

Town of East Montpelier

ZONING PERMIT

NOTICE

[To Be Displayed on the Property in Full View of the Public Right-of-Way]

Date Issued: July 25, 2016

Effective Date: August 9, 2016

Location: 2888 County Road

Owner: Stephen & Heidmarie Heiss Holmes

For: 15' x 8' Sun Porch

Application # 16-027

Approved by: **C. Bruce Johnson, ZA**

Do not start project or commence use prior to the Effective Date. 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 state or local appeal process. This application is available for inspection at the Town Office. This poster must be displayed on the property in full public view for 15 days.

APPEALS TO DRB: A notice of appeal, including the \$150 fee, must be filed with the East Montpelier Town Clerk or Zoning Administrator at the Town Office by the listed Effective Date.

WARNING: State permits may be required for this project. Contact the state Permit Specialist, at (802) 505-5367, before beginning any construction.

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

July 25, 2016

Stephen & Heidimarie Heiss Holmes
2888 County Road
Montpelier, VT 05602

Re: East Montpelier Zoning Application #16-027

Dear Mr. Holmes & Ms. Heise Holmes:

Please find enclosed the written decision of the East Montpelier Development Review Board approving the setback variance request as presented in your zoning application #16-027. You 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.

Based on the above-referenced DRB approval I have issued East Montpelier Zoning Permit #16-027 for the construction of a 15' x 8' sun porch as depicted in application #16-027.

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
DEVELOPMENT REVIEW BOARD**

FINDINGS & DECISION

In the matter of: Stephen Holmes
 Heidimarie Heiss Holmes
 2888 County Road
 Parcel # 03-059.000 Tax Map # 04-02-67.000

East Montpelier Zoning Application #16-027

INTRODUCTION & PROCEDURAL HISTORY

1. On June 8, 2016, Stephen Holmes, on behalf of himself & Heidimarie Heiss Holmes as owners, filed an application with the Town of East Montpelier to construct a 15' x 8' sun porch addition to the Holmes residence located at 2888 County Road.
2. The property in question lies in the Agricultural & Forest Conservation District – Zone E, where the minimum front setback is 75 feet from centerline. The existing house, dating to the 1800s, is mostly located within the front setback from County Road. As such the applicants are requesting an East Montpelier Land Use & Development Regulations Section 3.14 setback waiver or Section 7.6 setback variance from the Development Review Board.
3. A public notice was duly published in the Times Argus on June 27, 2016 for a hearing, which was conducted on July 12, 2016 at 7:00 p.m.
4. Applicants' Representative Kevin Thompson and Zoning Administrator Bruce Johnson appeared and participated in the July 12, 2016 hearing. There was no additional public comment.
5. The Board members who voted on this issue at the July 12, 2016 hearing were Curtis, Cueto, Lane, Welch, Watson, Santor, and Greenwald.

FINDINGS OF FACT

1. Stephen Holmes and Heidimarie Heiss Holmes reside at 2888 County Road in a house that likely dates back to the early-to-mid 19th century. Applicants propose to add a 15' x 8' sun porch to the back part of the south side of the house in the location of an existing terrace.
2. The property is located in Zone E – the agricultural & forest conservation district, where the front setback is 75 feet from centerline and the minimum lot size is 7 acres. The leading edge of the residence is approximately 39 feet from the County Road centerline. The proposed location of the sun porch addition is, at its nearest point, 72 feet from the County Road centerline. The parcel is 4.8 acres in size.

3. The residence is an East Montpelier Land Use & Development Regulations Section 3.10 non-conforming structure due to front setback. It is located on a Section 3.9 pre-existing small lot. The proposed element to be added to the residence will be no closer to the County Road centerline than the existing structure. The sun porch will not add to the footprint as it will be constructed on an existing concrete terrace. The sun porch will, however, add to the volumetric degree of non-compliance as that term is defined in Section 8.
4. The proposed additions cannot be permitted under East Montpelier Land Use & Development Regulations Section 3.10 due to the increased degree of non-compliance. Further, the additions cannot be permitted under the Section 3.14 setback waiver provision as the setback waiver provision is not designed to allow additions to Section 3.10 non-conforming structures.

CONCLUSIONS

The standards for the issuance of a setback variance are set forth in Section 7.6 of the East Montpelier Land Use & Development Regulations. A variance from the zoning regulations can only be granted if the DRB determines that the proposal meets the five criteria set forth in state law (24 V.S.A. §4469(a)).

The DRB's conclusions with respect to each criterion follow:

Criterion 1: *There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographic or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions and not the circumstances or conditions generally created by the provisions of these regulations in the neighborhood or district in which the property is located.*

This criterion is met because the house pre-dates zoning and it is a reasonable structure. (Vote: unanimous)

Criterion 2: *Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of these regulations, and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.*

This criterion is met because the structure pre-dates zoning and the location makes sense. (Vote: unanimous)

Criterion 3: *The unnecessary hardship has not been created by the appellant.*

This criterion is met because the homeowners did not create the hardship as the house was built prior to the implementation of zoning regulations. (Vote: unanimous)

Criterion 4: *The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.*

This criterion is met because the designed addition will not change the character of the house or neighborhood. (Vote: unanimous)

Criterion 5: *The variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from these regulations and from the plan.*

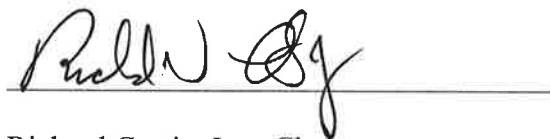
This criterion is met because the proposal will not decrease the existing setback and the variance is the least deviation possible from these regulations that will afford relief. (Vote: unanimous)

DECISION

By unanimous vote, the DRB approves a Section 7.6 setback variance to allow the construction of a 15' x 8' sun porch as presented in Zoning Application #16-027.

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 25th day of July, 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.

Permit # 16-027
Zoning District E
Overlays WR, FH

ZONING PERMIT APPLICATION
TOWN OF EAST MONTPELIER
PO Box 157, East Montpelier, VT 05651

Date Received: 6/8/16
Parcel # 03-059.000
Tax Map # 04-02-67.000

- A. 1. Name of Landowner: HEIDEMARIE HEISS + STEPHEN J. HOLMES Phone No. 223-1227
 2. Address of Landowner: 2888 COUNTY ROAD MONTPELIER, VT 05602
 3. Applicant (other than owner)..... Phone No.....
 4. Address of Applicant.....
 5. Location of Property: 2888 COUNTY ROAD EAST MONTPELIER, VERMONT

B: Application is made (check appropriate boxes):

- | | | |
|---|--|--|
| To: | For: | For: |
| <input checked="" type="checkbox"/> Construct | <input checked="" type="checkbox"/> 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 type="checkbox"/> Commercial / Business | <input type="checkbox"/> Ground water withdrawal |
| <input type="checkbox"/> Remove | <input type="checkbox"/> Light Industrial | <input type="checkbox"/> Landfilling |
| <input type="checkbox"/> Change use | <input type="checkbox"/> Industrial | <input type="checkbox"/> Other |

Describe work to be performed.....
ADDITION OF 8' X 15' SUN PORCH ON EXISTING TERRACE
s.jacksonholmes@gmail.com

- C. Lot description:
- | | |
|---|---|
| 1. acreage <u>4.8</u> | 4. depth side yards <u>61</u> Ft. <u>255</u> Ft.
(building to lot lines) |
| 2. road frontage <u>340</u> Ft. | |
| 3. depth front yard <u>72</u> Ft. <u>TO TERRACE</u>
(Road centerline to building) <u>391' TO HOUSE</u> | 5. depth rear yard <u>495</u> Ft.
(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 6/8/16
Applicant [Signature] Date

Zoning Permit Fee: \$ 185.00 Cash check # 8852 Date 6/8/16 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 # 16-027 Date Issued 07/25/16 Effective Date 08/09/16

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:

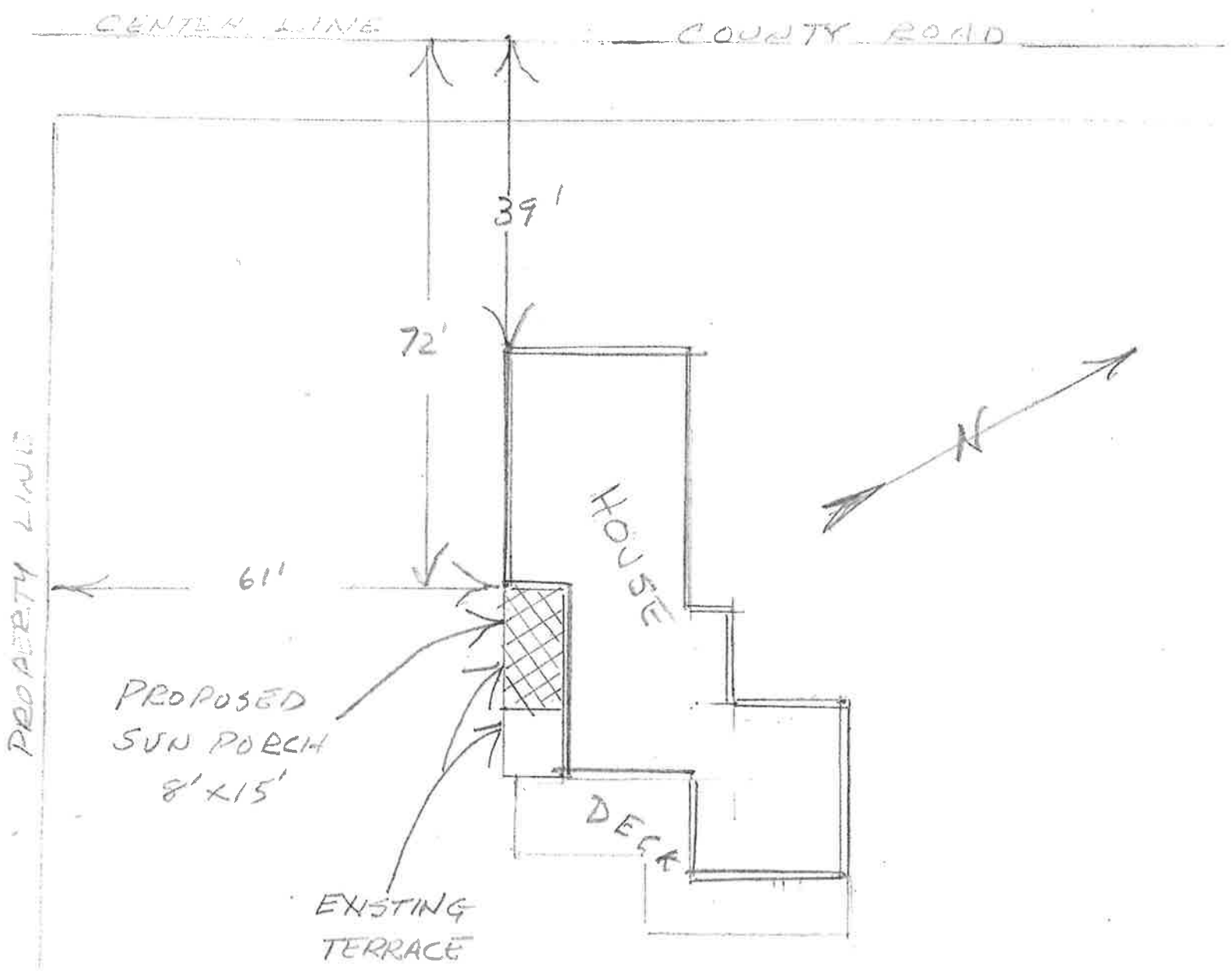
1. Public Notice Date 6-27-16
.....
2. Date(s) of Hearing 7.12-16
.....
3. Granted Without conditions With conditions (See written decision for conditions)
4. Denied (See written decision for reasoning)


.....
Chairman, Development Review Board

The DRB's written decision was issued on: July 25, 2016

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SITE LOCATION MAP DETAILS

PROPOSED SUN PORCH

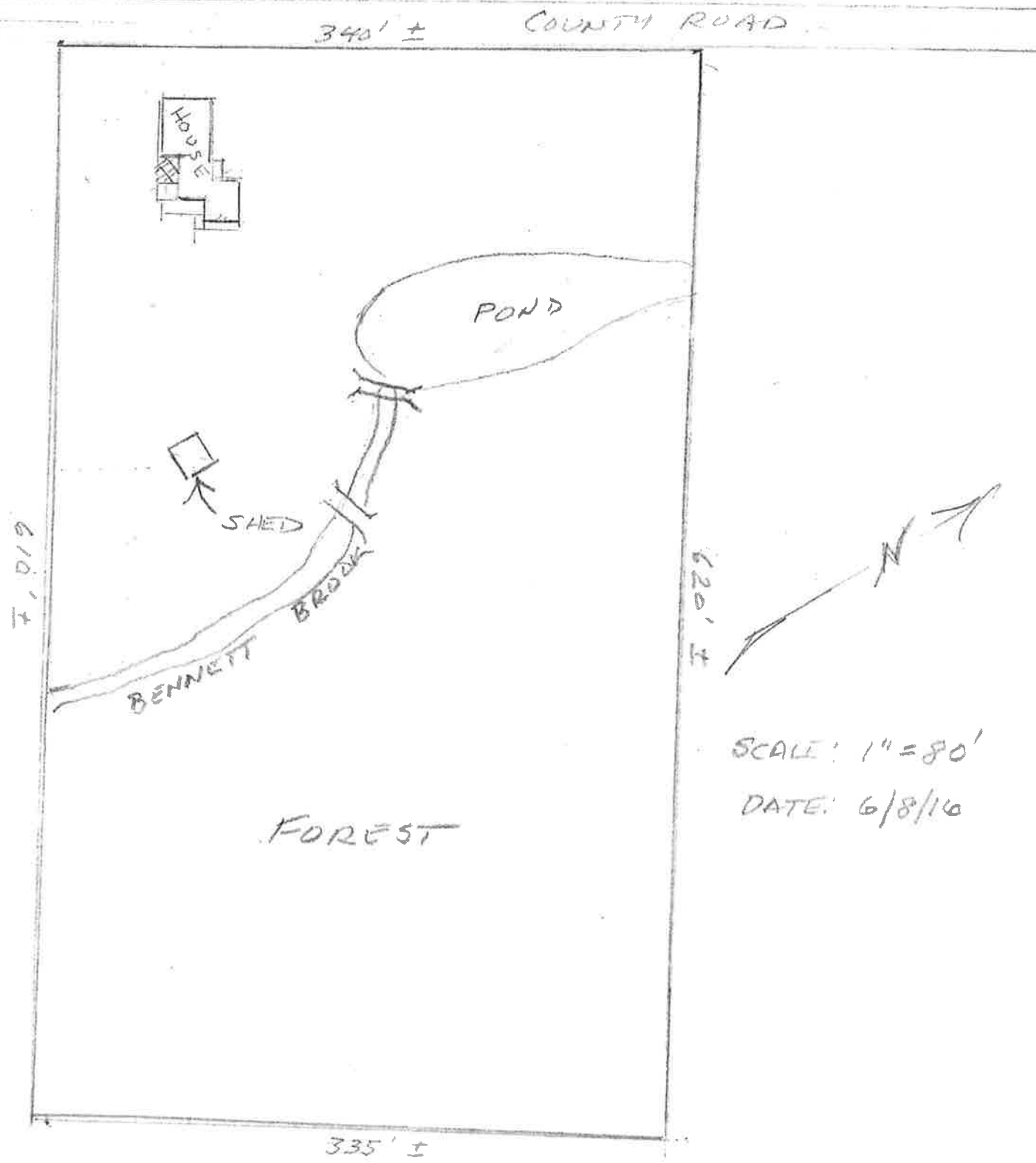
HEIDEMARIE HOLMES-HEISS + STEPHEN HOLMES

2888 COUNTY ROAD

EAST MONTPELIER, VERMONT

SCALE: 1" = 20'

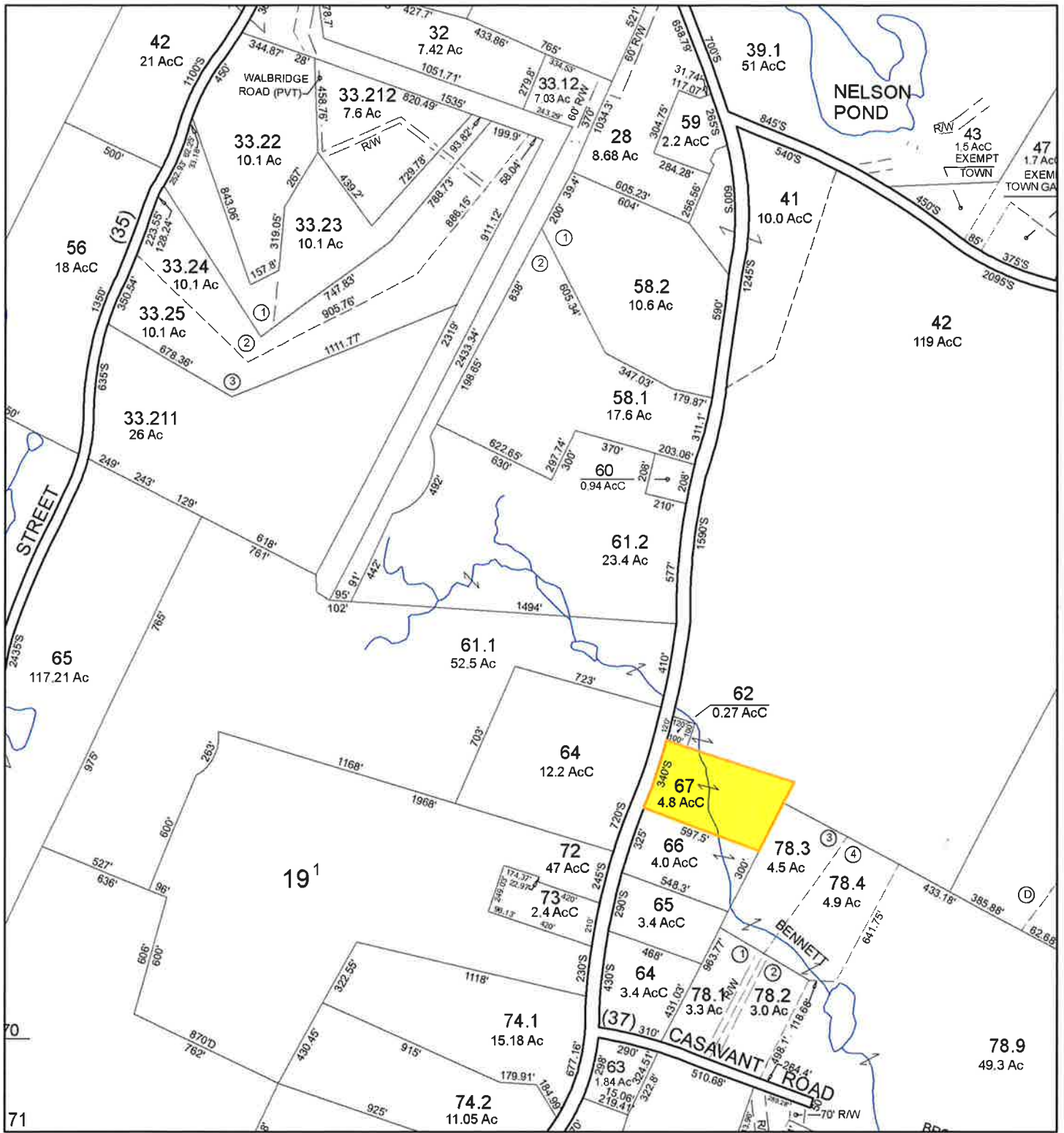
DATE: 6/8/16



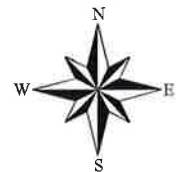
GENERAL SITE LOCATION MAP

PROPOSED SUN PORCH

HEIDEMARIE HOLMES-HETSS + STEPHEN HOLMES
2888 COUNTY ROAD
EAST MONTPELIER, VERMONT



**Holmes -- 2888 County Road
East Montpelier**



6/15/2016