

# DROHAN TOCCHIO & MORGAN, P.C.

ATTORNEYS AT LAW  
175 DERBY STREET, SUITE 30  
HINGHAM, MASSACHUSETTS 02043  
Telephone: (781) 749-7200 ~ Facsimile: (781) 740-4335

ADAM J. BRODSKY  
[abrodsky@dtm-law.com](mailto:abrodsky@dtm-law.com)

November 1, 2021

## **BY HAND DELIVERY**

Kim Roy, Interim Town Clerk  
Town of Cohasset  
Town Hall  
41 Highland Avenue  
Cohasset, MA 02025

**Re: Appeal of Building Permit # R-21-10551**  
**9 Diab Lane, Cohasset, Massachusetts (Parcel B2-08-041)**

Dear Ms. Roy:

Pursuant to M.G.L c.40A, § 17, notice is hereby given of the filing of the enclosed Appeal of Building Permit #R-21-10551 on Monday, November 1, 2021. This appeal is taken from the failure of Building Inspector John Hallin to issue a building permit within the required time period.

Please date stamp the enclosed copy of this letter and acknowledge receipt where indicated.

Thank you for your assistance in this matter.

Very truly yours,



Adam J. Brodsky  
Drohan Tocchio & Morgan, P.C.

Enclosure

cc: John Hallin, Director of Planning, Permits, and Inspections (by hand)  
S. Woodworth Chittick, Chair, Zoning Board of Appeals (by hand)  
Matthew R. Shannon, c/o Stephen W. Rider, Esq. (via email)

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November 1, 2021

## **BY HAND DELIVERY**

S. Woodward Chittick, Chair  
Zoning Board of Appeals  
Town of Cohasset  
Town Hall  
41 Highland Avenue  
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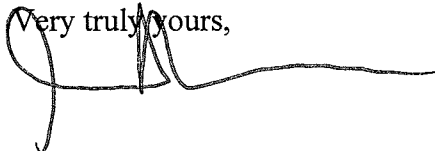
**Re: Appeal of Building Permit # R-21-10551  
9 Diab Lane, Cohasset, Massachusetts (Parcel B2-08-041)**

Dear Mr. Chittick:

This office represents Andrew Gallagher regarding this matter. Enclosed please find one (1) original and six (6) copies of the following documents: (1) Appeal Application; (2) letter from Adam J. Brodsky dated November 1, 2021, together with **Exhibit 1**; (3) filing fee in the amount of \$300.00; and (4) the certified abutters list.

Should you have any questions, please do not hesitate to contact us. Thank you for your consideration of this matter.

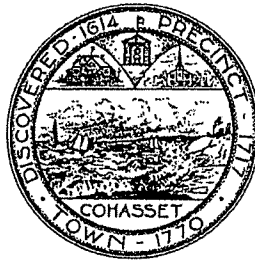
Very truly yours,



Adam J. Brodsky  
Drohan Tocchio & Morgan, P.C.

Enclosure

cc: Kim Roy, Interim Town Clerk (by hand)  
John Hallin, Director of Planning, Permits, and Inspections (by hand)  
Matthew R. Shannon, c/o Stephen W. Rider, Esq. (via email)



**TOWN OF COHASSET  
ZONING BOARD OF APPEALS**

**THE UNDERSIGNED HEREBY APPLIES TO THE BOARD OF APPEALS IN  
THE NATURE OF:**

\_\_\_\_\_ A petition for VARIANCE of the requirements of Section \_\_\_\_\_  
of the zoning Bylaw.

\_\_\_\_\_ A petition for SPECIAL PERMIT pursuant to Section \_\_\_\_\_  
of the zoning Bylaw.

An APPEAL from the attached decision dated APPEAL - failure to issue  
building permit

\_\_\_\_\_ A Comprehensive Permit/40B

and such OTHER AND FURTHER RELIEF as the Board deems appropriate

AND IN SUPPORT THEREOF REPRESENTS AS FOLLOWS:

Legal owner of land ("Applicant"):

1. Matthew Shannon

a. Address: 195 Whiting Street, Suite 3, Hingham, MA 02061

b. Phone: \_\_\_\_\_

2. If Applicant requests another person to represent its interests at the hearing  
("Applicant(s) Representative"), please state their name, address, phone and  
property interest:

a. Name: Andrew Gallagher

b. Address: 185 Lincoln Street, Norwell, MA 02061

**Amended December 3, 2012**

c. Phone \_\_\_\_\_

d. Relationship to applicant (e.g. builder, architect, prospective owner)

Prospective Owner

3. Description of this property:

a. Address: 9 Diab Lane

b. Assessors' Map: Page # B2-08 Plot # 041

c. Deed as recorded in NORFOLK COUNTY REGISTRY OF DEEDS:

certificate # 187586 in book # \_\_\_\_\_ at page # \_\_\_\_\_

4. Zoning District: RB Overlay District (if any) \_\_\_\_\_

5. Has an application for relief from Zoning Bylaws ever been filed for this parcel?

YES/NO No DATE (if yes) \_\_\_\_\_

Explain (if yes):

\_\_\_\_\_  
\_\_\_\_\_

6. Nature of proposed construction, use or relief sought Single-Family Dwelling

7. Date of principal structure / dwelling was built (if applicable): \_\_\_\_\_

Date and nature of other structures/additions: \_\_\_\_\_

8. Area Regulations (Section 5.3.1)	REQUIRED	EXISTING	PROPOSED
a. Area (lot size)	<u>35,000 sf</u>	<u>18,221 sf</u>	<u>No Change</u>
b. Frontage	<u>50 ft</u>	<u>180 ft</u>	<u>No Change</u>
c. Lot width	<u>125 ft</u>	<u>&gt;180 ft</u>	<u>No Change</u>
d. Front setback	<u>30 ft</u>	<u>NA</u>	<u>44.1 ft</u>
e. Rear setback	<u>30 ft</u>	<u>NA</u>	<u>30.5 ft</u>
f. Side setback #1	<u>20 ft</u>	<u>NA</u>	<u>20.5 ft</u>
g. Side setback #2	<u>20 ft</u>	<u>NA</u>	<u>33.9 ft</u>
h. Building height	<u>35 ft</u>	<u>NA</u>	<u>32.0 ft</u>

Amended December 3, 2012

- i. coverage (structural) \_\_\_\_\_
- j. coverage (building) \_\_\_\_\_
- k. ground area coverage (required only for applications for a special permit pursuant to sec. 9.1.1). \_\_\_\_\_

9. Do present structure(s) and use conform to all other provisions of the Zoning Bylaw? Yes:  No: \_\_\_\_\_ If not, explain: \_\_\_\_\_

10. Is this parcel connected to Town Sewer? Yes:  No: \_\_\_\_\_  
If Yes, state location, and area dimensions: \_\_\_\_\_

11. Does the owner/applicant own adjacent land? Yes: \_\_\_\_\_ No:   
If Yes, state location, and area dimensions: \_\_\_\_\_

12. Plans submitted herewith are drawn to scale, accurately show all details relevant to the relief being requested, and are complete per Section 2.2 of the Rules of Procedures of the Zoning Board of Appeals:

**ALL PLANS**

- a. drawn to scale with dimensions on every plan Yes (yes/no)
- b. if addition/alteration, proposed construction outlined or in red Yes (yes/no)
- c. each plan stamped by registered engineer, land surveyor, or architect (as appropriate) Yes (yes/no)

**SITE PLAN**

- a. Twelve (12) copies of a site plan @1" = 20' Yes (yes/no)
- b. North arrow Yes (yes/no)
- c. Lot lines/ dimensions & lot area Yes (yes/no)
- d. Structural & building coverage calculations
- e. Flood Plain & Zoning Districts (as applicable) Yes (yes/no)
- f. Locations/dimensions of all buildings, driveways, parking areas & other structures Yes (yes/no)

- g. Boundary lines, names of owners, and locations/  
dimensions of all buildings, driveways & parking areas  
on all immediately adjacent properties Yes \_\_\_\_\_ (yes/no)
- h. Dimensions of all adjacent streets, sidewalks and  
rights-of-way; street names Yes \_\_\_\_\_ (yes/no)

**CONSTRUCTION PLANS**

- a. At a scale not smaller than ¼ inch = 1 foot \_\_\_\_\_ (yes/no)
- b. Showing the existing structure(s) as well as  
all proposed alterations/new construction \_\_\_\_\_ (yes/no)
- c. Showing at least 4 exterior elevations  
(front, rear, left & right sides) \_\_\_\_\_ (yes/no)
- d. Showing all heights on all exterior renderings \_\_\_\_\_ (yes/no)
- e. Other renderings/photographs (optional) \_\_\_\_\_ (yes/no)

13: The following pages provide an accurate list of the abutters and the owners of the land next adjoining abutters: **STAMPED AS CERTIFIED BY BOARD OF ASSESSORS** (Stamped Abutter's List must be presented with application filing)

14: **Litigation Policy – Use of Town Counsel by the Zoning Board of Appeals (ZBA).**


The applicant must read and acknowledge the following policy of the ZBA.

When zoning relief has been approved by the ZBA, either in whole or with conditions, Town Counsel will not primarily defend any appeal against such relief brought by parties claiming to be aggrieved, without the express written consent of both the Chairman of the ZBA and the Town Manager.

The successful applicant is the appropriate party to bear expenses associated with maintaining such relief, be it a Special Permit, a Variance, or an enforcement Appeal.


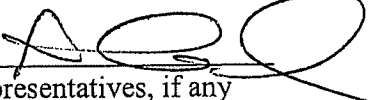
Generally, the Town will enter an appearance but will mount no active defense or Discovery: it will neither initiate motions nor will it undertake depositions or interrogatories unless prior approval is given per the above.

**Sign for acknowledgement of the litigation policy:**

Date: 11/1/21   
Signature(s) of Applicant(s) Representatives, if any

Date: \_\_\_\_\_ \*\*  
Signature(s) of Applicant(s)

**15. I have read and understand the Rules of Procedure of the Board of Appeals:**

Date: 11/1/21    
Signature(s) of Applicant(s) Representatives, if any

Date: \_\_\_\_\_ \*\*  
Signature(s) of Applicant(s)

\*\*Application must be signed by legal owner of the land ("Applicant").

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November 1, 2021

## **BY HAND DELIVERY**

S. Woodworth Chittick, Chair  
Zoning Board of Appeals  
Town of Cohasset  
Town Hall  
41 Highland Avenue  
Cohasset, MA 02025

**Re: Appeal of Building Permit # R-21-10551**  
**9 Diab Lane, Cohasset, Massachusetts (Parcel B2-08-041)**

Dear Mr. Chittick:

This office represents Andrew Gallagher, the prospective owner of the vacant parcel of land located at 9 Diab Lane, Cohasset (the "Property"). Mr. Gallagher seeks to construct a single-family dwelling on the Property. Mr. Gallagher submitted a building application (the "Application") for the project to the Town of Cohasset Building Inspector, John Hallin, on September 2, 2021. To date, Mr. Hallin has not issued either an approval or denial of the Application and has failed to act in accordance with the requirement of the Massachusetts State Building Code, which states that "[t]he building official shall examine or cause to be examined applications for permits and amendments, and shall issue or deny the permit, within 30 days of filing." 780 CMR 105.3.1.

Mr. Gallagher asserts that he is aggrieved by the failure of the Building Inspector to issue or deny a building permit for the project under M.G.L. c. 40, § 7, 8 and 15. As such, Mr. Gallaher requests the Zoning Board of Appeals direct Mr. Hallin to approve the Application and issue the permit.

## **BACKGROUND FACTS**

The subject Property is owned by Matthew Shannon by virtue of quitclaim deed recorded with the Norfolk County Land Court on October 4, 2014, as Land Court Certificate #187586. The Property comprises .418 acres of vacant land in the Residential B Zoning District ("R-B District"), and is identified as Parcel B2-08-041. The Property is a lawful, nonconforming lot pursuant to



M.G.L. c. 40A, § 6, and Cohasset Zoning Bylaw, § 300-8.3 (having less than the minimum lot area required in the R-B District (35,000 sf).

Mr. Gallagher has entered a purchase and sale agreement for the purchase of the Property from Mr. Shannon, with the intent to construct a single-family dwelling. On September 2, 2021, Mr. Gallagher submitted the Application to the Town of Cohasset Building Department, seeking to construct the single-family dwelling on the Property. A copy of the Application is attached hereto as **Exhibit 1**.

Since submitting the Application, Mr. Gallagher has informally discussed the Application with Mr. Hallin, and most recently requested that he issue his decision on the Application. More than 30 days have elapsed since Mr. Gallagher submitted the Application, yet no approval or denial has been issued to date.

### **REQUEST FOR RELIEF**

A Building Inspector is the official empowered with enforcing zoning bylaws and the Massachusetts State Building Code. See M.G.L. c. 40A § 7. The Massachusetts State Building Code requires that a building official must act on an application within 30 days after submission:

The building official shall examine or cause to be examined applications for permits and amendments, and shall issue or deny the permit, within 30 days of filing. If the application or construction documents do not conform to the requirements of 780 CMR and all pertinent laws under the building official's jurisdiction, the building official shall deny such application in writing, stating the reasons therefore. The building official's signature shall be attached to every permit.

780 CMR 105.3.1.

In cases where a building official fails to act, M.G.L. c. 40A §§8 and 15 empower aggrieved parties to seek relief from the Zoning Board of Appeals.

Here, Mr. Hallin has failed and/or refused to act pursuant to his statutory obligations with regard to the Application. Mr. Gallaher is aggrieved by this failure to act, and, accordingly, seeks that the Zoning Board of Appeals compel Mr. Hallin to approve the Application and issue the building permit.

### **CONCLUSION**

The Building Inspector erred by failing to act on the Application within 30 days. The Board of Appeals should order Mr. Hallin to immediately approve the Application and issue the building permit.

S. Woodworth Chittick, Chair

November 1, 2021

Page 3

Should you have any questions, please do not hesitate to contact us. Thank you for your consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Adam J. Brodsky', with a long horizontal flourish extending to the right.

Adam J. Brodsky  
Drohan Tocchio & Morgan, P.C.

Enclosure

cc: Kim Roy, Interim Town Clerk (by hand)

John Hallin, Director of Planning, Permits, and Inspections (by hand)

Matthew R. Shannon, c/o Stephen W. Rider, Esq. (*via* email)

# **EXHIBIT 1**

# APPLICATION TO CONSTRUCT, REPAIR, RENOVATE OR DEMOLISH A ONE OR TWO FAMILY DWELLING

Date **09/02/21**

## APPLICATION DETAILS

Application #:	<b>R-21-10551</b>	Date Issued:		Permit #:		Date Paid:	<b>09/02/21</b>
Fee Payable: (\$)	<b>0</b>	Fee Paid: (\$)	<b>6085</b>	Receipt #:	<b>R-21-3331</b>		

## SECTION 1 - SITE INFORMATION

Street Name	<b>DIAB LN</b>	Map Block Lot	<b>B2-08-041</b>
Street Number	<b>9</b>	Zone	<b>RB</b>
Unit Number			

## SECTION 2 - OWNER INFORMATION

Owner Name	<b>SHANNON MATTHEW</b>		
Street Number	<b>85</b>	Street Name	<b>Washington Park Drive</b>
City	<b>Norwell</b>	State	<b>MA</b>
		Zip	<b>02061</b>
Telephone		Email	<b>matts330@yahoo.com</b>

## SECTION 3 - APPLICANT INFORMATION

Applicant Name	<b>Andrew Gallagher</b>		
Street Number	<b>185</b>	Street Name	<b>Lincoln St</b>
City	<b>Norwell</b>	State	<b>ma</b>
		Zip	<b>02061</b>
Telephone	<b>781-724-9418</b>	Email	<b>agallagher01@gmail.com</b>

## SECTION 4 - MAILING ADDRESS

Street Number *po box 297* Street Name \_\_\_\_\_  
 City *Norwell* State *ma* Zip *02061*

**SECTION 5 - WORK DETAILS**

Current Use *R-3 (Residential occupancy not more than 2 units)* Construction type *Type V-B ( Typical house, VB, deck, st*

5.1 Building Setbacks (ft):  Not Applicable

Dimensional Requirements

Required		Provided (Actual)	
Front (ft)	<i>30</i>	Front (ft)	<i>30.5</i>
<b>Side (ft)</b>		<b>Side (ft)</b>	
Left Side	<i>20</i>	Left Side	<i>20.5</i>
Right Side	<i>20</i>	Right Side	<i>20.5</i>
Rear (ft)	<i>30</i>	Rear (ft)	<i>44</i>
Minimum Lot frontage (ft)	<i>50</i>	Minimum Lot frontage (ft)	<i>180</i>
Minimum Lot width (ft)	<i>125</i>	Minimum Lot width (ft)	<i>&gt;180</i>

Square feet of area of work *2003*  Not Applicable

Building Size Length *80* Width *35* Height *32*

5.2 Water Supply (M.G.L. c. 40. B 54)  Not Applicable

Public  Private

5.3 Flood Zone of Structure  Not Applicable

5.4 Sewage Disposal System  Not Applicable

Municipal  On Site Disposal System

**5.5 Description of Proposed Work**

( New 1 or 2 Family Dwelling should only be selected if you are applying for a permit for a new 1 or 2 Family dwelling. An Existing Building should be selected for additions, renovations, demolitions, solar panels, etc., and accessory structures such as pools, sheds and garages. )

- New 1 or 2 Family Dwelling
- Existing Building
- Foundation Only

Brief Description of Proposed Work

*new construction 3,483 sqft 4 bedroom 3.5 bath house with attached 2 car garage, covered front porch and rear deck walk out basement as shown on plans attached*

Residential Gross Floor Area *3483*  
(RGFA)

Will this project result in an increase of 500 square feet or more of impervious surface area?

Yes where and how? *see attached approved storm water plan*  No

Will this project alter in any way an area of 5000 square feet or more of land?

Yes where and how? *see attached approved storm water plan*  No

I understand that the RGFA provided is correct and certified by a registered architect, the proof of which will be provided after submission of this application.

SECTION 6 - PROPERTY OWNERSHIP/AUTHORIZED AGENT

6.1 Tenant Name (if other than the owner):

*SHANNON MATTHEW*

6.2 Authorized Agent/Owner:

Name *Andrew Gallagher*

Street Number *185* Street Name *Lincoln St*

Telephone *781-724-9418* Email *agallagher01@gmail.com*

SECTION 7 - CONSTRUCTION SERVICES

7.1 Licensed Construction Supervisor:  Applicable

Name *Andrew Gallagher*

License Number *106012* Expiration Date *05/28/21*

Street Number *185* Street Name *Lincoln St*

City *Norwell* State *ma* Zip *02061*

Telephone *781-724-9418* Email *agallagher01@gmail.com*

License Type

- U or 00 - Unrestricted
- WS - Residential Window & Siding
- 1G - 1 & 2 Family Dwelling
- SF - Residential Solid Fuel Burning Appliance Installation
- M - Masonry Only
- D - Residential Demolition
- RC - Residential Roofing Covering

I do hereby certify under the pains and penalties of perjury that the information provided above is true and correct.

7.2 Home Improvement Contractor:  Applicable

Is the Licensed Construction Supervisor different from the applicant or the Home Improvement Contractor?

Yes  No

CSL Email Address *agallagher01@gmail.com*

7.3 Homeowners Permit:

Applicable

Job Location \_\_\_\_\_ Home Owner \_\_\_\_\_

Telephone \_\_\_\_\_

The current exemption for "homeowners" was extended to include owner occupied dwellings to allow such homeowners to engage an individual for hire who does not possess a license, provided that the owner acts as supervisor. (State Building Code 109.1.1)

**DEFINITION OF HOMEOWNER:**

Person(s) who owns a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one family dwelling, attached or detached structure accessory to such use and/or farm structure. A person who constructs more than one home in a two year period shall not be considered a homeowner. Such "homeowner" shall submit to the Building Official, on a form acceptable to the Building Official, that he/she shall be responsible for all such work performed under the building permit. (SECTION 109.1.1)

The undersigned "homeowner" assumes responsibility for compliance with the State Building Code and other applicable codes, by-laws, rules and regulations.

The undersigned "homeowner" certifies that he/she understands the TOWN OF COHASSET Building Department minimum inspection procedures and requirements.

I do hereby certify under the pains & penalties of perjury that the information provided above is true and correct.

**SECTION 8 - REGISTERED 81-R/ ARCHITECT/ ENGINEER**

Applicable  Not Applicable

Name (Registrant) \_\_\_\_\_

Registration Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Street Number \_\_\_\_\_ Street Name \_\_\_\_\_

Telephone \_\_\_\_\_ Email \_\_\_\_\_

**SECTION 9 - ESTIMATED COST**

Item	Estimated Value to be completed by permit applicant
1. Building	540000

2. Electrical	25000
3. Plumbing	20000
4. Gas	5000
5. Mechanical (HVAC)	16000
6. Fire Protection	2500
Total = (1+2+3+4+5+6)	\$ 608500

**SECTION 10 - PROPERTY OWNER AUTHORIZATION**

I am the  Owner  Contractor / Agent

I, *SHANNON MATTHEW* as owner of the subject property hereby authorize *Andrew Gallagher* to act on my behalf, in all matters relative to work authorized by this building permit application.

Property Owner's Email *matts330@yahoo.com*

OR

Copy of Signed Contract to be attached after submitting application

Telephone No.

I do hereby certify under the pains & penalties of perjury that the information provided above is true and correct.

Date

**SECTION 11 - DECLARATION**

I, *Andrew Gallagher* as Owner/Authorized Agent hereby declare that the statements and information on the foregoing application are true and accurate, to the best of my knowledge and belief. Signed under the pains and penalties of perjury.

I do hereby certify under the pains & penalties of perjury that the information provided above is true and correct.

Date *09/02/21*