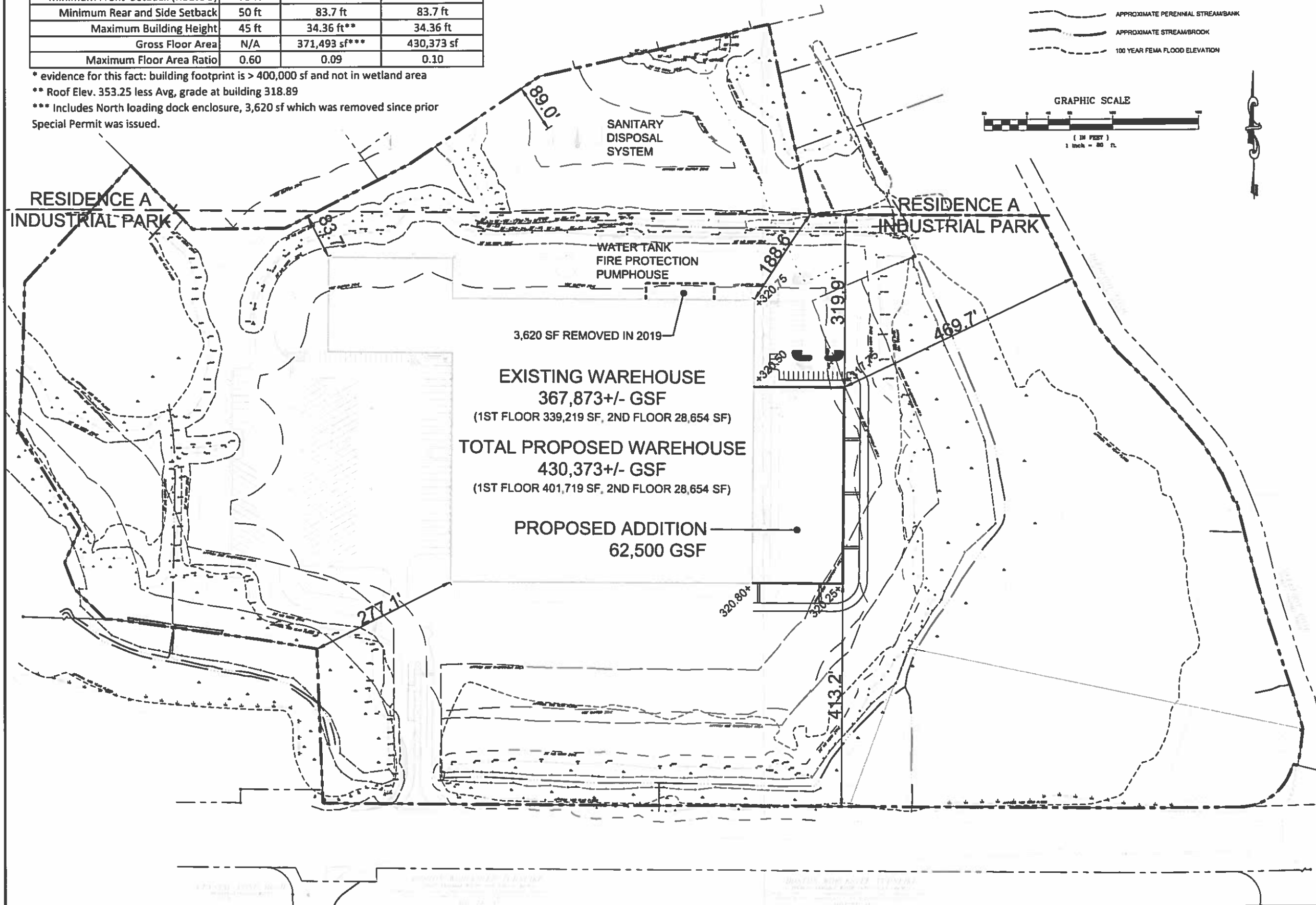
** Roof Elev. 353.25 less Avg. grade at building 318.89

*** Includes North loading dock enclosure, 3,620 sf which was removed since prior Special Permit was issued.

RESOURCE LEGEND

- BOUNDARY OF BORDERING VEGETATED WETLAND (FLAG NUMBERS ARE SHOWN)
- APPROXIMATE BOUNDARY OF BORDERING VEGETATED WETLAND (NO FLAG NUMBERS SHOWN)
- APPROXIMATE INTERMITTENT STREAM/BANK
- APPROXIMATE PERENNIAL STREAM/BANK
- APPROXIMATE STREAM/BROOK
- 100 YEAR FEMA FLOOD ELEVATION

GRAPHIC SCALE



KEN'S

Ken's Foods, Inc.
PO Box 849
Marlborough, MA 01752

Property Owner/Applicant

CROWE

JOHN G. CROWE ASSOCIATES, INC.

One Hardy Road - No. 234
Bedford, New Hampshire 03110
Tel: 603-376-2363 | www.jgcrowe.com
Civil Engineer/Landscape Architect

BEALS AND THOMAS, INC.

Reservoir Corporate Center
144 Turnpike Road
Southborough, MA 01772
Tel: 508-366-0560
Email: mti@btweb.com
Website: www.btiweb.com
Surveyor

No.	Date	Description
0	2/19/2021	28A Special Permit

Warehouse Expansion

325 Turnpike Road
Southborough, MA 01772
(Map 26, Lots 10 and 2)

Project

Special Permit Plan

Drawing Title

Project No. 16002.02	Checked CSD	Date 2/19/2021
Drawn AZA	Approved CSD/DAP	Scale 1"=80'

Drawing No.

SP-1.0

Seal

ZONING DIMENSIONAL TABLE	Allowable	Existing	Proposed
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Minimum Rear and Side Setback	50 ft	83.7 ft	83.7 ft
Maximum Building Height	45 ft	34.36 ft**	34.36 ft
Gross Floor Area	N/A	371,493 sf***	430,373 sf
Maximum Floor Area Ratio	0.60	0.09	0.10

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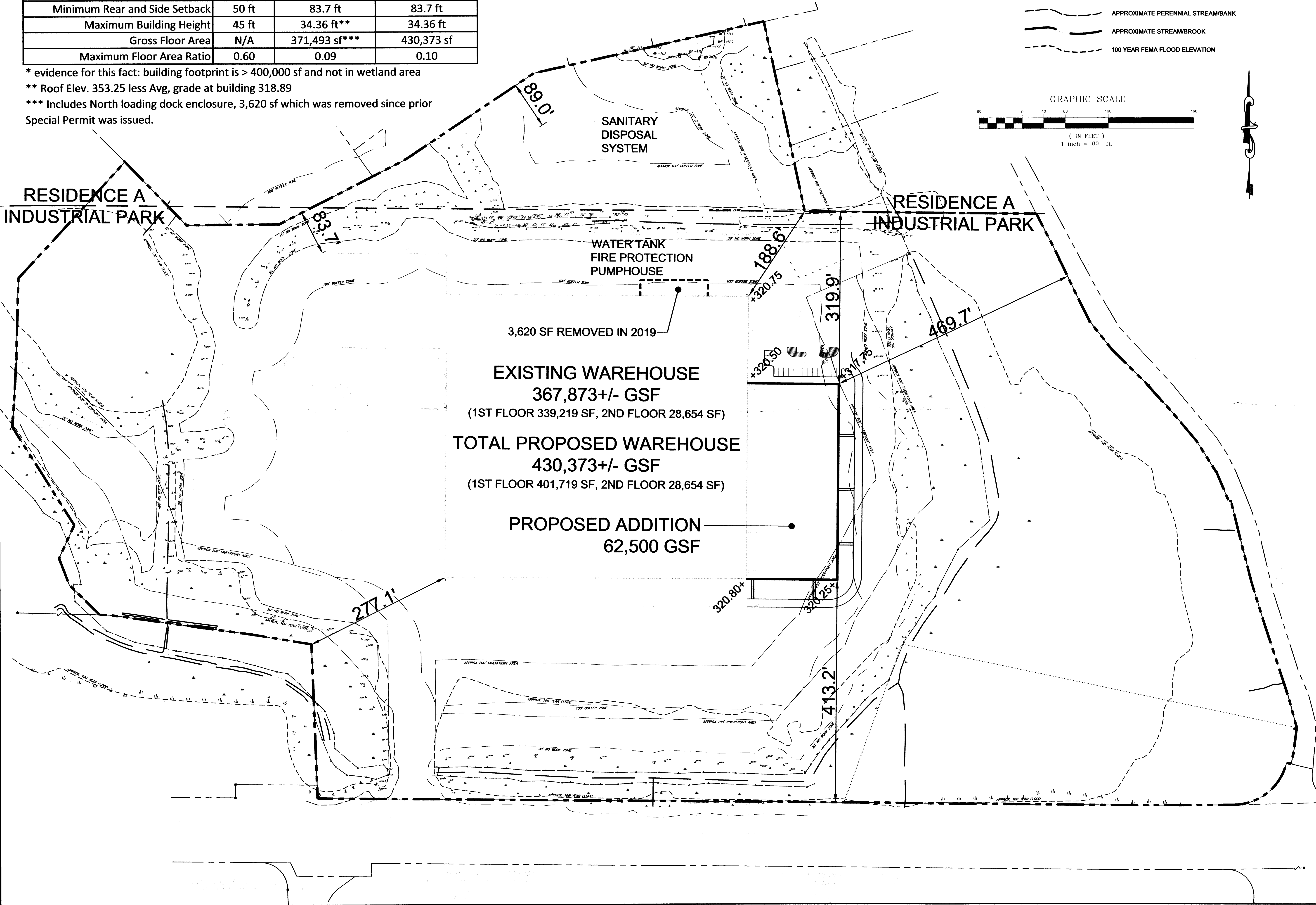
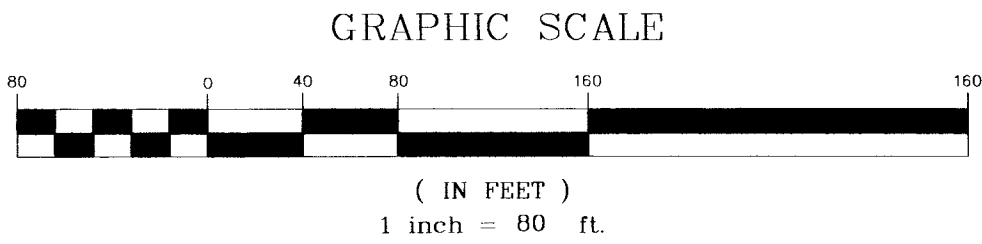
*** Includes North loading dock enclosure, 3,620 sf which was removed since prior Special Permit was issued.

RESIDENCE A
INDUSTRIAL PARK

RESIDENCE A
INDUSTRIAL PARK

RESOURCE LEGEND

- BOUNDARY OF BORDERING VEGETATED WETLAND (FLAG NUMBERS ARE SHOWN)
- APPROXIMATE BOUNDARY OF BORDERING VEGETATED WETLAND (NO FLAG NUMBERS SHOWN)
- APPROXIMATE INTERMITTENT STREAM/BANK
- APPROXIMATE PERENNIAL STREAM/BANK
- APPROXIMATE STREAM/BROOK
- 100 YEAR FEMA FLOOD ELEVATION



KEN'S
Ken's Foods, Inc.
PO Box 849
Marlborough, MA 01752

Property Owner/Applicant

CROWE
JOHN G. CROWE ASSOCIATES, INC.
One Hardy Road - No. 214
Bedford, New Hampshire 03110
781-570-2365 | www.jercrowe.com
Civil Engineer/Landscape Architect

BEALS AND THOMAS, INC.

Reservoir Corporate Center
144 Turnpike Road
Southborough, MA 01772
Tel.: 508-366-0560
Email: mail@btiweb.com
Website: www.btiweb.com

Surveyor

0	2/19/2021	ZBA Special Permit
No.	Date	Description

Warehouse Expansion
325 Turnpike Road
Southborough, MA 01772
(Map 26, Lots 10 and 2)

Project

Special Permit Plan

Drawing Title

Project No. 16002.02	Checked CSD	Date 2/19/2021
Drawn AZA	Approved CSD/DAP	Scale 1"=80'

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Seal