

# **Application for Special Permit**

**Pursuant to Zoning Bylaw Section §125-3(A) & (D) 2b**

## **Zoning Board of Appeals**

**184 Ayer Road  
Harvard, MA 01434**

**Applicant:** CS Bailey Landscape, INC  
19 Whittermore Street  
Arlington, MA

**Record Owner:** Phoenix-Durango LLC  
345 Main Street  
Northborough, MA

**October 30<sup>th</sup>, 2023  
6932-C**

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Special Permit Application  
184 Ayer Road  
Harvard, MA

October 30<sup>th</sup>, 2023  
CS Bailey Landscape, INC

## **1.0 Zoning Board Application**

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### TOWN OF HARVARD ZONING BOARD OF APPEALS APPLICATION FOR A HEARING

Please review the Board of Appeals' Regulations, Chapter 135, The Code of the Town of Harvard, prior to filling out this Application for Hearing. This application, along with the appropriate documents and filing fee, must be filed in the office of the Town Clerk.

Name of Applicant: CS Bailey Landscape, INC

Mailing Address: 19 Whittemore St. Arlington

Telephone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Applicant is (check one): \_\_\_\_\_ Owner \_\_\_\_\_ Tenant \_\_\_\_\_ Licensee x \_\_\_\_\_ Prospective Buyer

Location of Property: 184 Aver Road Assessors Map 8 Parcel: 41

Registry of Deeds: Book Number 64869 Page Number 275 Certificate Number \_\_\_\_\_

Owner's Name: Phoenix-Durango LLC Tel. No.: \_\_\_\_\_  
(If different than Applicant)

Owner's Address: 345 Main Street, Northborough, Massachusetts 01532

Representative: Greg Roy (Dillis & Roy Civil Design Group, Inc.) Tel. No.: 978 779 6091

Application (which includes required plans and abutters list) is for:

- |                                                                               |                                 |
|-------------------------------------------------------------------------------|---------------------------------|
| <input type="checkbox"/> Variance (16 copies)                                 | Fee: \$150.00 + \$6.00/ abutter |
| <input checked="" type="checkbox"/> Special Permit (16 copies)                | Fee: \$200.00 + \$6.00/abutter  |
| <input type="checkbox"/> Modification/Extension (16 copies)                   | Fee: \$100.00 + \$6.00/abutter  |
| <input type="checkbox"/> Failure to Enforce Administrative Appeal (16 copies) | Fee: \$130.00                   |
| <input type="checkbox"/> Other Administrative Appeals (16 copies)             | Fee: \$175.00                   |
| <input type="checkbox"/> Comprehensive Permit (20 copies)                     | Fee: 500.00/unit                |

Specific Bylaw section (s) being applied for: Section 125-3(A) & (D)2b

Nature of Application and Justification of Request: The applicant proposes to convert the use of the property to a Landscaping Business. The existing residential use will remain. Refer to the project narrative for additional information.

The undersigned certifies that he/she has read and examined this application and the Harvard Zoning Board of Appeals Rules and Regulations, Chapter 135 of the Code of the Town of Harvard, and that the proposed project is accurately represented in the statements made in the application.

The applicant will be required to pay a local newspaper of general circulation for the current cost of advertising the hearing. The applicant will be billed directly from the newspaper for the cost of the advertised hearing or all advertising must be paid for in full prior to submittal to the newspaper.

I hereby request a hearing before the Board of Appeals with reference to the above application.

Emily Goswick 11/2/2023  
Property Owner's Signature (REQUIRED) Date

Chris Bailey 11/1/2023  
Applicant's Signature (if different from owner) Date



## **2.0 Project Narrative**

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### **Existing Conditions**

The subject property is located at 184 Ayer Road which is shown on assessors Map 8, as Parcel 41. The property is located on the eastern side of Ayer Road (Route 111), at the corner of Route 111 and the Route 2 west off ramp. The property has approximately 2.27 acres of land and contains an existing commercial building with an associated paved parking lot to the northeast of the building.

The existing building is a mixed-use commercial building, currently being used as an accountant's office and a multi-family residential building. The existing use of an accountant's office is classified as a "small-scale commercial" use per Section 125-12 of the Harvard Protective Zoning Bylaw.

### **Proposed Conditions**

As mentioned above, the existing use of the building is an accountant office and a residence. The proposed use of the building will be a landscaping business with a residence. The Landscaping Use is classified as a Medium-scale commercial use per section 125-13 (T) in the Zoning Bylaw.

The proposed modification in use of the building will not result in any alterations to the existing footprint of the building, which conforms to all zoning setback requirements under existing conditions. However, as the proposed use of the building is considered an intensification of use, from small-scale commercial to medium-scale commercial, a Special Permit is required under Section 125-3(D) 2.

### **Special Permit Criteria (Section 125-46 C(1))**

*Section 125-46 C(1) of the Protective Zoning Bylaw states that:*

*A special permit shall be authorized only subject to applicable provisions of Section 125-39, Site Standards, and any special requirements for the particular class of special permit and only if, in addition, the authorizing board finds that the granting of the permit:*

- a) Will not result in substantial increase of volume or rate of surface water runoff to neighboring properties and streets, and will not result in substantial danger of pollution or contamination of the groundwaters supply, a groundwater absorption area, a well, pond, stream, watercourse, W District, or inland wetland. Any and all surface water runoff resulting from development shall be retained within the lot in which it originates or shall be discharged into existing identifiable watercourses without material impact on abutting properties.*

**The proposed project includes the reduction in the amount of paved surface at the site. Additionally, a gravel pad area will be constructed in the rear of the site. A**

**stormwater management system is proposed to ensure that post-developed runoff rates will be reduced to at or below pre-developed levels. A stormwater report documenting compliance with the Massachusetts Stormwater Management Standards has been prepared.**

- b) *Will, if the use is not agricultural or residential, result in no substantial increase in traffic, compared to refusal of the permit, on any residential street where the premise have access*

**No alterations to the existing site access are proposed and a negligible increase in traffic is expected from the proposed use. The site has access on Route 111, which will absorb any minor increase in vehicle trip generation.**

- c) *Will be in harmony with the general purpose and intent of the Bylaw, including each purpose stated in 125-1 Purpose, which is pertinent to the particular application.*

**See responses to Section 125-1 below.**

*Protective Bylaw Section 125-1 (Purpose)*

*To promote the health, safety, convenience, morals, and welfare of its inhabitants, the Town adopts this Bylaw in accordance with the Constitution of the Commonwealth and Chapter 40A and other provisions of the General Laws. With due regard to the characteristics of the different parts of the Town, the Bylaw is designed among other purposes:*

- a) *To conserve health*

**The proposed commercial use of the property is allowed within the zoning district and will utilize the existing building on the property. No adverse effects on the health of the town are anticipated.**

- b) *To secure safety from fire, wind, flood, and traffic*

**The proposed project will use an existing commercial building and paved parking area along with a proposed gravel pad storage area. The increase in intensity of the commercial use is not expected to result in an increased risk of fire or wind. Any potential risks from flooding are mitigated through the proposed Stormwater Management System. Traffic impacts are not expected to be significant.**

- c) *To preserve and increase the value of land and buildings*

**The proposed project involves modifications to an existing building, including landscaping, parking lot striping, a gravel pad storage area, and a new commercial use of the building. It is anticipated that the project will have a positive effect on the value of the land and building was has been unused for a significant period of time.**



*d) To protect the community from the detrimental effects of unsuitable development*

**The proposed commercial uses of the property is an allowed use within the Commercial District.**

*e) To preserve and increase the amenities of the Town*

**The proposed project will involve the change of use to a Landscaping business increasing the amenities of the Town.**

*f) To prevent overcrowding of the land*

**The project re-use an existing commercial building and will maintain an open space buffer strip of 10% of the lot width around the entire site. Additionally, the required Green Space percentage on the lot will be exceeded after completion of the project.**

*g) To provide for compatibility with individual water supply and sewage disposal systems and their renewal, and with public systems which may become available.*

**The existing sewage disposal system and on site well will be utilized for the existing building.**

*h) To facilitate future reuse and redevelopment of property*

**The proposed project involves the reuse of an existing commercial building.**

*i) To provide for safe, rapid traffic flow to, from, and along the streets*

**The existing curb cut and site entrance will be used. No modifications are proposed to the site entrance.**

*j) To avoid confusing and distracting signs in areas along the streets*

**The project will replace the existing sign in the same footprint, with no increase in the square footage of the sign.**

*k) To avoid unsuitable traffic on residential streets*

**Ayer Road (Route 111) is a major street with capacity to handle the site traffic from the development.**

*l) To preserve the streets of the Town as firebreaks*

**No modifications to the street or existing site entrance are proposed.**

*m) To protect persons and property against the hazards of inundation and pollution*

**The project has been designed in accordance with the Massachusetts Stormwater Management Policy which acts to ensure that proposed projects will not contribute to offsite flooding or to generate pollution. The Stormwater Management Report includes a Long Term Pollution Prevention Plan as required by the Policy.**

- n) To prevent pollution or contamination of, to conservation, and to protect watercourses, and their adjoining lands, groundwater absorption areas, and the groundwater table on which the inhabitants depend for their water supply*

**The renovations to the existing building will have no impact on any watercourses or adjoining lands.**

- o) To preserve storage areas for seasonal or periodic high waters*

**The site does not contain any areas mapped as floodplain.**

- p) To protect ponds from accelerated and excessive plant growth and premature decay into swamps*

**No ponds exist on the property.**

- q) To conserve natural conditions and open spaces*

**The proposed project will maintain an open space buffer strip of 10% of the lot width around the entire site. The project will include invasive species removal and landscaping.**

- r) To separate and otherwise isolate potentially conflicting property uses.*

**The proposed uses of the building are allowed per Section 125-13 of the Zoning Bylaw.**

### **3.0 Abutters List**

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6932.C



TOWN OF HARVARD  
ASSESSORS OFFICE  
13 AYER ROAD  
HARVARD, MA 01451  
978-456-4100 X315

**REQUEST FOR CERTIFIED ABUTTERS LIST**

PROPERTY LOCATION: 184 Ayer Road  
MAP/BLOCK/LOT: 8-41  
PROPERTY OWNERS: CS Bailey Landscape  
REQUIRED FOOTAGE: 300

CONTACT INFORMATION

EMAIL ADDRESS: cpinault@dillisandroy.com

MAILING ADDRESS IF DIFFERENT FROM PROPERTY LOCATION:  
\_\_\_\_\_

**FEE: \$25.00**

To be paid with completed Abutters List request by Cash or Check  
payable to the Town of Harvard

**\*\*Please allow 10 working days for your request to be processed\*\***

If you have questions or concerns, please contact the Assessors office at

[assessingdept@havard-ma.gov](mailto:assessingdept@havard-ma.gov) or 978-456-4100x315

Emailed  
Package: 10-31-23

Originals:  
picked-up 10-31-23



Abutters List Report  
Town of Harvard, MA


Date: October 31, 2023

Parcel Number: 008-041-000

Property Address: 184 Ayer Rd

Abutters To: 300ft

The above Certified Abutters List is a true copy of the records in the Town of Harvard Assessor's office for the last known names and addresses of owners of land located within the above stated range of the subject property.

Signed: 

Date: 10/31/23

Carol Dearborn  
Assistant Assessor  
(978) 456-4100 x315

FINANCE DEPARTMENT - ACCOUNTANT, ASSESSORS, TREASURER/COLLECTOR  
13 Ayer Road, Harvard, Massachusetts 01451-1458  
[www.harvard-ma.gov](http://www.harvard-ma.gov)



# 184 AYER RD

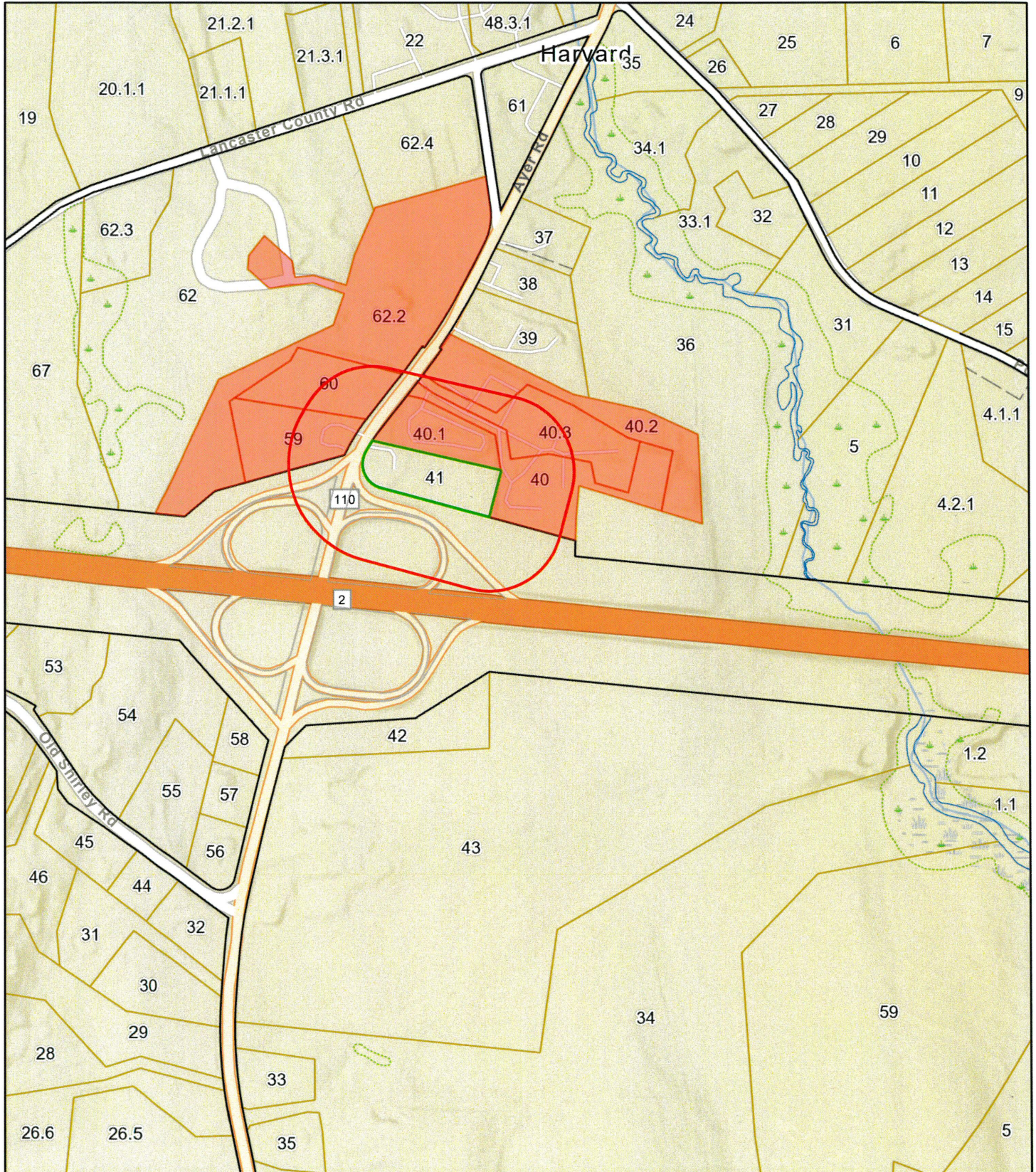
Town of Harvard, MA

1 inch = 556 Feet



www.cai-tech.com

October 31, 2023



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.



# 300 feet Abutters List Report

Harvard, MA  
October 31, 2023

## Subject Property:

Parcel Number: 008-041-000-000  
CAMA Number: 008-041-000-000  
Property Address: 184 AYER RD

Mailing Address: PHOENIX-DURANGO LLC  
345 MAIN ST  
NORTHBOROUGH, MA 01532

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## Abutters:

Parcel Number: 008-040-000-000  
CAMA Number: 008-040-000-000  
Property Address: 196 AYER RD

Mailing Address: BOWERS BROOK LLC  
P.O. BOX 10540  
BEDFORD, NH 03110

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Parcel Number: 008-040-001-000  
CAMA Number: 008-040-001-000  
Property Address: 188 AYER RD

Mailing Address: SAMANTHA'S REALTY LLC  
188 AYER RD  
HARVARD, MA 01451

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Parcel Number: 008-040-002-000  
CAMA Number: 008-040-002-000  
Property Address: 200 AYER RD

Mailing Address: HARVARD OFFICE PARK LLC  
200 AYER RD  
HARVARD, MA 01451

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Parcel Number: 008-040-003-000  
CAMA Number: 008-040-003-000  
Property Address: 198 AYER RD

Mailing Address: AYER ROAD REALTY LLC  
200 AYER RD  
HARVARD, MA 01451

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Parcel Number: 008-059-000-000  
CAMA Number: 008-059-000-000  
Property Address: 185 AYER RD

Mailing Address: 12 LANCASTER COUNTY ROAD LLC  
43 DELANEY ST  
STOW, MA 01775

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Parcel Number: 008-060-000-000  
CAMA Number: 008-060-000-000  
Property Address: 187 AYER RD

Mailing Address: 12 LANCASTER COUNTY ROAD LLC  
43 DELANEY ST  
STOW, MA 01775

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Parcel Number: 008-062-002-000  
CAMA Number: 008-062-002-000  
Property Address: AYER RD

Mailing Address: WHEELER REALTY TR  
200 AYER RD  
HARVARD, MA 01451

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10/31/2023

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12 LANCASTER COUNTY ROAD  
43 DELANEY ST  
STOW, MA 01775

AYER ROAD REALTY LLC  
200 AYER RD  
HARVARD, MA 01451

BOWERS BROOK LLC  
P.O. BOX 10540  
BEDFORD, NH 03110

HARVARD OFFICE PARK LLC  
200 AYER RD  
HARVARD, MA 01451

SAMANTHA'S REALTY LLC  
188 AYER RD  
HARVARD, MA 01451

WHEELER REALTY TR  
200 AYER RD  
HARVARD, MA 01451



Special Permit Application  
184 Ayer Road  
Harvard, MA

October 30<sup>th</sup>, 2023  
CS Bailey Landscape, INC

#### **4.0 Record Deed/ Assessors Data**

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2021 00047199

Bk: 64869 Pg: 275

Page: 1 of 3 04/06/2021 01:50 PM WC

MASSACHUSETTS EXCISE TAX  
 Worcester District ROD #20 001  
 Date: 04/06/2021 01:50 PM  
 Ctrl# 221708 18818 Doc# 00047199  
 Fee: \$2,964.00 Cons: \$650,000.00

**Metropolitan Title Co., LLC**  
**Worcester, MA**  
**mettitleco@gmail.com**

## QUITCLAIM DEED

12 Lancaster County Road, LLC, a Massachusetts limited liability company with a place of business at 43 Delaney Road, Stow, Massachusetts 01775

for consideration paid and in full consideration of Six Hundred Fifty Thousand and 00/100 (\$650,000.00) Dollars,

grants to Phoenix-Durango LLC, a Massachusetts limited liability company with a principal address at 345 Main Street, Northborough, Massachusetts 01532

with *Quitclaim Covenants*,

the land in Harvard, Massachusetts, with the buildings thereon, situated on the northerly side of Route 110, bounded and described as follows:

Beginning at a point in the easterly side of Route 110, the northwesterly corner of the lot, at corner of land of Thomas J. Diab et ux;

Thence S 78° 48' 30" E by said Diab land and by a wall five hundred thirty-four and 03/100 (534.03) feet to a drill hole in the wall at land of Reggio;

Thence S 12° 10' 30" W by wall and by land of said Reggio two hundred five and 30/100 (205.30) feet to a drill hole in the end of the wall at the northerly side of Route 2;

Thence N 74° 22' 34" W by the northerly side of said Route 2 four hundred sixty-four and 62/100 (464.62) feet to a line bound;

Thence northwesterly and northerly on a curve to the right having a radius of the ninety-four and 24/100 (94.24) feet, a distance of one hundred sixty-six and 13/100 (166.13) feet to a line bound in the easterly side of Route 110;

Thence northwesterly on a curve to the right having a radius of six hundred eighty-one and 52/100 (681.52) feet, a distance of fifty-two and 68/100 (52.68) feet to the point of beginning.

Containing 2.27 acres, more or less.

Being the parcel of land shown on plan S. 720 by Charles A. Perkins Co., Civil Engineers, Clinton, Mass., entitled "Land in Harvard, Mass., surveyed for Thomas J. Diab, September 1956" said plan being recorded with the Worcester District Registry of Deeds, Plan Book 219, Plan 95.

Said premises are conveyed subject to restrictions and easements of record, if any there be, insofar as the same are now in force and applicable; and to the zoning laws and building laws of the Town of Harvard.

184 Ayer Road, Harvard, MA

For title to Grantor, see deed dated December 30, 2013, recorded with said Deeds in Book 51910, Page 171.

12 Lancaster County Road, LLC is not taxed as a corporation in the current taxable year for federal income tax purposes.

(Signature Page to follow)

IN WITNESS WHEREOF, the said 12 LANCASTER ROAD, LLC, has caused its corporate seal to be affixed hereto and these presents to be signed, acknowledged and delivered in its name and behalf by Thampy Kurian, its Manager, hereto duly authorized this 6th day of April, 2021.

12 LANCASTER ROAD, LLC

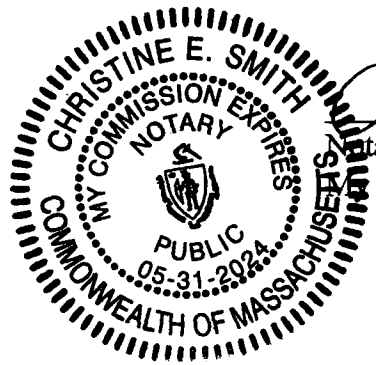
By: *Thampy Kurian*  
Thampy Kurian, Manager

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

April 6, 2021

Then personally appeared before me, the undersigned notary public, personally appeared Thampy Kurian, proved to me through satisfactory evidence of identification, which was personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, for its stated purpose, as Manager of 12 LANCASTER ROAD, LLC as aforesaid



*Christine E. Smith*  
Notary Public  
Commission Expires: 05-31-2024







**CONSTRUCTION DETAIL**

Element	Cd	Description	Element	Cd	Description
Style:	80	Multi Res/Com			
Model	94	Commercial			
Grade	04	Averaget			
Stories:	2				
Occupancy	3.00				
Exterior Wall 1	25	Vinyl Siding			
Exterior Wall 2	03	Gable/Hip			
Roof Structure	03	Asph/F Gls/Cmp			
Roof Cover	05	Drywall			
Interior Wall 1	09	Pine/Soft Wood			
Interior Wall 2	14	Carpet			
Interior Floor 1	07	Propane			
Interior Floor 2	05	Hot Water			
Heating Fuel	01	None			
Heating Type	3400	OFFICE BLD			
AC Type	6				
Bldg Use	2				
Total Rooms	2.5				
Total Bedrms	02				
Total Baths	02				
Heat/AC	03	HEAT/AC SPLIT			
Frame Type	02	Wood Frame			
Baths/Plumbing	03	Average			
Ceiling/Wall	03	Plaster			
Rooms/Prtns	03	Average			
Wall Height	8.00				
% Comm Wall					
1st Floor Use:					

OB - OUTBUILDING & YARD ITEMS(L) / XF - BUILDING EXTRA FEATURES(B)										
Code	Description	HLB	Units	Unit Price	Yr/Blt	Cond.	Cd	% Good	Grade	Appr. Value

BUILDING SUB-AREA SUMMARY SECTION						
Code	Description	Living Area	Floor Area	Eff Area	Unit Cost	Undeprac Value
BAS	First Floor	2,594	2,594	864	97.86	253,838
FUS	Upper Story, Finished	864	864	28	97.86	84,548
WDK	Deck, Wood	0	0	4	13.98	391
	Ttl Gross Liv / Lease Area	3,458	3,486	3,462		338,777

