

1 **Village of North Bennington**
2 **Development Review Board Meeting**
3 **Tuesday, July 18, 2023**
4 **North Bennington Train Station**
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8 **DRB Members Present:** Tara Lowary, (DRB Chair), Kim Hall (DRB Vice-Chair), Hugh
9 Crowl and James Williams
10

11 **Acting Zoning Administrator Present:** Chris Damon

12 **Current Zoning Administrator Absent:** Scott Creedy
13

14 **Others Present:** Matthew Perry, (Applicant for 48 Main Street-The Vermont Arts
15 Exchange), Nick Disorda (prospective DRB Member) and Mary Rogers (North
16 Bennington Planning Commission)
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18

19 **Recorder:** Heather N. Bullock
20

21 *** Denotes out of order agenda items**
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23

24 **1) Call Meeting to Order.**
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27 ***Ms. Lowary called the meeting to order at 7:01 PM.***
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31 **2) Query for public comment, revise agenda if needed.**
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34 Mr. Damon stepped in to explain that he was there as acting Zoning Administrator and
35 would become the Zoning Administrator pending DRB Board approval. He further
36 stated that he had stepped down from his position as DRB Chair to fill the Zoning
37 Administrator position.
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39 ***Mr. Hall nominated Tara Lowary for the new DRB chair.***
40 ***(Crowl/Williams/Unanimous) No further discussion.***

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Ms. Lowary asked if there were any nominations for DRB Vice-Chair.

**Mr. Crowl nominated Kim Hall for the position of DRB Vice-Chair.
(Crowl/Williams/Unanimous) No further discussion.**

Ms. Lowary explained that Chris Damon had been appointed as the new Zoning Administrator at the Village of North Bennington’s Trustees meeting.

3) Review and approve previous minutes from the June 20, 2023 meeting.

**Mr. Hall made a motion to approve the DRB Meeting Minutes from June 20, 2023.
(Hall/Williams/ Unanimous). No further discussion.**

**4) 48 Main Street - Applicant seeks variance approval to construct a Shed on an existing pad. The property is Zoned Village Commercial (VC).
This review is subject to those provisions in Sections 13.8 Variances of the Village’s Zoning Bylaws.**

Ms. Lowary read the above agenda item and asked the applicant to explain the project. Mr. Perry first queried as to whether a permit was needed for a pre-made shed to which members of the DRB replied that it would.

Mr. Perry referred to his supporting documentation and advised that he was seeking a variance to build a shed with an overhang to be utilized by the Vermont Arts Exchange for summer camps and various VAE activities. He explained that the proposed structure would be 12’ X 16’ with an extended 12’ X 12’ roof to the side of the structure for outdoor activities.

Mr Perry further described the proposed site as having an existing cement slab/foundation that the former Simmon’s Blacksmith shop once sat upon. He stated that the slab was approximately five feet from the property line and that it was his understanding that the bylaws required a 20 foot setback from the back of the property.

1 Mr. Perry stated that he would love to be able to get a variance for a five foot setback
2 but that he would be happy with a variance for ten feet from the property line. He
3 explained that the position of the shed would be where the summer camp tent is set up.
4 He went on to explain that the roof overhang would allow for more outdoor activities.
5 He added that although they initially considered a pre-made shed, all of the lumber to
6 build the shed on site had been donated. He described the proposed shed as having
7 small windows and solid doors. A standing seam roof with "sky-light" illumination from
8 the top.

9

10 Mr. Perry stated that he contacted and met the neighbor whose property abuts the
11 proposed project and explained his intentions. The neighbor asked if the building would
12 impact his property to which Mr, Perry advised that it would not as it is heavily wooded
13 behind the proposed location.

14

15 Mr. Hall asked if there was currently a fence between the two properties. Mr. Perry
16 stated that there is not at the location of the proposed building but that further along
17 bordering the Donnelly residence there is a falling down fence. He added that there are
18 three inch pipes along the property line.

19

20 Mr. Hall asked if it was the intention of the Vermont Arts Exchange to erect a fence to
21 which Mr. Perry replied that there is not. He added that there are around 20 feet of
22 dense woods. He referred to his project map and pointed out a location where there is
23 an existing iron rod.

24

25 A discussion ensued amongst Mr. Perry, the ZA and numerous DRB members as they
26 studied the details of the map.

27

28 Mr. Crowl asked if there were any permanent structures behind the house of the
29 neighbor to which Mr. Perry replied that there were not.

30

31 Mr. Crowl queried about the dimensions of the existing concrete pad and asked if the
32 proposed structure would be centered on the existing pad. He referred to the project
33 information map provided and stated that it appeared there would be an extra 2-3 feet
34 extra pad space in all directions if the building was 20 feet centered. He explained that
35 it would put the structure nine feet from the border if centered on the existing pad.

36

37 Mr. Perry stated that in his experience most homeowners use the very back of their
38 property to place leaves and yard debris and that he was unsure why a 20 foot setback
39 was warranted.

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1 Ms. Lowary stated that historically there has been a concern about buildings along the
2 back sections of properties being too close together and thus creating a possible fire
3 hazard.

4
5 Ms. Lowary queried if the DRB needed to consider the historical district as well as the
6 commercial district in making a decision. Mr. Damon stated that yes it is within the
7 historic district but that the building is not on the historic register nor is it a historic
8 building.

9
10 Mr. Hall confirmed that the property is in an overlay district, both historic and
11 commercial according to the current Village Bylaws. Ms. Lowary stated that the ZA did
12 not label the project as being in an overlay district and asked if the applicant would be
13 required to comply with both districts.

14
15 Mr. Hall read aloud Appendix A 9.4.2 of the North Bennington Village Bylaws regarding
16 Historic District Design Standards and subsequent general requirements including
17 height and roof design. (Appendix A 9.4.3) Mr. Hall asked what colour was being
18 proposed to which Mr. Perry replied that it was not definitely decided. He advised that
19 there would most likely be some clear and that the roof would possibly be corrugated
20 steel. He further added that he could oblige the DRB to fit with historic district
21 standards. He added that the property is owned by The Sage City Syndicate who have,
22 in the past, chosen red and green for other village properties. Mr. Hall continued to
23 read design standards from the Village Bylaws. Ms. Lowary upon reviewing the
24 standards stated that the proposal appeared to be in compliance with existing bylaws.

25
26 Mr. Damon added that Section 9.5 within the Village Bylaws state that a building is
27 required to be 250 square feet in order to be considered a historical building and that
28 the proposed project is only 192 square feet.

29
30 Mr. Hall added that colour and materials would still matter within the historic district
31 regardless of size.

32
33 Ms. Lowary referred to Section 13.8 (Variances) of the Village Bylaws and stated that in
34 regards to the historical district requirements, the proposal is in compliance. She further
35 stated that there is already a concrete slab on site which makes the proposal
36 appropriate.

37
38 Mr. Crowl agreed and stated that in consideration of the current driveway and its impact
39 if the building were to have to be built out further, he agreed the proposed location was
40 appropriate.

1
2 Mr. Williams asked if the current driveway is an existing drive to which Mr. Perry replied
3 that it was. Ms. Lowary stated that in her continued reading of the bylaws that
4 everything is covered, especially since the driveway was considered.

5
6 Mr. Williams referred to the map and asked if there was any other place on the property
7 that could be considered for the project to which Mr. Perry replied that there was not.

8
9 Mr. Hall stated that he felt everyone could see the benefit of placing the shed on the
10 existing pad. Mr. Perry agreed and stated that it seemed like the most natural and
11 safest place as it preserves the current driveway loop for pick up and drop off.

12
13 Ms. Lowary asked for clarification of the distance between the island in the driveway
14 loop and the concrete pad where the shed will be located. Mr. Perry advised that it is
15 15 feet. Ms. Lowary also added that by granting this variance that it would not alter the
16 character of the neighborhood.

17
18 Mr. Crowl queried the scenario of a neighboring property wanting to also get a variance
19 within five feet of the property line and whether or not the two buildings so close
20 together would create an issue. He pondered if it might be showing favouritism of one
21 applicant over another.

22
23 Ms. Lowary asked for confirmation that the area beyond the VAE's property line is a
24 mature forest to which Mr. Perry replied that it was. He further added that they were
25 building the structure so that it could be moved in the future should the VAE relocate or
26 if there was a reason that it needed to be moved.

27
28 Ms. Lowary stated that she thought given the dense wooded area that the neighbors
29 would be okay with it. Mr. Hall added that the neighbors had been notified of the
30 hearing and had a right to be in attendance.

31
32 Mr. Crowl stated that the DRB should specify whether the structure should be centered
33 on the pad or a specified distance from the property line.

34
35 Mr. Perry stated that ten feet from the line would be good.
36 Mr. Crowl stated that if nine feet would center the structure on that pad, that he felt it
37 should be good. Mr. Hall stated that he believes that the DRB approved a ten foot
38 variance for David Post on Bank Street previously.

39

1 Mr. Hall stated that he would like a condition added in that the exterior materials follow
2 the historic district standards as listed in 9.4.8 of the Village Bylaws.

3

4 Ms. Lowary asked if there were any further questions or discussion.

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6 Mr. Disorda referred to a map on his phone that showed that the online site showed
7 more footage favouring greater compliance.

8

9 Mr. Lowary suggested the DRB enter into a deliberative session to further discuss the
10 application.

11

12 Mr. Perry thanked the DRB for their time and for their ongoing dedication to preserving
13 the historic integrity of the village.

14

15 Ms. Lowary stated that she would entertain a motion to enter into the deliberative
16 session.

17

18 ***Mr. Hall made a motion to enter into a deliberative session at 7:39PM.***

19 ***(Hall/Crowl/Unanimous). No further discussion.***

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23 **For the resolution of this application, see the Finding of Fact and Decision**
24 **Document published separately,**

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13.8 Variances

- a. The Development Review Board shall hear and decide upon requests for variances. The Board may grant a variance, and render a decision in favor of the appellant, only if *all* of the following facts are found, and the findings are specified in its written decision:
 - i. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
 - ii. That because of such physical circumstances and conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is necessary to enable the reasonable use of the property;
 - iii. That the unnecessary hardship has not been created by the appellant;
 - iv. That 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, nor be detrimental to the public welfare; and
 - v. That the variance, if authorized, will represent the minimum that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.
- b. On an appeal for a variance from the provisions of these regulations that is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant such variance only if it finds that all of the facts listed in 24 V.S.A. Section 4469(b) are found in the affirmative and specified in its decision.

APPLICATION FOR ZONING PERMIT
Village of North Bennington

Mail to: Doug Buggee, Treasurer
Village of North Bennington
PO Box 323
North Bennington, Vermont 05257-0323

Contact for Information: Mr. Ron Hachey, ZA
Village of North Bennington
PO Box 323
North Bennington, Vermont 05257-0423
802-430-3168

1. Location of Property 48 MAIN ST. NO. BENNINGTON
2. Owner of Property SAGE CITY SYNDICATE 802 379-0691 (JASON)
3. Mailing Address P.O. B. 848 NO. BENN. VT 05257 E-Mail JDOLMETSCH@MSKENG.CON
4. Applicant MATTHEW PERRY - VAE Ph.# 802 379-3763
5. Mailing Address P.O. Box 725 No. BENN. E-Mail matthewvae@comcast.net
6. Proposed Project Description

Circle One: Residential Commercial Industrial Conservation Sign Use

Detailed Description (attach plot plan showing property lines, existing and proposed building locations and dimensions, distances between structures and property lines, adjacent property owners and building locations, driveways, sidewalks, parking street frontage, curb cuts, landscape features and utilities) SEE ATTACHED LETTER FOR VARIANCE.

PERMIT TO ERECT A SHED 12 X 16 plus extended 12 ft. roof overhang.

7. Estimated Cost of Project \$ 1000. Estimated Completion Date July 10, 2023

8. Additional State permits, project review & licenses required/applied for n/a

9. Lot size (acres) 0.5549 10. Street frontage (ft.) 98'

11. Size of proposed structure or addition (sq.ft.) 12' x 16'

12. Setbacks of structure or addition from lot lines (ft.): 190' (front)
53' (back) 79' (side) 79' (side)

13. Public water to be utilized (Y/N) (contact water dept. @ 442-3883)
14. Public sewer to be utilized (Y/N) (contact Bennington Town Office @ 442-1037)

Warning: State Permits may be required for this project. Call 802-786-5907 to speak to the state Permit Specialist before beginning any construction.

The undersigned hereby request a Building and Zoning Permit, to be issued on the basis of the representations contained herein. I solemnly swear or affirm under penalty of perjury that the statements contained in this application are true and correct to the best of my knowledge and belief. I understand that I must secure a certificate of occupancy/compliance before using or occupying this structure. Permit void in the event of misrepresentation or failure to complete activities authorized by its issuance within one year of its date of issue.

Signature of Owner

Date 06/26/2023

Signature of Applicant Matthew Perry

Date 5.30.23

Mon. May 15th

Dear Zoning and any others,

I am a long-term tenant at 48 Main St. and executive director and co-founder of the Vermont Arts Exchange (VAE). Next year, we will have been in the Village for 30 years running this non profit community arts organization. Sage City Syndicate is our landlord.

We are currently making this community space fully accessible inside the building (bathroom) and outside (with entrance and parking lot). This is due in thanks to Village of North Bennington ARPA funds. We are all investing in this property; VAE, the Village and landlord, Sage City Syndicate.

We are in need of a small shed and were going to go buy one. A local wood miller stepped up and has donated to VAE any lumber needed to build. We feel it will look nicer as well as affordable. It is 12' X 16' with an extended 12' X 12' roof to the side for our outdoor activities.

Currently, there is an existing cement slab (foundation) that the Simmon's blacksmith shop use to sit on. This cement slab is about 4 ft. from the rear property line which is a thickly, wooded area.

In siting the shed, we have an issue with the setback distance at rear of property. According to the rules, there is a 20 ft setback from rear property line. (There is no issue with side setback lines).

We'd like a variance to have the setback adjusted to 10ft.

Our reasons follow:

#1. To start the shed at 20 ft. would put the 12ft. width of the shed into the parking lot, meaning you'd step out of the shed and into the lot. This is a big safety issue. The majority of use will be with our art camp children and although our circular driveway works well, we have drop off and pick up times, plus classes and workshops so at times we are very active with traffic and bodies all sharing the same space.

#2. To start the shed at 20ft will take the shed off the existing cement slab and into the dirt. It really makes sense to have the whole shed sit on the existing, strong, durable surface as the shop did all those years.

#3. To start the shed at 20ft, it will affect the physical character of this site with current brick building. By granting a variance for a 10ft setback, the shed will fit in with the new handicap access entrance to the building and look like it actually belongs there rather than looking like it was just built there to be moved somewhere else later. The existing brick building was built years ago about 5 ft from the rear property line. At 10 ft, the shed will naturally fit in architecturally speaking.

#4. This shed is movable and designed to be taken away if VAE ever leaves.

Enclosed is a drawing I have done of the proposed shed as it sits on the existing slab. Our main building is to the right. It also shows side & front setback dimensions.

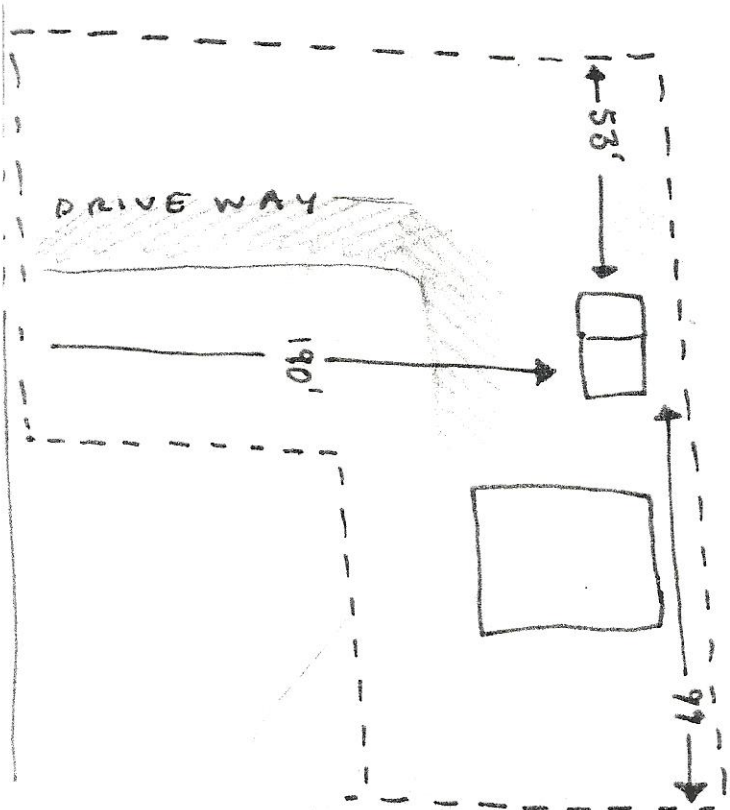
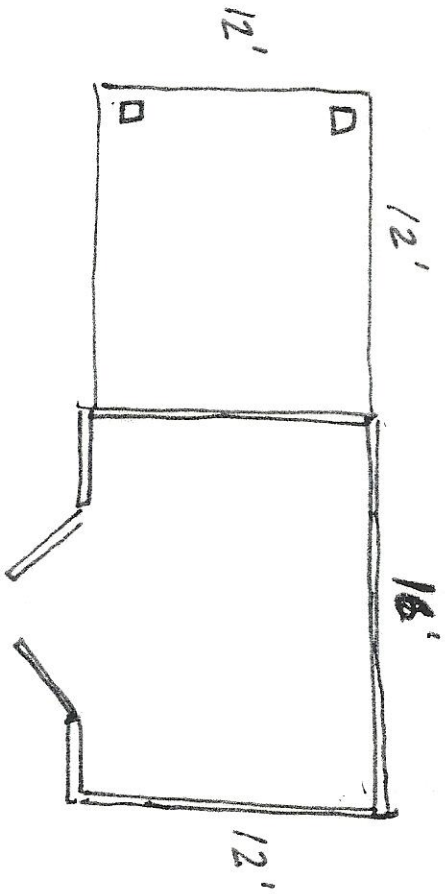
Also enclosed is an old plot plan I found and I penciled in the rear setbacks and show the shed in green at a 10ft setback. In red it is the 20 ft. setback and you can see how it extends into parking lot.

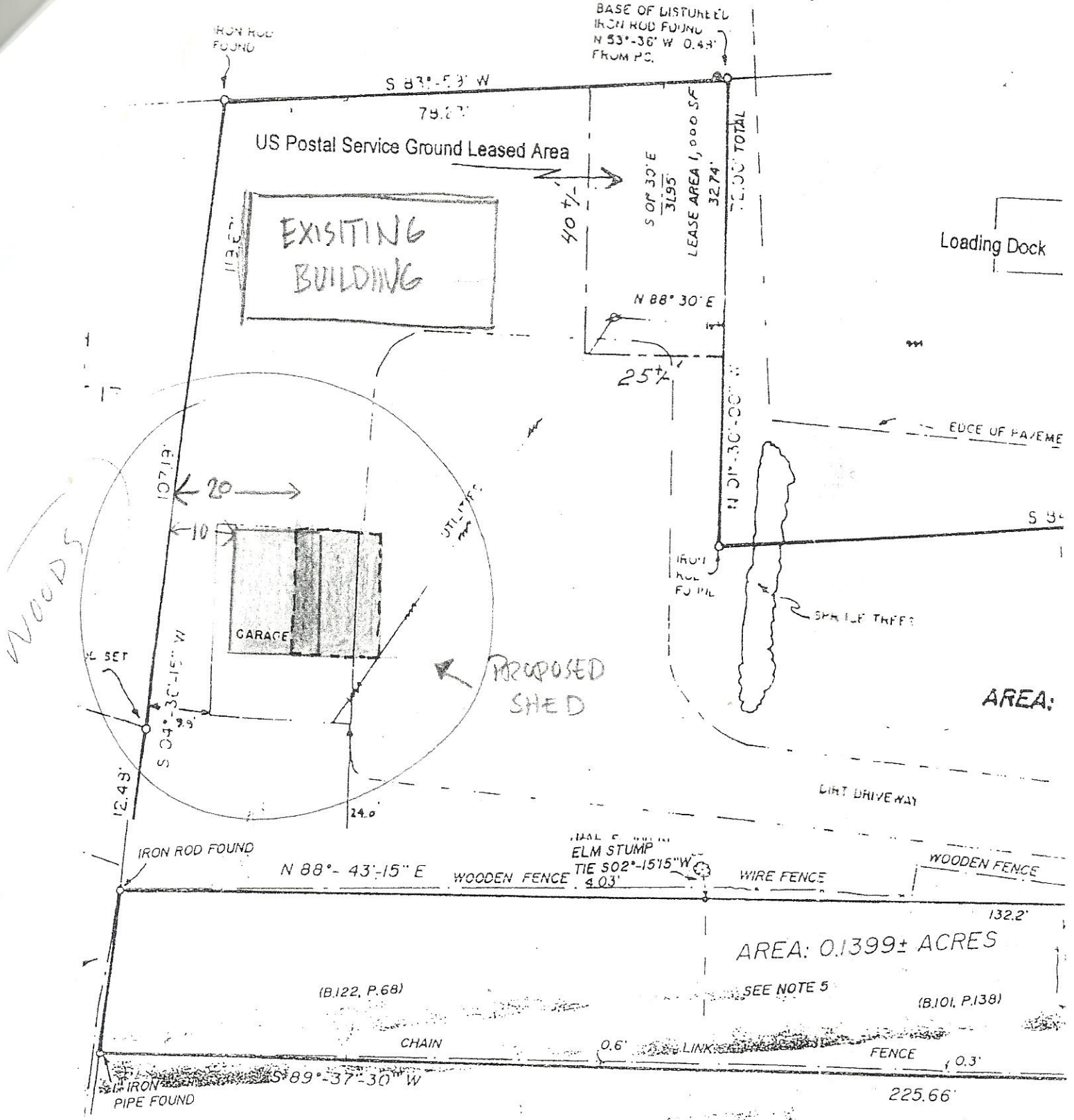
I'd be happy to meet on site with anyone.

Thank you, Matthew Perry

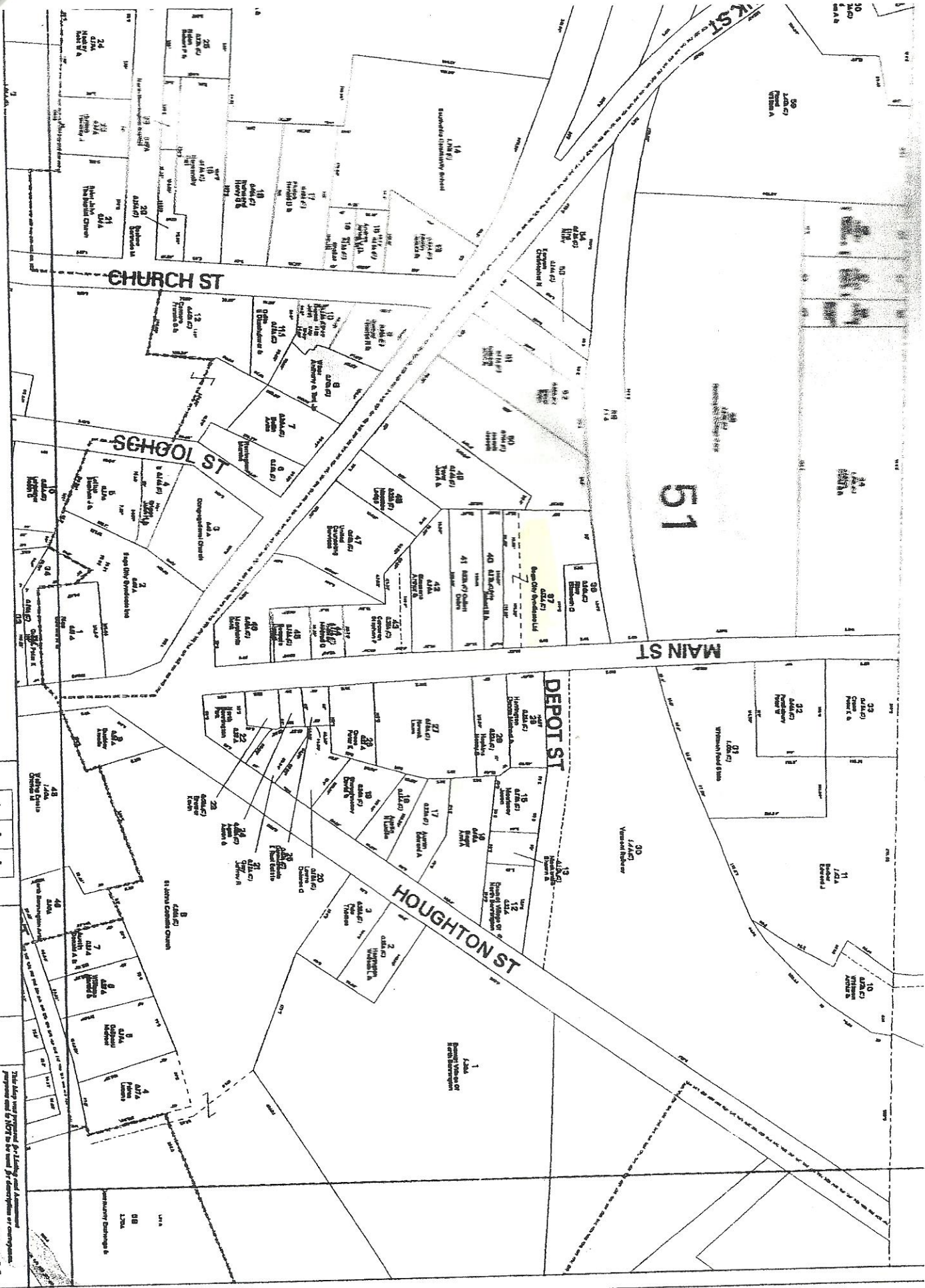
Executive Director, Co-Founder Vermont Arts Exchange

EXISTING
CEMENT
PAD





N/F WEBER TM 13-51-40
 B.267, P.21



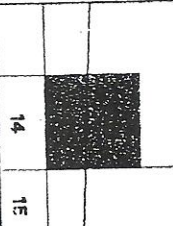
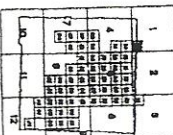
51



SCALE 1:1250



INFORMATION & VISUALIZATION SERVICES



Bennington, VT
 Orthophoto No. 088048
 Map 13
 First Produced on August 12, 2008

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