

**TOWN OF EAST MONTPELIER
DEVELOPMENT REVIEW BOARD**

FINDINGS & DECISION

In the matter of: MaWeMa LLC (owner)
 Orchard Valley Waldorf School (applicant)
 174 Coburn Road
 Parcel # 08-075.050 Tax Map # 09-00-55.300

East Montpelier Zoning Application #16-010

INTRODUCTION & PROCEDURAL HISTORY

1. On April 8, 2016, Kathy Clark, on behalf of the Orchard Valley Waldorf School, filed an application with the Town of East Montpelier to convert a single family dwelling on a residential property into a commercial facility for school-related uses. The property is located at 174 Coburn Road and owned by MaWeMa LLC, a VT-incorporated entity with principals Andrew & Marianne Perchlik.
2. The property in question lies in the Residential/Commercial District – Zone C and is subject to DRB regulation as an East Montpelier Land Use & Development Regulations Section 4.13 protected public use.
3. A public notice was duly published in the Times Argus on April 18, 2016 for a hearing, which was conducted on May 3, 2016.
4. The May 3, 2016 hearing was continued to May 17, 2016 at 7:00 p.m. The DRB conducted a public site visit at the subject property on May 17, 2016 at 6:30 p.m.
5. Owner representatives Andrew & Marianne Perchlik and Orchard Valley Waldorf School representatives Kathy Clark, Isaac Chavez, Erica Zimmerman, & Kianna Bromley appeared and participated in the hearing process on behalf of the applicants. Abutting neighbors Nick Van Den Berg, Laura Stone and Pete & Rachael Richards along with Zoning Administrator Bruce Johnson also appeared and participated in the hearing process. There was no additional public comment.
6. The Board members who voted on this issue were Curtis, Cueto, Lane, Kappel, Santor, Hill, Greenwald and Watson.

FINDINGS OF FACT

1. MaWeMa LLC owns a 3.79-acre residential property improved with a single-family house located at 174 Coburn Road. The home is currently rented to a family with children. An exempt “Home Child Care” business is operated at the residence, with an additional 2-4 children on site during weekdays.

2. The Orchard Valley Waldorf School owns and occupies an abutting property at 2290 VT Rte. 14 N, directly across Coburn Road from the property at issue in this case. The school would like to lease the 174 Coburn Road property and change the use of the parcel to allow a commercial day care center and other school-related activities.
3. 174 Coburn Road is located in the Zone D – Rural Residential/Agricultural zoning district. Zone D has a variety of listed permitted and conditional uses. “Day Care Center” and “School” are not among the listed uses. 2290 VT Rte. 14 N is located in the Zone C – Residential/Commercial zoning district, where “School” is a listed conditional use.
4. East Montpelier Land Use & Development Regulations Table 2.4 Rural Residential – Agricultural District (Zone D) contains the following listed conditional use:
 15. Any other use the Development Review Board determines to be similar in scale, intensity and potential impact as other uses allowed as permitted or conditional uses in this district.
5. Applicants propose to use the upper level of the existing home as a licensed child care center with four staff members for up to 18 children ranging from birth to 3.5 years of age. The facility will operate weekdays 7:30 a.m. to 5:30 p.m. The lower level and garage will be used up to three days per week from 11:15 a.m. to 2:45 p.m. for handwork and woodworking classes for Orchard Valley Waldorf School grade school students, with a maximum of 10 children and 1 teacher at each location. The property will be used as a commercial facility and will not be occupied during off-hours.
6. The child care center staff will park on site at 174 Coburn Road. The child care center children will be dropped off and picked up on site. The participants in the handwork and woodworking classes will walk over from the main school facility.
7. Projected traffic to and from 174 Coburn Road is estimated to be 80 trips per weekday, an increase of some 50-60 trips per day over the current use of the property, even with its existing home child care business. The Average Annual Daily Traffic on Coburn Road, a rural Class 3 town highway, was found to be 81 vehicles/day in 2015. The proposed use could lead to a near doubling of the traffic on Coburn Road. This increase in traffic is likely to be concentrated in brief, heavy periods during morning drop-off and evening pick-up times.
8. Coburn Road does not have sidewalks or crosswalks. The access drive for 174 Coburn Road does not have walkways. The students walking to and from 174 Coburn Road will be accompanied by a teacher at all times.
9. 174 Coburn Road is the middle of three contiguous residential lots on the southeast side of the VT Rte. 14 N/Coburn Road intersection that were subdivided and developed in the early-to-mid 2000s, a little over a decade ago. School-aged children walk Coburn Road from the school bus stop at the intersection.

CONCLUSIONS

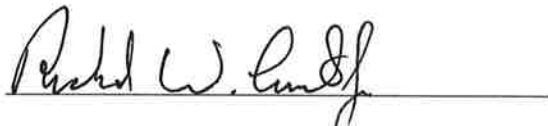
The 174 Coburn Road parcel is located in the Zone D – Rural Residential/Agricultural zoning district. “Day Care Center” and “School” are not listed as either permitted or conditional uses in the district. Applicants are relying on listed Conditional Use 15, which allows for uses similar in nature to other allowed uses in the zoning district. Based on the evidence provided, the proposed use does not meet the minimum standards of being similar in scale, intensity and potential impact as other uses allowed in Zone D.

DECISION

By unanimous vote of 8 – 0, the DRB denies Zoning Permit Application #16-010.

Warning: State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to the state Permit Specialist before beginning any construction.

Dated this 31st day of May, 2016.



Richard Curtis, Jr. – Chair
East Montpelier Development Review Board

Notice: The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. “Participation” in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

TOWN of EAST MONTPELIER

P.O. Box 157
East Montpelier, VT
05651-0157

C. Bruce Johnson, ZA
eastmontadmin@comcast.net
(802) 223-3313 ext. 204

May 31, 2016

Orchard Valley Waldorf School
Attn: Kathy Clark
2290 VT Rte. 14 N
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #16-010

Dear Ms. Clark:

Please find enclosed the written decision of the East Montpelier Development Review Board denying your request to change the use of 174 Coburn Road from single-family residential to a combination of child care and school uses. As the applicant, you may have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

After speaking with and getting approval from Marianne Perchlik, I've also withdrawn the access application (Application #16-009) to change the use of the Coburn Road curb cut from residential to commercial.

I wish you and the school luck in your search for an appropriate location for a child care center. If we can provide any assistance in your quest, just let me know.

Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson
East Montpelier Zoning Administrator

TOWN of EAST MONTPELIER

P.O. Box 157
East Montpelier, VT
05651-0157

C. Bruce Johnson, ZA
eastmontadmin@comcast.net
(802) 223-3313 ext. 204

May 31, 2016

MaWeMa LLC
Andrew & Marianne Perchlik
530 Laird Pond Road
Plainfield, VT 05667

Re: East Montpelier Zoning Application #16-010

Dear Mr. & Ms. Perchlik:

Please find enclosed the written decision of the East Montpelier Development Review Board denying the Orchard Valley Waldorf School's request to change the use of 174 Coburn Road from single-family residential to a combination of child care and school uses. As the owners of the 174 Coburn Road parcel, you may have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

After speaking with and getting approval from Marianne, I've also withdrawn the access application (Application #16-009) to change the use of the Coburn Road curb cut from residential to commercial.

Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson
East Montpelier Zoning Administrator

TOWN of EAST MONTPELIER

P.O. Box 157
East Montpelier, VT
05651-0157

C. Bruce Johnson, ZA
eastmontadmin@comcast.net
(802) 223-3313 ext. 204

May 31, 2016

Pete & Rachael Richards
218 Coburn Road
Plainfield, VT 05667

Re: East Montpelier Zoning Application #16-010

Dear Mr. & Ms. Richards:

Please find enclosed the written decision of the East Montpelier Development Review Board denying the Orchard Valley Waldorf School's request to change the use of 174 Coburn Road from single-family residential to a combination of child care and school uses. As abutting landowners that participated in the DRB hearing process, you may have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson
East Montpelier Zoning Administrator

TOWN of EAST MONTPELIER

P.O. Box 157
East Montpelier, VT
05651-0157

C. Bruce Johnson, ZA
eastmontadmin@comcast.net
(802) 223-3313 ext. 204

May 31, 2016

Nicholas Van Den Berg
Laura Stone
PO Box 68
East Montpelier, VT 05651

Re: East Montpelier Zoning Application #16-010

Dear Mr. Van Den Berg & Ms. Stone:

Please find enclosed the written decision of the East Montpelier Development Review Board denying the Orchard Valley Waldorf School's request to change the use of 174 Coburn Road from single-family residential to a combination of child care and school uses. As abutting landowners that participated in the DRB hearing process, you may have the right to appeal the decision of the Development Review Board. 10 V.S.A. §8504, 24 V.S.A. §4471 and V.R.E.C.P. 5 provide guidance on appeals to the Environmental Division of the Vermont Superior Court, but should you wish to appeal you should seek the advice of an attorney to determine your rights and duties in this particular situation. Generally any appeal must be filed with the Environmental Division within 30 days of the issuance of the decision.

Feel free to contact me if you have any questions concerning this matter.

Sincerely,



C. Bruce Johnson
East Montpelier Zoning Administrator

Permit # 16-010

ZONING PERMIT APPLICATION

Date Received: 4/8/16

Zoning District D

TOWN OF EAST MONTPELIER

Parcel # 08-075.050

Overlays WR

PO Box 157, East Montpelier, VT 05651

Tax Map # 09-00-55.300

- A. 1. Name of Landowner Andrew + Marianne Perchlik Mawerna LLC Phone No. 802-426-3127
2. Address of Landowner 530 Laird Pond Rd, Plainfield, VT 05667
3. Applicant (other than owner) Orchard Valley Waldorf School Phone No. 802-456-7400
4. Address of Applicant 2290 VT Rte 14 N, East Montpelier, VT 05651
5. Location of Property 174 Coburn Rd., East Montpelier, VT 05651

B: Application is made (check appropriate boxes):

- | | | |
|--|---|--|
| To: | For: | For: |
| <input type="checkbox"/> Construct | One <input type="checkbox"/> Two-family dwelling | <input type="checkbox"/> Subdivision of land |
| <input type="checkbox"/> Repair | <input type="checkbox"/> Multi-family dwelling | <input type="checkbox"/> Boundary adjustment |
| <input type="checkbox"/> Alter | <input type="checkbox"/> Accessory Structure | <input type="checkbox"/> Extraction of earth resources |
| <input type="checkbox"/> Extend | <input checked="" type="checkbox"/> Commercial / Business | <input type="checkbox"/> Ground water withdrawal |
| <input type="checkbox"/> Remove | <input type="checkbox"/> Light Industrial | <input type="checkbox"/> Landfilling |
| <input checked="" type="checkbox"/> Change use | <input type="checkbox"/> Industrial | <input type="checkbox"/> Other |

Describe work to be performed. Orchard Valley wishes to lease the property at 174 Coburn Rd... for the pur poses of starting a year-round child care center for children ages... 6 weeks to 3.5. The bottom floor of the property will be used for... occasional classes (2-3 afternoon /wk) in handwork and the garage will be set up as a workshop for woodworking classes (2 afternoons /wk) see attached

- C. Lot description:
- | | |
|---------------------------------------|---|
| 1. acreage <u>3.79</u> | 4. depth side yards <u>75.96</u> Ft. <u>104</u> Ft. |
| 2. road frontage <u>255</u> Ft. | (building to lot lines) |
| 3. depth front yard <u>262.59</u> Ft. | 5. depth rear yard <u>363.35</u> Ft. |
| (Road centerline to building) | (building to lot line) |

Important - Submit site location map which describes the property on which the proposed land development is to occur. The map should indicate the length in feet of each boundary, the location and dimensions in feet of the development within the property, the distance from that development to all adjacent property lines and the distance to the public road centerline. Each parcel created by land development should be clearly described.

READ BELOW CAREFULLY AND SEE SECTION D ON PAGE 2 OF APPLICATION:

In accordance with 24 V.S.A. §4446, no development or subdivision of land may begin in the Town of East Montpelier until all applicable municipal land use permits and approvals have been issued. The undersigned requests a zoning permit as described above, understanding that the permit will be voided and penalties imposed, if the land development is not completed as described. The permit will be voided if development is not substantially commenced within one year from date of issue. The undersigned hereby applies on the basis of the representations contained herein, and to the best of his/her knowledge believes them to be true. The undersigned acknowledges the Section D notices on page 2 of this application.

Landowner [Signature] Date 4-6-16

Applicant [Signature] Date 4-7-16

Zoning Permit Fee: \$ 200.00 Cash Check #14357 Date 4/8/16 Rec'd by D.B

DRB Hearing Fee: \$ Cash Check Date Rec'd by

Make checks payable to the "Town of East Montpelier"

D. Warning: State permits may be required for this project. The applicant or permittee retains the obligation to identify, apply for, and obtain relevant state permits for this project. Call (802) 505-5367 to speak to Peter Kopsco, our region's state permit specialist, before beginning any construction.

Notice: Your project may be subject to the state's residential or commercial energy code. For more information contact the Energy Code Assistance Center at 855-887-0673 or see the following web pages:
Residential Building Energy Standards: http://publicservice.vermont.gov/energy_efficiency/rbes
Commercial Building Energy Standards: http://publicservice.vermont.gov/energy_efficiency/cbes

E. Action by Zoning Administrator:

1. Granted Denied Date Reason.....
2. Appealed to Development Review Board By
Date

Notice: Appeal from a decision or act of the Zoning Administrator must be made in writing to the Development Review Board &/or Town Clerk within 15 days of the decision or act. The appeal fee is \$150.00.

3. Final Action: Permit # Date Issued Effective Date

DO NOT start this project prior to the effective date, as the statutes require a 15-day appeal period. If this permit is based upon a Development Review Board approval, be advised that any appeal of that approval could affect the validity of this permit – do not start project or commence use until that DRB approval is final and clear of any appeal process.

4. Permittee is required to submit a Certificate of Compliance form to the Zoning Administrator in accordance with East Montpelier Land Use & Development Regulations Section 7.4:
 Yes (form included with permit) No

.....
Zoning Administrator

F. Action by Development Review Board:

1. Public Notice Date *April 18*
2. Date(s) of Hearing *May 3* *May 17*
3. Granted Without conditions With conditions (See written decision for conditions)
4. Denied (See written decision for reasoning)

[Signature]
.....
Chairman, Development Review Board

The DRB's written decision was issued on: *May 31, 2016*

The applicant, appellant or other interested person who has participated in a regulatory proceeding of the DRB may appeal the decision rendered by the DRB within 30 days of the issuance of such decision, to the Environmental Division of the Vermont Superior Court, in accordance with 24 V.S.A. §4471.

1. "Participation" in a DRB proceeding shall consist of offering, through oral or written testimony, evidence of a statement of concern related to the subject of the proceeding.
2. The notice of appeal shall be filed by certified mailing, with fees, to the Environmental Division of the Vermont Superior Court and by mailing a copy to the East Montpelier Zoning Administrator, who shall supply a list of interested persons (including the applicant if not the appellant), to the appellant within five (5) working days. Upon receipt of the list of interested persons, the appellant shall, by certified mail, provide a copy of the notice of appeal to every interested person. If any one or more of those persons are not then parties to the appeal, upon motion they shall be granted leave by the court to intervene.

May 13, 2016

East Montpelier DRB
PO Box 157
East Montpelier, VT 05651

Dear members of the Development Review Board,

Following is a description of the revised plan for use of our property at 174 Coburn Road in East Montpelier.

We request a change of use from a single-family residence to a licensed day care center in order to lease the house to the Orchard Valley Waldorf School (OVWS) for the purpose of education. No changes to the exterior of the building are planned. The following programs will make use of the property.

Upper level:

A year round, full-day licensed child care center for children birth to 3.5 years, 7:30 am – 5:30 pm for up to 18 children and 4 teachers each day excluding federal holidays and weekends. Parents will drop their children off in the upper parking circle between the hours of 7:30-9:30am and pick up there at the end of the day between 3-5:30pm. With this schedule it is likely to be no more than 4 families dropping off or picking up at any one time.

Lower level:

A handwork space will be set up for small classes of OVWS grades children (up to 10 children and 1 teacher) to use up to 3 days/week between the hours of 11:15am and 2:45pm. Classes are about 45 minutes in length.*

Garage:

The garage will be set up as a woodworking space for small classes of OVWS grades children (up to 10 children and 1 adult) to be used up to 3 days/week between the hours of 11:15am and 2:45pm. Classes are about 45 minutes in length. *

*Students will walk to and from the grades building on the OVWS main campus to the 174 Coburn property with a sending teacher and be met by the receiving teacher at the bottom of the drive. The handwork and woodworking teachers will park at the Orchard Valley Waldorf School parking lot and walk to the 174 Coburn property. Other than dropping off materials when necessary, no other vehicle traffic will be generated by these programs.

Renovations planned:

Upper level:

Install wired smoke/carbon detector and alarm system

Replace 3 of the double hung windows with a full casement window for proper egress for fire code compliance.

Lower level:

Install wired smoke/carbon detector and alarm system.

Garage:

Raise the furnace in garage to 18" above the floor for fire code compliance.

Install a blower for occasional heat during woodworking class.

Finish the South wall with sheet rock for fire code compliance.

Parking (see attached map):

1. Two 10' x 50' pull-offs which would allow traffic in each direction to pull off of the driveway and allow an oncoming vehicle to safely pass. There is one pull-off shown on each side of the existing driveway so that both incoming and outgoing traffic would be served.
2. One 18' x 40' employee parking area which would provide adequate parking space for up to 4 employee vehicles. These spaces are shown on a 30 degree angle to the existing driveway and would function as head-in parking. Vehicles parked in these spaces would back out onto the driveway, proceed forward up to the garage parking area, perform a 3-point turn and depart forward down the driveway.
3. One 20' x 50' expansion to the parking area adjacent to the garage. Vehicles parked in these spaces would back out in a 3-point turn and depart forward down the driveway.
4. The company that provided the revised parking lot design recommended that the driveway apron at the road be widened. It is currently approximately 14' wide and it was recommended to widen it to 24' to allow one incoming vehicle and one outgoing vehicle to occupy the apron at the same time.

Playground: see attached plan for area to be used

Apple trees for shade

Sandbox

Garden space and fruit bushes

2-3 small climbing structures not to exceed 30" in height

Split rail fence with plantings to provide a visual barrier will surround the play area.

We have a project review sheet from Department of Environmental Conservation & Natural Resources Board. We are required to obtain an ACT250 permit, a Wastewater System & Potable Water Supply permit and Water Supply permit. All of this work is in process. To date we have had site visits from the Childcare Development Division, Fire Marshall, Asbestos consultant, and a Sewer & Water engineer. Please see the attached reports.

If you have any further questions, please let us know.

Thank you for your consideration,

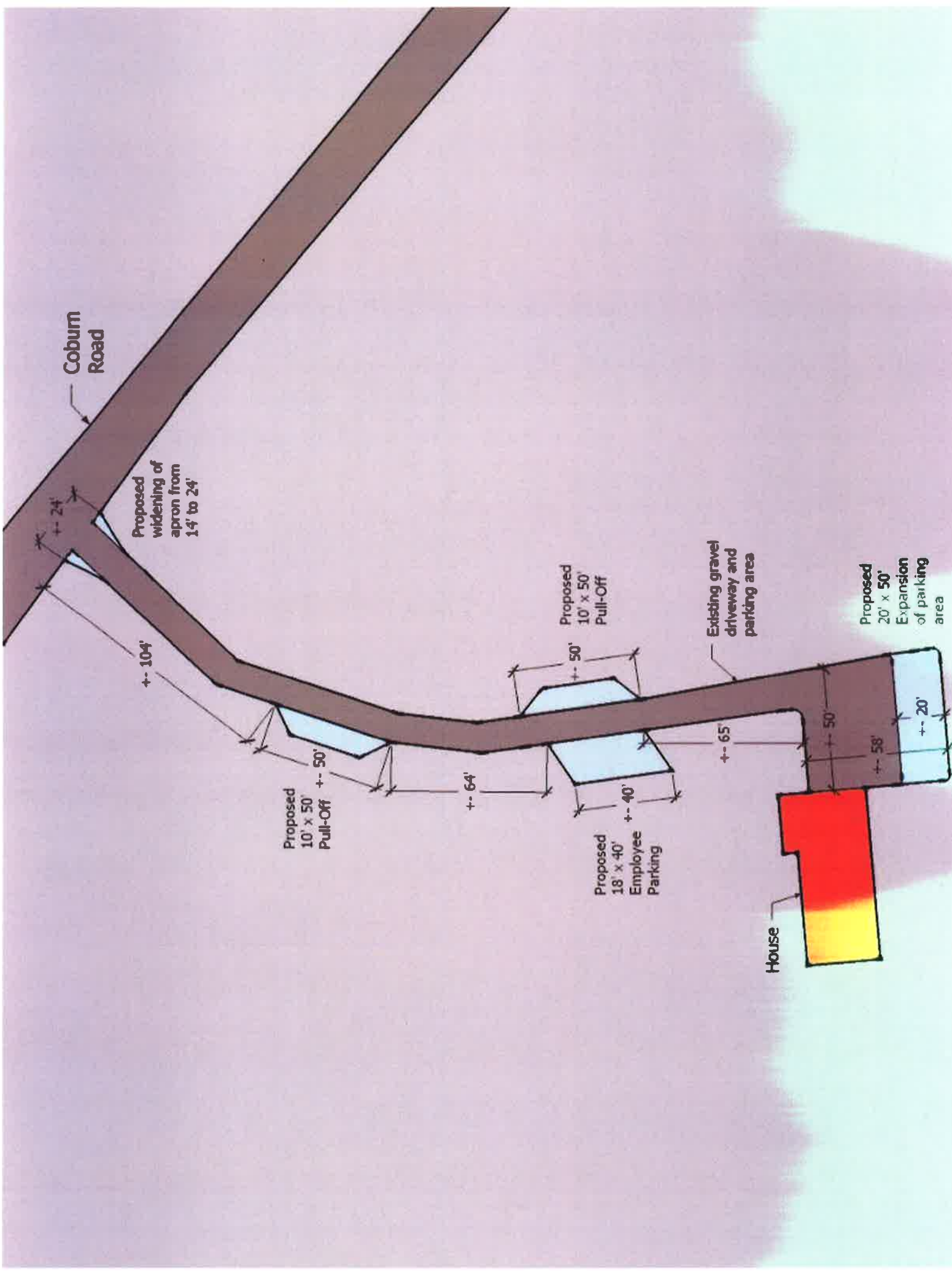
Marianne & Andrew Perchlik

530 Laird Pond Road

Plainfield, VT 05667

perchlik@sover.net

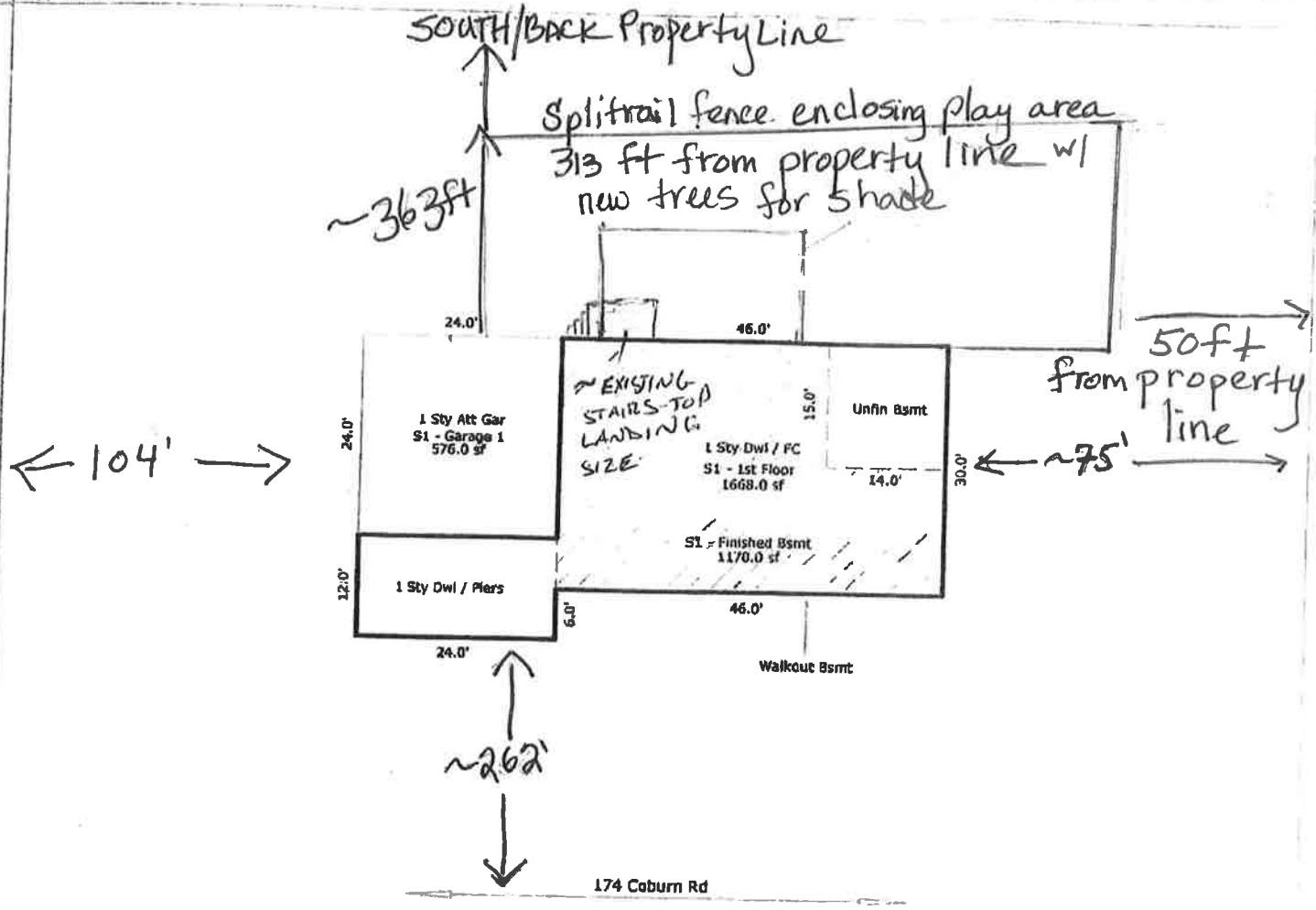
802-426-3127



SKETCH/AREA TABLE ADDENDUM

SUBJECT
 Property Address: 174 Coburn Rd.
 City: _____ State: _____ Zip: _____
 Owner: _____
 Client: _____
 Appraiser Name: _____

IMPROVEMENTS SKETCH



AREA CALCULATIONS

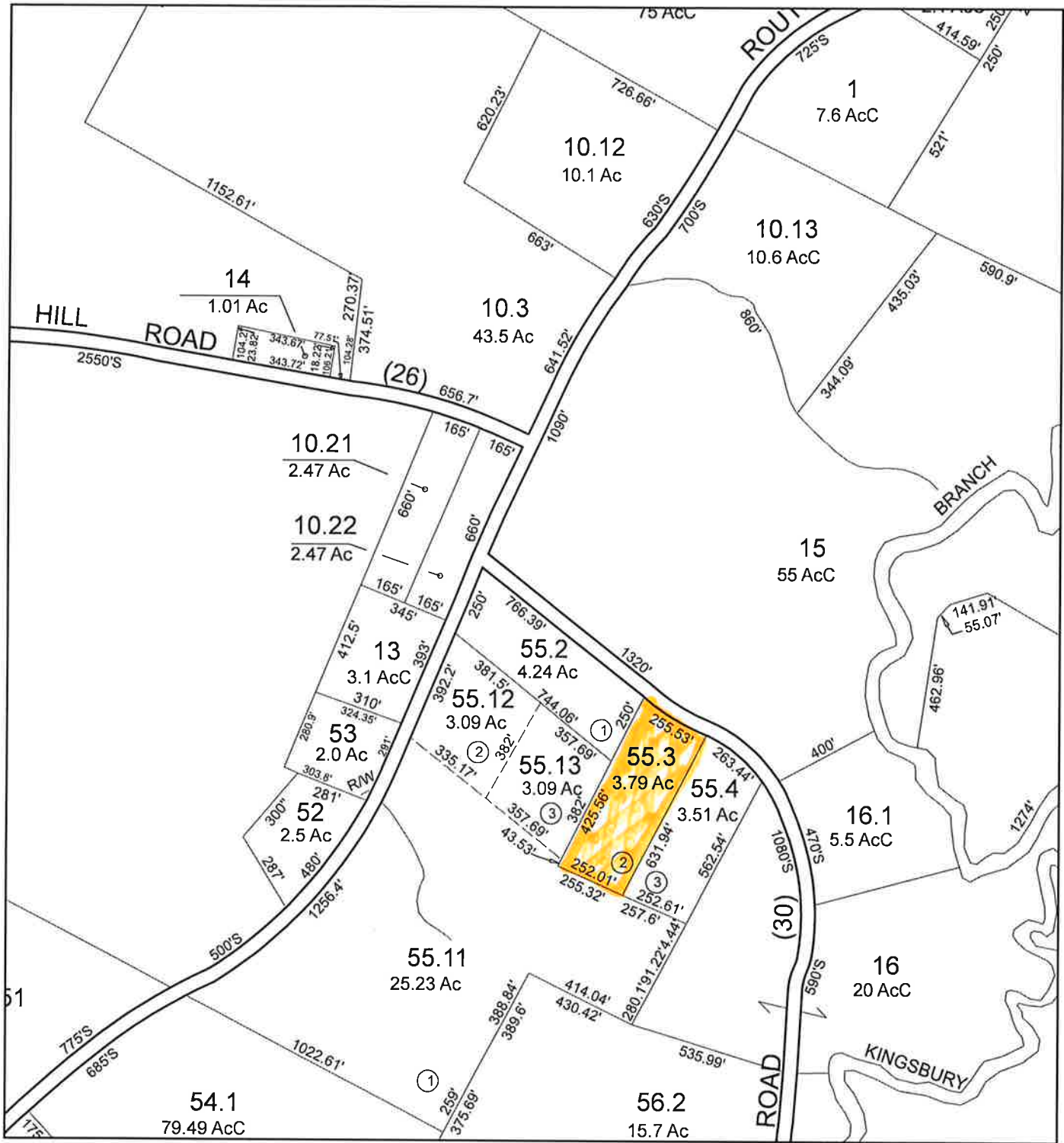
AREA CALCULATIONS SUMMARY

Scale: 1 = 20

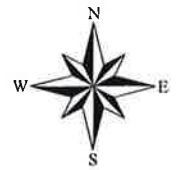
Code	Description	Factor	Net Size	Perimeter	Net Totals
1FL1	S1 - 1st Floor	1.00	1668.0	212.0	1668.0
1BS	S1 - Basement	1.00	1380.0	152.0	1380.0
1BF	S1 - Finished Bsmt	1.00	1170.0	152.0	1170.0
GAR11	S1 - Garage 1	1.00	576.0	96.0	576.0

Comment Table 1	
Comment Table 2	Comment Table 3

Net BUILDING Area (rounded w/ factors) = 1668



**174 Coburn Road
East Montpelier**



4/5/2016