

TOWN OF GRAY
ZONING BOARD OF APPEALS
AGENDA • FEBRUARY 28, 2024

**Zoning Board of
Appeals Regular
Meeting**



7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL

- a. Zoning Board of Appeals - Regular Meeting - 1/31/24 7:00 PM

III. NEW BUSINESS: PUBLIC HEARINGS

a.

Robert and Joanna Ritchie are requesting a reconsideration of the Notice of Decision dated December 27, 2023 regarding the reduction of a 50-foot required front setback down to 33-feet in order to install a 50-foot right of way accessing the rear of their parcel for the purpose of building up to one additional housing unit located on their property at 134 Long Hill Road, Gray Tax Map 064-042-004-000, in a Rural Residential & Agricultural Zoning District.

b.

Mark and Mary Bourgeois are requesting a variance appeal to increase 20' of allowed structure height to 28' located at 32 North Raymond Road, Gray Maine Tax Map 013, 107-019-000, located in a Limited Residential and Shoreland Zone.

IV. ADJOURNMENT

** The Town of Gray is an equal opportunity employer and complies with all applicable equal access to public accommodations law. If you are planning to attend a Town Council or Town committee or board meeting and need assistance with a physical disability, please contact the Town Manager's office at least 48 hours in advance of the meeting to have the Town assist you. 657-3339. TTY 657-3931.*

TOWN OF GRAY
ZONING BOARD OF APPEALS
AGENDA • JANUARY 31, 2024

**Zoning Board of
Appeals Regular
Meeting**

Henry Pennell Municipal Complex
24 Main Street
Gray, Maine

7:00 PM

I. MEETING COMMENCES

Roll Call

II. MINUTES APPROVAL:

- a. Zoning Board of Appeals - Regular Meeting - December 27, 2023, 7:00 PM

III. CONTINUED BUSINESS: PUBLIC HEARINGS

- a. SRB PROPERTY HOLDINGS LLC is requesting a Practical Difficulty Variance from the standards established in the zoning ordinance to reduce a 50-foot required front setback down to 15-feet, to reduce a required 50-foot rear setback down to 15-feet, to reduce a required 25-foot side setback down to 15- feet, and to reduce a required 10-foot side setback for a driveway down to 5-feet located on their property at North Raymond Road, Gray Tax Map 013-101-007-000, in a Rural Residential & Agricultural Zoning District.

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VARIANCE APPLICATION - PRACTICAL DIFFICULTY
 ZONING BOARD OF APPEALS
 TOWN OF GRAY MAINE

For Office Use Only
 Date Submitted: 11-27-23
 Tent. Sched. for: 12-27-23
 Amount Paid: 500

PROPERTY INFORMATION

Property Location/Address	<u>134 Long Hill Rd.</u>	Property Map/Lot	<u>64-42-004</u>
Zoning District		Lot Acreage	<u>93</u>
Owner Name	<u>Robert + Joanne Ritchie</u>	Owner Phone Number	<u>207-415-4718</u>
Number of Dwelling Units	<u>1</u>		

APPLICANT

Name (IF different than owner)		Email Address	<u>everlasthandscape@yahoo.com</u>
Mailing Address	<u>134 Long Hill Rd.</u>	Contact Phone Number	<u>207-415-4718</u>
Mailing City/State/Zip	<u>Gray, ME 04039</u>	Alternate Phone Number	

VARIANCE INFORMATION

Per Gray Zoning Ordinance 402.9.2.B.3:

Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)

Built my house to close to the property line to allow a 50' setback with allowing for a 50' ROW to allow me to build another house.

	Current Requirement	Currently Existing	Proposed <u>Cont. →</u>
Front Setback	<u>50'</u>	<u>83'</u>	<u>33'</u>
Rear Setback	<u>50'</u>		
Side Setback	<u>25'</u>		
Other Setback (describe)			
Max. Lot Coverage			
Min. Lot Area			
Min. Street Frontage			
Other (describe)			

CRITERIA- BRIEFLY DESCRIBE HOW YOUR REQUEST MEETS EACH OF THE FOLLOWING:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

Per Gray Zoning Ordinance 402.9.2.B.4:

Variance Review Criteria: In hearing variance appeals under this section, the Board of Appeals shall determine that the applicant has demonstrated that all of the undue hardship or practical difficulty criteria in sub-Sections 2 and 3 above have been met. Additionally, the Board shall consider the following criteria in its decision to grant any variances or impose conditions:

- a. What effect will the proposed variance have on the prevailing character of the area?
- b. Does the proposed variance require special screening or fencing to separate or protect the property of abutting owners?
- c. Will the proposed variance create drainage, erosion or flooding problems?
- d. Will the proposed variance increase water pollution?
- e. Will the proposed variance generate vehicular traffic, access circulation or parking conditions which create hazardous situations?
- f. Will granting of the variance violate any of the performance standards of this Ordinance apart from the specific relief authorized by this Section?
- g. Will the proposed variance create to any degree nuisances to abutting property owners?
- h. Is the variance request the least modification of the Zoning Regulations necessary to afford relief?
- i. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

Applicant Signature



Printed Name

Robert M. Ritchie

Date

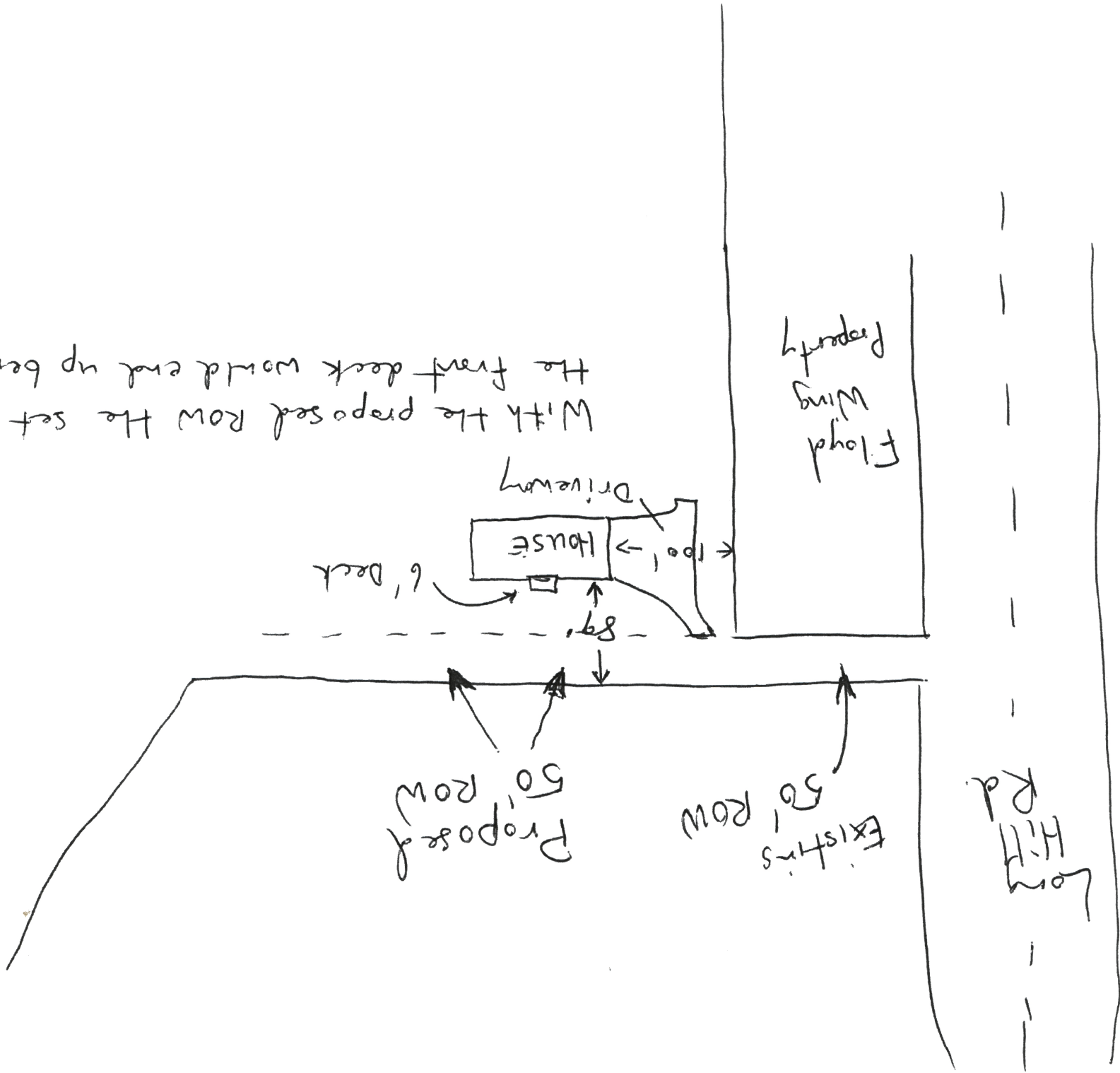
11/27/23

Cont.
⇒

This was brought to my attention when Scott came to do my foundation inspection. He told me to just apply for a variance.



With the proposed ROW the set back to the front deck would end up being 33ft.





VARIANCE APPLICATION -PRACTICAL DIFFICULTY
 ZONING BOARD OF APPEALS
 TOWN OF GRAY MAINE

For Office Use Only
 Date Submitted: 1-16-24
 Tent. Sched. for: _____
 Amount Paid: _____

PROPERTY INFORMATION

Property Location/Address	134 Long Hill Rd	Property Map/Lot	64-042-004-000
Zoning District		Lot Acreage	9.3
Owner Name	Robert + Joanna Ritchie	Owner Phone Number	
Number of Dwelling Units			

APPLICANT

Name (IF different than owner)	Robert Ritchie	Email Address	
Mailing Address	134 Long Hill Rd	Contact Phone Number	207-415-4718
Mailing City/State/Zip	Gray, ME 04039	Alternate Phone Number	

VARIANCE INFORMATION

Per Gray Zoning Ordinance 402.9.2.B.3:

Practical Difficulty Variance: The Board may grant a variance from the dimensional standards of the Zoning Ordinance when strict application of the ordinance to the petitioner and the petitioner's property would cause a practical difficulty and when the following conditions exist:

- a. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
- b. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
- c. The practical difficulty is not the result of action taken by the petitioner or a prior owner;
- d. No other feasible alternative to a variance is available to the petitioner;
- e. The granting of a variance will not unreasonably adversely affect the natural environment; and
- f. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.

As used in this subsection, "dimensional standards" means and is limited to ordinance provisions relating to lot area, lot coverage, frontage and setback requirements.

As used in this subsection, "practical difficulty" means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner.

Describe request (description may be attached separately- plot plan/site map required to be attached)

Reconsideration of Decision

	Current Requirement	Currently Existing	Proposed
Front Setback			
Rear Setback			
Side Setback			
Other Setback (describe)			
Max. Lot Coverage			
Min. Lot Area			
Min. Street Frontage			
Other (describe)			



**VARIANCE APPLICATION-SHORELAND
ZONING BOARD OF APPEALS
TOWN OF GRAY MAINE**

For Office Use Only:
 Date Submitted: 1-18-24
 Tent. Sched. for: 2-28-24
 Amount Paid: \$500

PROPERTY INFORMATION

Property Location/Address	32B North Raymond Rd.	Property Map/Lot	013 . 107 . 019 . 000
Zoning District		Lot Acreage	.26 acres
Owner Name	Mark and Mary Bourgeois	Owner Phone Number	978-870-9726
Number of Dwelling Units	1		

APPLICANT

Name (IF different than owner)		Email Address	markbourgeois@berryglobal.com
Mailing Address	21 Plainfield Rd.	Contact Phone Number	978-870-9726
Mailing City/State/Zip	Pepperell, Mass., 01463	Alternate Phone Number	978-337-3259

VARIANCE INFORMATION

Per Shoreland Zoning Ordinance 403.16.H.2: Variance Appeals:

Except as provided in subsection 2-A, Variances may be permitted only under the following conditions:

- a. Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship.
- d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- e. A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

Describe request (description may be attached separately). Survey of property required to be attached.

Requesting a variance for the structure height to allow a second story addition to the dwelling. We want to move the bedrooms to a second story to be safe from future floods.

	Current Requirement	Currently Existing	Proposed
Road Setback			
Rear Setback			
Side Setback			
Water Setback			
Max. Lot Coverage			
Min. Lot			
Min. Street Frontage			
Other (describe)	20' structure height	15'	28'

PLEASE RESPOND TO EACH REQUIREMENT: (YOU'RE ENCOURAGED TO ATTACH SEPERATELY)

a. That the land in question cannot yield a reasonable return unless a variance is granted;
The current home is a 2 bedroom dwelling. Both bedrooms are located in the basement of the property. Due to the unusually wet year we have experienced 2 floods in the basement. One in August and the most recent one in December. The floods have destroyed the finished living space used for the bedrooms. As a result we are looking to add a dormered second story for the bedrooms so that we will not be at risk for future floods.

AS a result of the flooding, we currently do not have any legal bedrooms in the home.

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
There are several two story cape style houses in, and around the home.

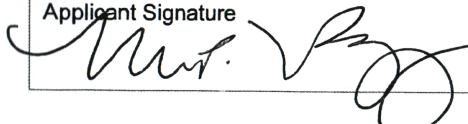
c. That the granting of a variance will not alter the essential character of the locality; and
We would be designing a cape style, dormered, second story. The overall look would be in line with the surrounding homes.

d. That the hardship is not the result of action taken by the applicant or a prior owner.
This hardship is purely the result of the recent weather, and potential for future flooding.

Per 403.16.H.5 b.: Decision by Board of Appeals
(i) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
(ii) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.
(iii) The person filing the appeal shall have the burden of proof.
(iv) The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
(v) All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

Per 403.16.H.6.: Appeal to Superior Court
Any party may take an appeal, within forty five (45) days of the date of the vote on the original decision, to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. This time period may be extended by the court upon motion for good cause shown. The hearing before Superior Court must be without a jury.

PLEASE REFER TO THE CURRENT FEE SCHEDULE FOR APPLICABLE FEES TO INCLUDE REQUIRED ADVERTISING AND ABUTTER NOTIFICATIONS

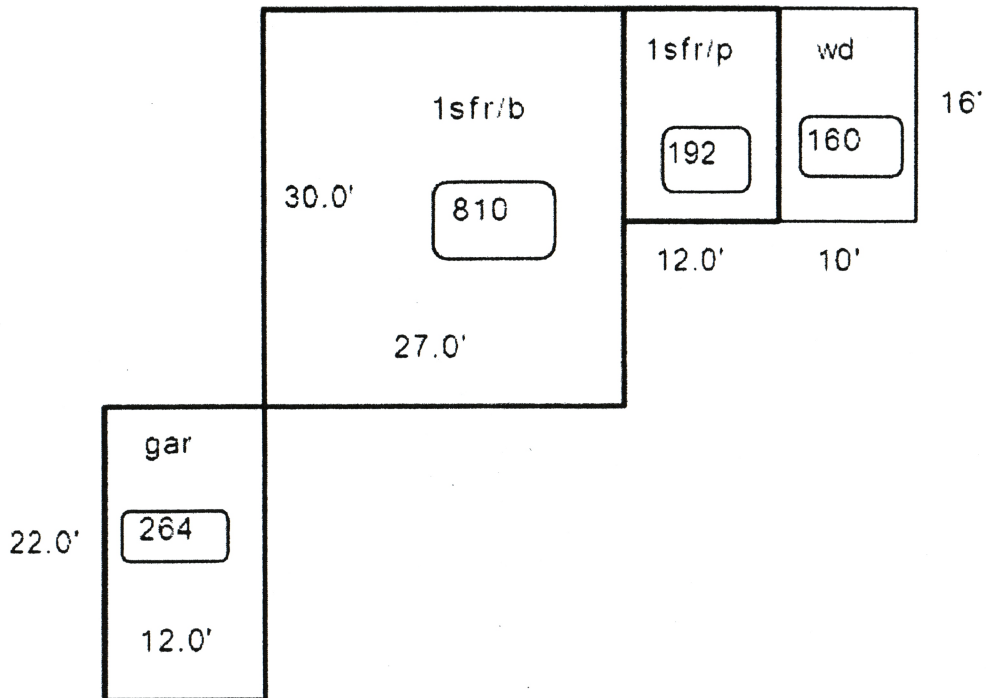
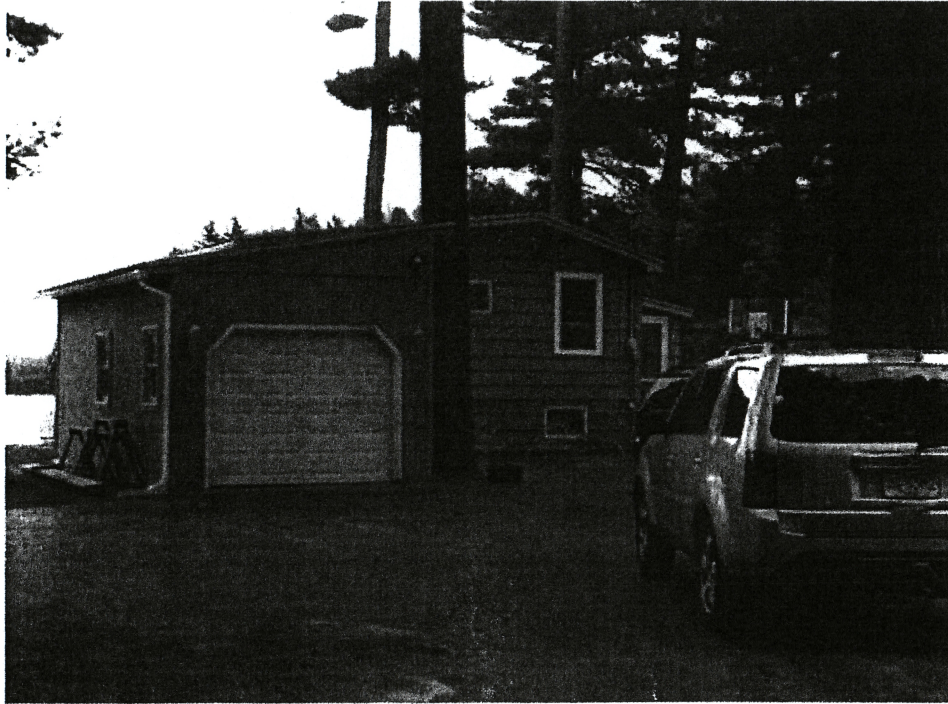
Applicant Signature 	Printed Name Mark P. Bourgeois	Date 1/9/24
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Gray
Name: BOURGEOIS FAMILY REVOCABLE TRUST
MARK P & MARY E BOURGEOIS - TRUSTEES
Account: 3186

Valuation Report

Map/Lot:
Location:

08/08/2022
Page 2
013-107-019-000
32 NORTH RAYMOND RD



Gray
 Name: BOURGEOIS FAMILY REVOCABLE TRUST
 MARK P & MARY E BOURGEOIS - TRUSTEES
 Account: 3186 Card: 1 of 1

Valuation Report

08/08/2022
 Page 1
 013-107-019-000
 32 NORTH RAYMOND RD

Neighborhood 2 Crystal Lake 1

Zoning/Use Limited Residential
 Topography LevelTopography
 Utilities Public WaterSeptic System
 Street Paved
 GIS Map 13
 Field Review 1
 Reference 1
 Reference 2 C07-019-000-000
 Tran/Land/Bldg 0 2 1
 REVIEW 0 Bulding Permit 0
 Exemption(s) Land Schedule 3

Sale Data
 Sale Date 12/01/2020
 Sale Price 0
 Sale Type Land & Buildings
 Financing Unknown
 Verified Public Record
 Validity Related Parties

Units		Method - Description		Price/Unit	Total	Fctr	Influence	Value
0.26		Acres-ShoreFront A		75,000.00	45,983	100%		45,983
070 X 000		\$/FF -Water (0-200) A		1,000.00	70,000	100%		70,000
Total Acres 0.26								Land Total
								115,983

Dwelling Description				Replacement Cost New	
Conventional	One Story	810 Sqft	Grade C 100	Base	126,700
Exterior	B & B	Masonry Trim	None	Trim	0
Dwelling Units	1 OTHER Units-0	Roof Cover	Asphalt Shingles	Roof	0
Foundation	Concrete	Basement	Dry Full Bmt	Basement	0
Fin. Basement Area	750 Sqft, Grade C	Basement Gar	None	Fin Bsmt	11,250
Heating	100% Monitor	Cooling	0% None	Heat	-1,620
Rooms	4				
Bedrooms	2	Add Fixtures	0		
Baths	1	Half Baths	0	Plumbing	0
Attic	None			Attic	0
FirePlaces	0			Fireplace	0
Insulation	Full			Insulation	0
Unfin. Living Area	NONE			Unfinished	0

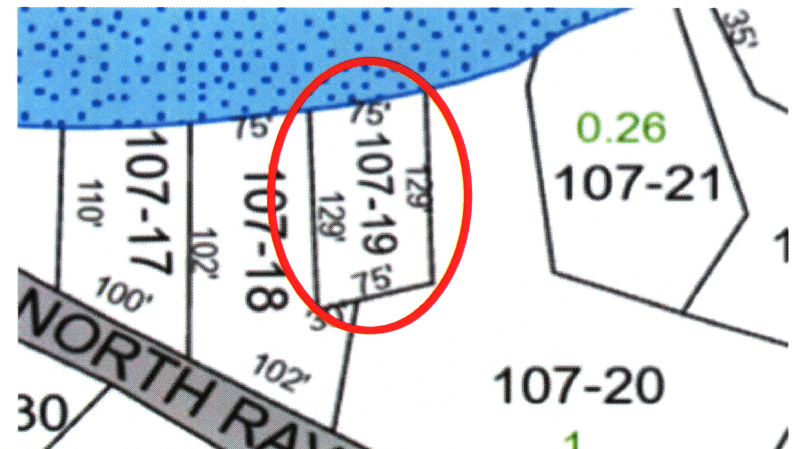
Built Renovated		Kitchens		Baths		Dwelling Condition		Layout		Total
1982	0	Typical	Typical	Typical	Above Average	Typical	Typical	Typical	Typical	136,330
Functional Obsolescence		Economic Obsolescence		Phys. %		Func. %		Econ. %		Value(Rcnld)
None		None		86%		100%		100%		117,244

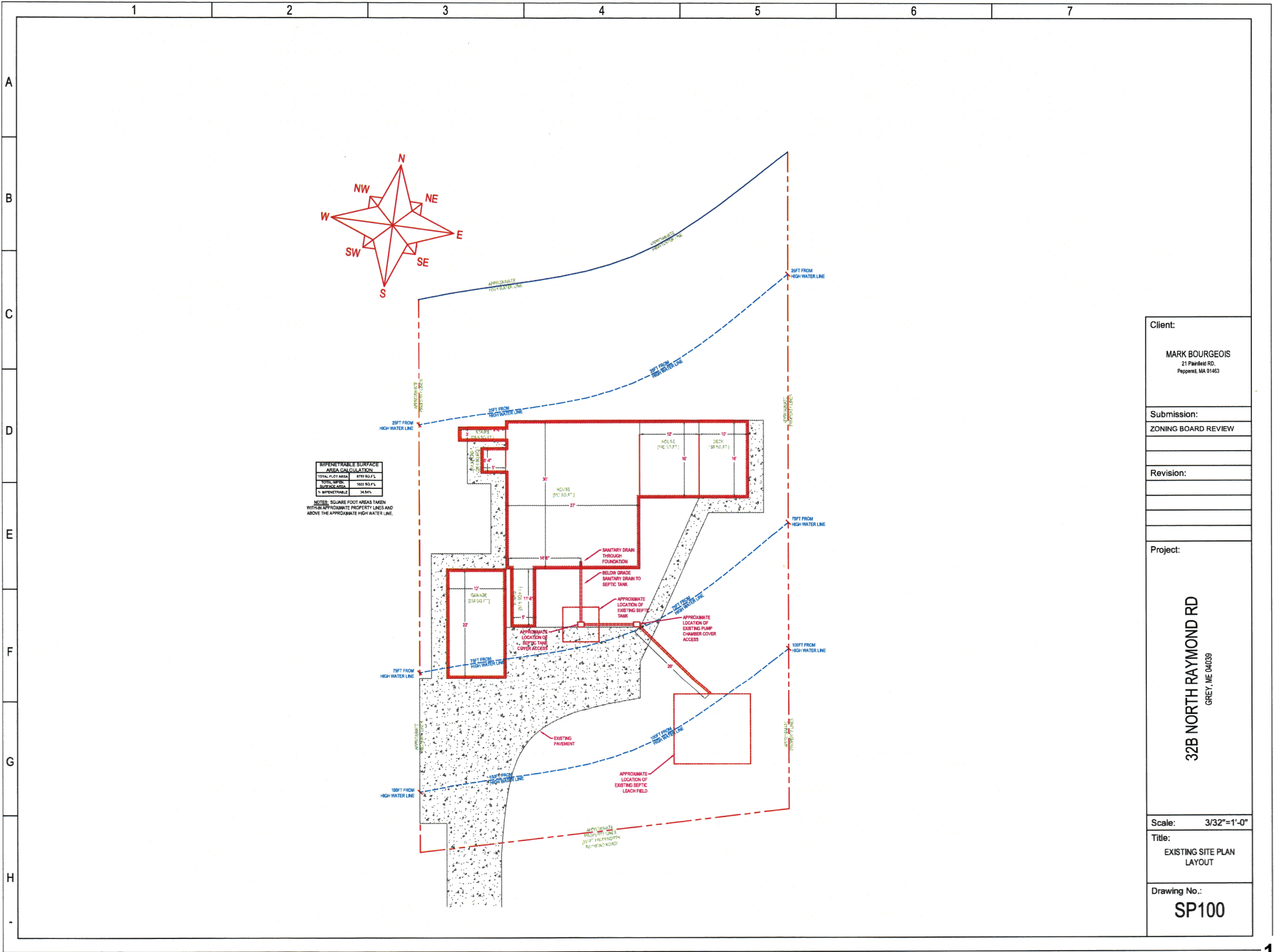
Outbuildings/Additions/Improvements									
Description	Year	Units	Grade	RCN	Cond	Phv	Percent Good		Value Rcnld
Frame Garage	1982	204	C 100	5.903	Ava+	86%	100%	100%	5.077
One Storv Frame	2004	192	C 100	11.232	Ava+	86%	100%	100%	9.660
Wood Deck	2009	160	C 100	1.552	Ava+	86%	100%	100%	1.335
1,002 SFLA									
Outbuilding Total									16,072

Acpt Land 116,000 Accepted Bldg 133,300 Total 249,300

Mark and Betsy Bourgeois
32B North Raymond Rd.
Gray Maine

- Purchased property in May 2005
- Single family dwelling with full basement
- 2 bedrooms located in basement of home
- Main floor of house is approximately 4' from grade





- Due to unusually wet year we have experienced repeated flooding in basement
- August – catastrophic damage to finished basement. Required to be gutted for remediation.
- Sump with 2 pumps, one battery backed, not enough to hold water back
- Repeated flooding in December and January
- As a result of flooding there are no legal bedrooms remaining on the premises
- Seeking 28' structure height variance to allow a second story addition for bedrooms to prepare for future flooding.



Root cause of flooding, lake level/ground water

- Record breaking rainfall in June, and July
- Ground fully saturated
- Flash floods in August, December, and January



Neighboring 2 story property photos



32 B North Raymond Rd., Lot # 107-019

Current lake facing view

**Conceptual 2 story Cape Style roof,
with shed dormer**



32 B North Raymond Rd., Lot # 107-019

Current road facing view



Conceptual 2 story cape style roof, with shed dormer



Goal of hardship variance request

- Allow additional height to add second floor to main dwelling
 - If approved we will work with an architect to keep height to a minimum and design a style in keeping with the surrounding houses
- Second story addition will allow us to move bedrooms safely above grade to protect against future flood risk
- Moving bedrooms to a second floor will be safer in regards to potential health risks caused by moisture

Thank you for your consideration