

**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.

X \_\_\_\_\_ A petition\* for SPECIAL PERMIT pursuant to Section \_\_\_\_\_  
of the zoning Bylaw. (\*Petition to Amend Special Permit dated 8/2/2017 granted  
pursuant to Sections 300-8 and 300-9 and for such other relief  
as the Board deems appropriate)

\_\_\_\_\_ An APPEAL from the attached decision dated \_\_\_\_\_

\_\_\_\_\_ 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. Peter M. Capozzoli, Trustee of 508 CJCH Property Trust

a. Address: 508 Chief Justice Cushing Highway

Cohasset, Massachusetts 02025

b. Phone: 781-383-6751

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: Richard A. Henderson, Esquire

b. Address: 9 Brook Street, Cohasset, Massachusetts 02025

**Amended December 3, 2012**

c. Phone 781-383-9000

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

3. Description of this property:

a. Address: 508 Chief Justice Cushing Highway

b. Assessors' Map: Page # 41 Plot # 79

c. Deed as recorded in NORFOLK COUNTY REGISTRY OF DEEDS:  
certificate # \_\_\_\_\_ in book # 6738 at page # 241

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

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

YES/NO Yes DATE (if yes) August 2, 2017

Explain (if yes):

See Decision attached hereto and incorporated herein by reference

6. Nature of proposed construction, use or relief sought See Exhibit A annexed hereto and incorporated herein by reference.

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 SF1</u>	<u>114,313 SF</u>	<u>114,313 SF</u>
b. Frontage	<u>50'</u>	<u>283'+/-</u>	<u>293'+/-</u>
c. Lot width	<u>125'</u>	<u>252'</u>	<u>252'</u>
d. Front setback	<u>30'</u>	<u>29.6'</u>	<u>31.9' (Main Bldg)</u> <u>66' (Storage Bldg)</u>
e. Rear setback	<u>30'</u>	<u>420'+/-</u>	<u>382'+/- (Main Bldg)</u> <u>415'+/- (Storage Bldg)</u>
f. Side setback #1	<u>20'</u>	<u>46.5'</u>	<u>46.8' (Main Bldg)</u> <u>156.7 (Storage Bldg)</u>
g. Side setback #2	<u>20'</u>	<u>130.5'</u>	<u>103.4' (Main Bldg)</u> <u>20.0' (Storage Bldg)</u>
h. Building height	<u>35'</u>	<u>15.4 +/-</u>	<u>22'+/- (Main Bldg)</u> <u>17' (Storage Bldg)</u>

Amended December 3, 2012

- i. coverage (structural) \_\_\_\_\_
- j. coverage (building) 20% 1.4% 5.3%
- k. ground area coverage (required only for applications for a special permit pursuant to sec. 9.1.1). 30% 9.3% 16.0%

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

See Decision attached hereto and incorporated herein by reference

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

11. Does the owner/applicant own adjacent land? Yes: \_\_\_\_\_ No: X  
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: 9/30/21 \_\_\_\_\_  
Signature(s) of Applicant(s) Representatives, if any

Date: 9/30/21 \_\_\_\_\_  
Signature(s) of Applicant(s) \*\*

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

Date: \_\_\_\_\_  
Signature(s) of Applicant(s) Representatives, if any

Date: 9/30/21 \_\_\_\_\_  
Signature(s) of Applicant(s) \*\*

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

## Exhibit A

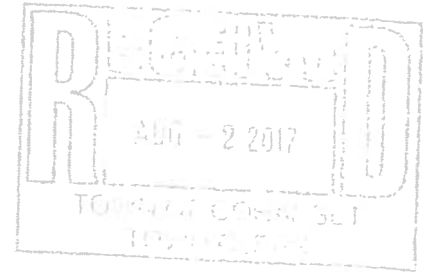
### 6. Nature of Proposed construction, use or relief sought

The Applicant was granted a Special Permit ( case no. 017.06.14b)to enlarge one structure (“Large Structure”) and build an additional structure (“Small Structure”) on the real property known as and numbered 508 Chief Justice Cushing Highway which non- conforming site was previously use as gas station and most recently for the sales, service and repair of foreign cars. Prior to the granting of the 2017 Special Permit, the site was improved by a single structure which housed both the sales office and the service and repair garage which included two (2) hydraulic lifts.

The 2017 Special Permit allowed for the construction of a new sales office house in the Large Structure which also contained area for service and repair of cars and storage of cars, including hydraulic lifts. The 2017 Special Permit also allowed the Small Structure to be constructed for the storage of auto inventory. Such uses are depicted on the Plan attached hereto.

The Large structure and the Small Structure are each improved with two hydraulic lifts which can be used for repairs and services as well as for storage. The Applicant is not seeking to increase the non-conforming use but relocated it by using one hydraulic lift in the Large Structure for repairs and service and the other for storage and using one hydraulic lift in the Small Structure for repairs and service and the other for storage. Such amended use is not more detrimental as it would allow only two hydraulic lifts on the site for service and repair of automobiles. The same number as existed prior to 2017. Moreover, unlike in 2017 when the original Special Permit was sought, the site is now improved with Title 5 compliant waste- water disposal system, flood compliant improvements and drainage systems in both structures for the capture and disposal of automotive fluids.

In all other respect the site remains unchanged and consistent with permits granted and its non-conforming use status.



## TOWN OF COHASSET ZONING BOARD OF APPEALS

**#017.06.14b**

**508 Chief Justice Cushing Highway  
508 CJCH Property Trust, Peter Capozzoli, Trustee**

A public hearing by the Zoning Board of Appeals was duly called, noticed, and held on Tuesday, July 11, 2017 at 7:30 P.M. in the Cohasset Town Hall pursuant to notices published in the Cohasset Mariner on June 23, 2017 and June 30, 2017 and continued to August 1, 2017. The Applicant applied for a Special Permit under Zoning By-Law Sections 8 and 9 for authorization to raze and replace its existing non-conforming commercial structure located on a residential lot in Cohasset's Flood Plain and Watershed Protection Area, and to construct an additional storage building. Sitting as members of the Zoning Board of Appeals were Chairman S. Woodworth Chittick, Vice Chairman Peter Goedecke, Charles Higginson, David McMorris, Benjamin Lacy and Mathew Watkins.

### Application Materials and Procedure

With the application were submitted the following:

1. A stamped site plan prepared by Cavanaro Consulting of Norwell, Massachusetts dated June 14, 2017 showing, among other things, the location of the existing and proposed improvements. Included with the site plan was a Memorandum of Support for Zoning Relief.
2. Schematic architectural plans prepared by Dennis J. Swart Architecture of Raynham, Massachusetts dated June 13, 2017 and updated as of July 11, 2017 showing existing and proposed footprints and elevations. Included with the plans were colored renderings of the proposed new buildings.

Prior to the continued hearing a site plan revised as of July 26, 2017 by Cavanaro was presented.

The application was presented by John Cavanaro, PE and the Applicant was present. Signatures from abutters in favor of the project were presented at the hearing. The Applicant planned to next meet with Cohasset's Conservation Commission to seek its approval for the project.

### Existing Conditions

The property is located on Route 3A in an area zoned Residence B and hence its use is non-conforming. Its deed is recorded at the Norfolk County Registry of Deeds in Book 6738, Page 241. The property is also located in the Special Flood Plain and Watershed Protection overlay district. Its commercial use for the service and sale of motor vehicles is grandfathered as it has been in such use since 1932 long prior to the adoption of zoning in the Town of Cohasset (Route 3A was at one time the primary thoroughfare linking Boston to Cape Cod). The establishment is also subject to annual licensing by Cohasset's Board of Selectmen, currently limited to 51 vehicle outside parking. The existing improvements are (a) marginally non-conforming with respect to front setback (29.6' where 30' is required), (b) located in FEMA Flood Zone AE elevation 62' and not flood-compliant, (c) not ADA compliant with respect to access and toilet access, and (d) serviced by a failed cesspool. Current vehicular parking extends over much of the upland area of the site to within 0' of the front and side lot lines. Other dimensional requirements are conforming.

### Proposed Reconstruction

The Applicant proposes to replace its existing single story office and car service building of 1,387 sq.ft. with a new office and service building with 4,436 sq.ft. of first floor space and 1,288 sq.ft. of unfinished second floor storage space. Much of the additional space in the new building would be to the rear and not visible from the street. In addition, the Applicant seeks to construct a single story storage building of 1,920 sq.ft. that would be heated but otherwise unserviced. Both buildings would be of wood frame construction with shingled exteriors and pitched roofs in keeping with the residential uses in the greater neighborhood. Primary access to the new service bays would be from the rear, rather than the current front access. Both buildings would be constructed to be flood compliant and the new office/garage building would be fully ADA compliant. The failed cesspool would be replaced with a new septic system designed to be acceptable to the Board of Health.

### Findings

Upon due consideration of the documents, plans, testimony and evidence presented, the Board makes the following findings:

Section 8.7.2. Zoning Bylaw Section 8.7.2 states that a nonconforming use of a building, structure, or land, or a structural alteration or enlargement of a nonconforming building, may be authorized by special permit provided that the Board finds that such extension, alteration, or enlargement:

- (a) Shall not be substantially more detrimental than the existing nonconforming use to the neighborhood; and



- (b) Shall not be injurious or dangerous to the public health or hazardous because of traffic congestion or other reason.

The use of the proposed replacement office and service building will be identical to the use of the existing office and service building and therefore will not be more detrimental to the neighborhood. The proposed storage building will replace 16 to 19 exterior parking spaces with interior parking, which the Board views as positive with respect to the residential neighborhood. The current minor structural non-conformity with respect to the front setback will be eliminated, as will parking to 0' of the side lot line. The Board notes with approval that the proposed design and materials of the new buildings will be more in keeping with the residential neighborhood than is the existing building.

Accordingly, the Board finds that the uses of the replacement buildings and land, even given the enlargement of the building floor area and facades, will not be substantially more detrimental to the neighborhood than the existing nonconforming use and structure.

Additionally, the proposed project will not be injurious or dangerous to the public health, or hazardous because of traffic congestion or other reason, because the property will continue unchanged in its grandfathered use for car sales and service (with no additional capacity), will therefore not have any traffic impact, and will not require additional public services. Public health should be enhanced due to the new buildings being flood compliant and the sales and service building becoming ADA compliant.

Sec. 9.7.8 allows special permits for construction in the flood plain provided that it is shown by affirmative evidence that:

- a. The proposed structure or use is not subject to damage by flooding or waves nor is the land unsuitable for the proposed structure or use because of drainage conditions;
- b. The land if subject to tidal action or adjacent to tidal waters is ten feet above mean sea level;
- c. The proposed construction, use and/or change in grade will not obstruct or divert flood flow or reduce natural flood storage capacity to the extent of substantially raising the high water level in the same or adjoining districts;
- d. The proposed system or drainage and/or private sewage disposal will not cause pollution or otherwise endanger property or the public health; and
- e. The proposed use of the land does not derogate substantially from the purposes of the flood plain and watershed protection district as set forth above or the purposes of this bylaw.

With respect to the foregoing requirements, the Board finds that

- a. Due to the topography most of the property slopes northerly toward Peppermint Brook, rendering the proposed structures not susceptible to wave action. In order to improve drainage, the applicant is proposing grading in the area of the proposed buildings and a cut area behind and to the east facilitating flow to the north, away from the street and

toward the brook and vegetative wetlands. Both proposed buildings, unlike the existing building, will have flood openings which will make them less susceptible to flood damage.

- b. The land is neither subject to tidal action nor adjacent to tidal waters.
- c. The existing drainage patterns on site will remain, primarily in the northerly direction toward peppermint Brook and secondarily to the southwest catch basin off Route 3A. The proposed limited regrading in combination with making the proposed buildings flood compliant will increase the flood storage capacity of the site to the north below the base flood elevation.
- d. The proposed septic system will be Title 5 compliant.
- e. The proposed use of the land will be unchanged and will not create hazards of flood or pollution and will not either adversely affect the water supplies of the Town or disturb the natural flow of its watercourses.

### Decision


Based upon the foregoing, the proposed improvements meet all of the criteria for a Special Permit set forth in Zoning Bylaw Sections 8.7.2 and 9.7. Accordingly, by unanimous vote (S. Woodworth Chittick, Peter Goedecke, and Charles Higginson), the Applicant's petition for a Special Permit is approved subject to the conditions that the construction will be built per the plans submitted and will conform to all Federal, State and Municipal requirements and to all applicable stipulations and recommendations of other Boards and Agencies having jurisdiction over the project. The Board conditions its approval on the Applicant's continued receipt of required licenses from the Board of Selectmen for parking no more than the current maximum of 51 cars for all purposes, including those to be located both outside and within the new storage building.

Two sets of As-Built plans must be submitted to the Building Department for its approval prior to the issuance of an Occupancy Permit. Any changes other than minor field changes must be submitted to the Zoning Board of Approvals to ensure compliance with this decision.

Appeals, if any, shall be made pursuant to Section 17 of Chapter 40A of the General Laws, as inserted by Chapter 808 of the Acts of 1975, and shall be filed within twenty days after the date of filing of the decision in the office of the Town Clerk.

Copies of this decision have been filed with the Town Clerk and the Planning Board.

August 2, 2017

  
Jennifer Brehnan Oram, Assistant Clerk  
Zoning Board of Appeals

ACTION	DATE	DESCRIPTION
ISSUED FOR PERMITS	06/11/17	FOR PERMITS
REVISED	06/11/17	FOR PERMITS
ISSUED FOR PERMITS	06/11/17	FOR PERMITS

**LEGEND**  
 ALL DIMENSIONS SHOWN HEREON REFER TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.

**NOTES**  
 1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**GENERAL NOTES**  
 1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**PERMITS**  
 1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

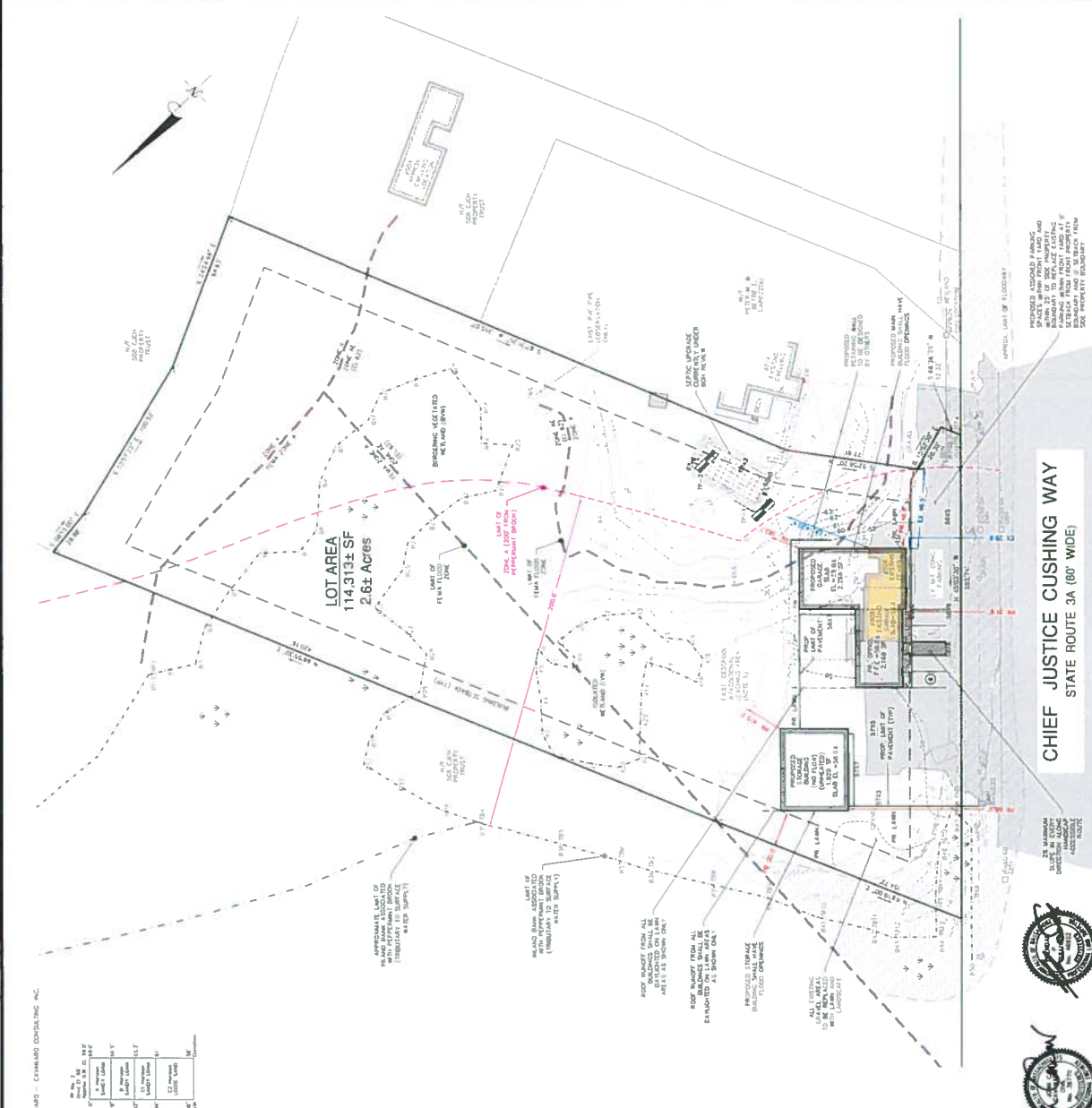
**SCALE**  
 1" = 30'

**PREPARED BY**  
 CAVANARO CONSULTING  
 697 MAIN STREET  
 COVINGTON, MA 02021  
 PHONE: 781.658.8187  
 FAX: 781.658.8186

**SITE PLAN TO ACCOMPANY ZBA APPLICATION**  
 ZBA APPLICATION  
 708 CHIEF JUSTICE CUSHING WAY  
 COVINGTON, MA 02025

**PROJECT NO.** 15100  
**SCALE:** AS SHOWN  
**DATE:** 6/11/17  
**DESIGNED BY:** ECR  
**DRAWN BY:** DB  
**CHECKED BY:** JEC  
**FILE NAME:**  
**SHEET NO.** 1 OF 1

**ZBA**



**WATER RESOURCE DISTRICT REQUIREMENTS**

REQUIRED	NOT ALLOWED	RECORDED	EXEMPTED
1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.	2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.	3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.	4. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**PARKING REQUIREMENTS**

REQUIREMENT	REQUIREMENT
1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.	2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**ZONING REQUIREMENTS**

REQUIREMENT	REQUIREMENT
1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.	2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**LEGEND**

DRIVE MANHOLE	5'	EAST CURBLINE
SEWER MANHOLE	5'	FLOOD ZONE
CATCH-BASIN	5'	OVERHEAD WIRING
HYDRANT	5'	STONE WALL
WATER GATE	5'	EXISTING TREES AND SHRUBS
WATER SERVICE	5'	RETAINMENT WALL
UTILITY POLE	5'	RETAINMENT WALL
LIGHT	5'	RETAINMENT WALL
CALL VALUE	5'	RETAINMENT WALL

**NOTES**  
 1. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 2. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.  
 3. ALL DIMENSIONS ARE TO CENTERLINE UNLESS OTHERWISE NOTED.

**APPROVED FOR PERMITS**  
 [Signature]

**CHIEF JUSTICE CUSHING WAY**  
 STATE ROUTE 3A (60' WIDE)