



Auburn Zoning Board of Appeals

June 18, 2015

Meeting Agenda

6:00 P.M. – City Council Chambers (Auburn Hall)

ROLL CALL

MINUTES:

None

NEW BUSINESS:

Appeal of Robert Parent to retain the existing and properly permitted home in the current location by obtaining a variance for the portion of the residential structure that crosses the residential and agricultural zoning boundary at 621 West Auburn Road / PID # 341-052 pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

MISCELLANEOUS: Any other business that the Board would like to discuss.

ADJOURNMENT

LEGAL NOTICE

City of Auburn

The Auburn Appeals Board will hold a Public Hearing on Thursday, June 18, 2015 at 6:00 p.m. in the City Council Chambers of Auburn Hall, 60 Court Street, Auburn Maine. The following appeal will be heard:

Appeal of Robert Parent to retain the existing and properly permitted home in the current location by obtaining a variance for the portion of the residential structure that crosses the residential and agricultural zoning boundary at 621 West Auburn Road / PID # 341-052 pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

Further information may be obtained from the Department of Planning and Development.

Eric J. Cousens

Deputy Director of Planning & Development

City of Auburn, Maine

"Maine's City of Opportunity"

Office of Planning & Permitting

To: Auburn Zoning Board of Appeals

From: Eric J. Cousens, Deputy Director of Planning and Permitting 

Re: Appeal of Robert Parent to retain the existing and properly permitted home in the current location by obtaining a variance for the portion of the residential structure that crosses the residential and agricultural zoning boundary at 621 West Auburn Road / PID # 341-052 pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

Date: June 12, 2015

AUTHORITY/JURISDICTION

The Board has jurisdiction to hear Variance Appeals under Section 60-1187, Variance, which reads as follows:

- (a) The board of appeals may grant a variance from the dimensional regulations and supplementary district regulations contained in the zoning chapter where the strict application of the ordinance, or a provision thereof, to the petitioner or property would cause undue hardship based on:
 - (1) The land in question cannot yield a reasonable return unless the variance is granted;
 - (2) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (3) The granting of a variance will not alter the essential character of the locality; and
 - (4) The hardship is not the result of action taken by the appellant or a prior owner.
- (b) In addition to the criteria in this section, in determining whether or not to grant a variance, the board shall also take into consideration the following:
 - (1) Fire, electrical and police safety requirements;
 - (2) The adequacy of the traffic circulation system in the immediate vicinity;
 - (3) The availability of an adequate water supply;
 - (4) The availability of adequate sewerage facilities;
 - (5) Would not violate the environmental standards or criteria contained in the Overlay Zoning Districts;
 - (6) Would not adversely affect property adjoining the premises under appeal or nearby in the same neighborhood or in the same zoning district;

- (7) Would not endanger the public health, safety or convenience; and
- (8) Would not impair the integrity of the zoning chapter.

PROPOSAL

The City of Auburn has received a request from Robert Parent to retain the existing and properly permitted home in the current location by obtaining a variance for the portion of the residential structure that crosses the residential and agricultural zoning boundary at 621 West Auburn Road / PID # 341-052 pursuant to Chapter 60, Article XV, Division 4, section 60-1187.

The home was originally constructed by a local contractor hired by Mr. Parent to construct the home. All plans and required permitting information were provided and the permit was issued based on the site plan provided that showed home being located inside the residential zone. Staff believes that the homeowner and contractor fully intended to comply with the ordinance and plans in locating the home. Proper inspections were completed by the building inspector at the time and a Certificate of Occupancy was issued on August 21, 2003.

It is common in our rural areas to have a residential zone "strip" along existing roads with agricultural zone on the rear land. Initially, the zones were typically 750' deep until we started to see short dead end subdivision roads in areas where the city preferred to limit growth to existing roadways. At that time the City chose to reduce the width of the residential strips to 450' from the center line of the road right-of-way. There are a couple of homes in close proximity to 621 West Auburn Road that were built while the 750' strip was in place and are located between 450' and 750' from the centerline of West Auburn Road. Those homes are legally non-conforming and can be sold and financed as any other home. It has recently been determined that the measurement used to identify the edge of the 450' residential strip and for the placement of the home was off by approximately 30' and the home partially extends into the Agricultural Zone. This was done in violation of the 450' boundary in place at the time and we have learned that banks will not finance the home unless a variance is granted. It appears that they may have measured from the edge of the road instead of the centerline and our building inspector did not pick it up as a concern in 2003.

The application details how the appellant believes the situation qualifies for a variance.

I. RECOMMENDATION:

Staff recommends the following findings:

1. Unless the variance is granted, the property cannot yield a reasonable return because the strict compliance would cause impractical costs to move the structure a short distance (30') or demolish the structure. In addition, moving the existing structure would increase soil disturbance and not provide any practical or environmental benefit.

2. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; If the structure was built a few years earlier it could have been in the current location or up to 250' further from the road as adjacent homes are. This home is already closer to the road than some others built between 1970 and 2000 in the area.
3. The granting of a variance will not alter the essential character of the locality as the structure will remain as-is in the current location; and
4. The hardship is not the result of action taken by the appellant or a prior owner. The owner and contractor made every effort to follow the required permitting process and had proper inspections. A measuring error in 2001 and inspected during construction until the Certificate of Occupancy was issued in 2003 resulted in the misplacement and approval of the location that was off by approximately 30.'
5. In addition to the criteria in this section, in determining whether or not to grant a variance, the board has also take into consideration the following and found that the proposal meets the requirements:
 - (1) Fire, electrical and police safety requirements; No Impact.
 - (2) The adequacy of the traffic circulation system in the immediate vicinity; No Impact.
 - (3) The availability of an adequate water supply; The existing well will continue to serve the structure.
 - (4) The availability of adequate sewerage facilities; The structure is served by a code compliant subsurface wastewater disposal system.
 - (5) Would not violate the environmental standards or criteria contained in the Overlay Zoning Districts;
 - (6) Would not adversely affect property adjoining the premises under appeal or nearby in the same neighborhood or in the same zoning district;
 - (7) Would not endanger the public health, safety or convenience; and
 - (8) Would not impair the integrity of the zoning chapter.

Staff, based on the above findings, is supportive of approving the variance as requested.

For review by - **City of Auburn, Maine / Zoning Board of Appeals**

Application for Area (Setback) Variance

Applicant and property owner:

--- **Robert Parent / 207-239-9606 / petrobob@hotmail.com**

Property location:

--- 621 West Auburn Road, Auburn, Maine / Tax Map # 341-52 in Auburn Zoning District

---**Variance requested:**

Southeast corner of the property structure is allegedly infringing over the Residential Zone line, a 30' setback variance is being requested.

Initial site sketch of proposed build site (attached) shows a residence with detached garage/apartment (highlighted) within a Low Density Rural Residential Zone.

The garage/apartment was planned with the back of the structure approx. 5' from the zone line to take advantage of the Lake Auburn views.

All good intent was in the planning of this project, but a mistake was made in the placement of the cement slab possibly due to a misinterpretation of the site markers.

Applicant/owner would like to renovate the apartment to FHA standard and sell the structure as a single family residence.

---**Variance Criteria :**

Sec. 60-1187. Variance (a) (1) – ‘the land in question cannot yield a reasonable return unless the variance is granted.’ :

Feasibility of selling property under current market conditions-

Structure was built in 2001, original cost (basis of land and structure) was \$195,000.00, and construction was completed Aug.2003.

All city permits were applied for plumbing, septic, electrical and structural, all permits issued. Upon final inspection a ‘Certificate of Occupancy ‘ was issued.

Property is currently tax assessed at \$181,000.00 / w \$3701.92 tax per yr. / All taxes paid in full.

Present market value: \$207,600.00 (sum total of: cost of land, development, building construction, plus ½% appreciation per annum).

If a variance is not granted:

Options (none that are economically feasible):

Option-1. Build the residence (second structure) as originally planned, thereby adding approx. \$200,000.00 to the basis of the property. The current real estate market and Auburn demographics will not support home sales of over \$400,000.00 in the West Auburn area. Bear in mind the market is just recovering from a 5 year slump in Maine with home sales in the negative.

Option-2. Move the garage/apartment structure west 30' to a new slab. Excavating, pouring cement slab, extending and reconnecting the septic stack and the 200 amp service and then physically moving the structure over to the slab will run up estimated costs of \$32,000.00 plus an additional \$6000.00 to demolish and remove the existing slab. Immediate area will be impacted with heavy machinery.

Option-3. Take no action and leave the structure as a garage thereby devaluing the property by approx. \$50,000 and reducing the possibility of recouping the investment.

Sec. 60-1187. Variance (a) (2) — 'The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.'

The location of the structure's cement slab was placed in error and is partially over the residential zone line.

Sec. 60-1187. Variance (a) (3) — 'The granting of a variance will not alter the essential character of the locality.'

The structure will remain in-situ, nothing will change that the city had previously approved and will in no way impact the locality. The structure rests on nearly 14 acres, a 30' variance will be negligible.

Sec. 60-1187. Variance (a) (4) — 'and the hardship is not a result of action taken by the appellant or a prior owner.'

The structure placement error was unintentional (*see attach initial sketch*)

Sec. 60-1187. Variance (c) (1-8) - Other Considerations :

(1) Fire, electrical and police safety requirements:---

----200 amp electrical system installed by ESM electrical contractors of Lewiston, Me., Main service cut-off switch installed for emergency use by Fire Dept..

(2) The adequacy of the traffic circulation system in the immediate vicinity:

----The property has a private road maintained by the owner.

(3) The availability of an adequate water supply:

----The property has an operational water well with a min. of 5 gpm output.

(4) The availability of adequate sewerage facilities:

----An operational 3 bedroom capacity sewerage system in place (gravity fed with leach field).

(5) Would not violate the environmental standards or criteria contained in the Overlay Zoning Districts:

----Variance will not impact the environment, the water shed, or public health and safety.

The structure is on approx. 14 acres.

(6) *Would not adversely affect property adjoining the premises under appeal or nearby in the same neighborhood or in the same zoning district:*

----Variance will not impact any adjoining properties since the structure will remain in-situ and will not be moved.

(7) *Would not endanger the public health, safety or convenience:*

----No impact to public health and safety as the structure slab will not be excavated and sewerage leach field and septic tank will remain in place.

(8) *Would not impair the integrity of the zoning chapter:*

----The property being approx. 14 acres creates a substantial Shoreland Zone buffer; half of the acreage is heavily forested preventing erosion into the watershed.

Thank you for your consideration.

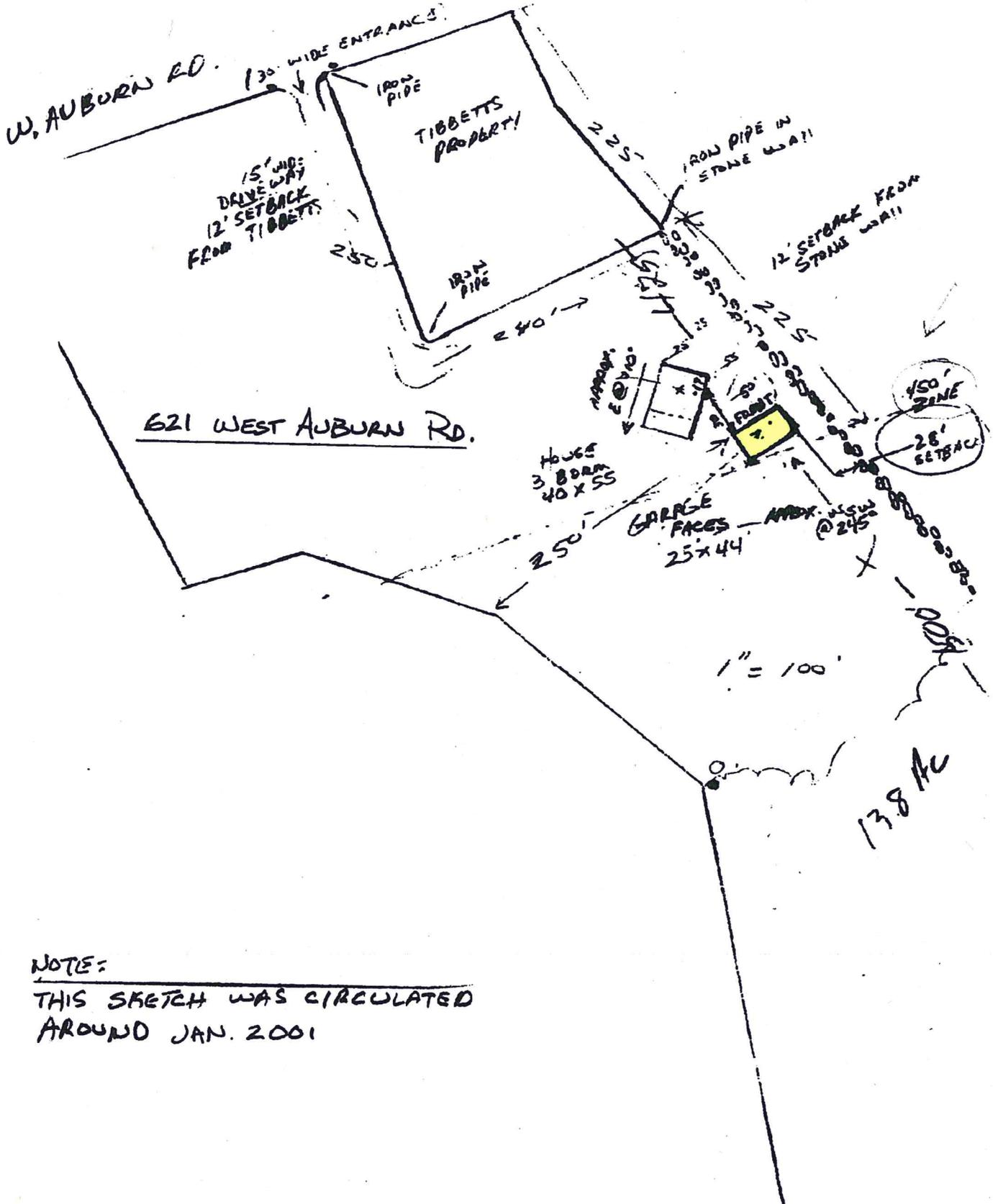


May 01, 2015

Robert Parent // Owner/Applicant
207-239-9606 / petrobob@hotmail.com

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-

Attach (2)-
Sketch of initial build site proposal
Property summary



NOTE:

THIS SKETCH WAS CIRCULATED
AROUND JAN. 2001

Unofficial Property Record Card - Auburn, ME

General Property Data

Parcel ID 341-052
 Prior Parcel ID --
 Property Owner PARENT ROBERT R
 Mailing Address ARAMCO BOX 5317 NAJMAH
 RAS TANURA 31311
 City SAUDI ARABIA

Account Number 341052000

Property Location 621 WEST AUBURN RD
 Property Use SINGLEFAMILY
 Most Recent Sale Date 1/18/2001
 Legal Reference 4575-264
 Grantor KONECKI, RUTH M

Mailing State Zip

Sale Price 75,000

ParcelZoning

Land Area 13.000 acres

Current Property Assessment

Card 1 Value Building Value 118,500

Xtra Features Value 800

Land Value 61,900

Total Value 181,200

Building Description

Building Style COLONIAL
 # of Living Units 1
 Year Built 2001
 Building Grade AVERAGE
 Building Condition Average
 Finished Area (SF) 1508
 Number Rooms 5
 # of 3/4 Baths 1

Foundation Type SLAB
 Frame Type WOOD
 Roof Structure GAMBREL
 Roof Cover ASPHALT SH
 Siding VINYL
 Interior Walls DRYWALL
 # of Bedrooms 3
 # of 1/2 Baths 0

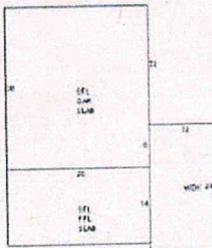
Flooring Type VCT
 Basement Floor N/A
 Heating Type NONE
 Heating Fuel NONE
 Air Conditioning 0%
 # of Bsmt Garages 0
 # of Full Baths 0
 # of Other Fixtures 1

Legal Description

Narrative Description of Property

Property contains 13.000 acres of land mainly classified as SINGLEFAMILY with a(n) COLONIAL style building, built about 2001, having VINYL exterior ASPHALT SH roof cover, with 1 unit(s), 5 room(s), 3 bedroom(s), 0 bath(s), 0 half bath(s).

Property Images



**City Of Auburn
Community Development Department
Building Inspection Division**

For Official Use Only

Date: 7/24/01
 Telephone: 783-6224
 Ward: 1
 Zone: RR
 Map No.: 341-602 P62
 Bldg Code: B009 90
 Use Group: A-3
 Type of Construction: 5B
 Time Limit: 6 mos.
 Estimated Cost: 80,000
 Fee: 262.00

Appointments for permits are recommended.
 Please fill out any part which applies to job.
 Proper plans must accompany application as required.

Owner: Bob Parent
 Address: 587 West Auburn Rd.
 ADDRESS OF CONSTRUCTION: West Auburn Rd. Lot 5E

CONTRACTOR: BTM Developers
 Project Description: 2 Story - garage below apt. above
 Building Dimensions: 26' x 44' Square Footage: 2288 sq ft unfinished Lot Size: 13.8 Acres
 Plans Submitted: _____
 Plan Number: _____
 Plan Reviewed by: _____

Foundation:

- Type of soil: Sand
- Set Backs - Front: 425' Rear: 1500' Sides(s): 28' L, 250' R
- Footings Size: 24" x 8"
- Foundation Size: 4' x 8"
- Other: _____

Floor:

- Sills Size: 2x6 Sills must be anchored.
- Carrying Beam Size: 2x12
- Lally Column Spacing: 10'
- Joists Size: 2x10 Spacing 16" O.C.
- Floor Sheathing Type: 3/4 Advantech Thickness: 3/4
- Other Material: _____

Exterior Walls:

- Studding Size: 2x6 Spacing: _____
- Egress Windows: Brand: Andor Model No. 200
- No. Doors: 4
- Header Sizes: 2x10 Span(s): _____
- Bracing: Yes: No: _____
- Corner Posts Size: 2x6
- Insulation Type: _____ Thickness: _____
- Sheathing Type: _____ Thickness: _____
- Siding Type: _____
- Masonry Materials: _____
- Metal Materials: _____
- Other Materials: _____

Interior Walls:

- Studding Size: 2x4 Spacing: 16"
- Header Sizes: 2x10 Span(s): 3'
- Wall Covering Type: NA
- Fire Separation Wall if required: _____
- Other Materials: _____

Ceiling:

- Ceiling Joists Size: Trusses
- Type Ceilings: NA
- Insulation Type: NA Thickness: _____

Roof:

- Truss or Rafter Size: _____ Span: 26'
- Sheathing Type: 5/8 CDX Thickness: 5/8
- Roof Covering Type: Fiberglass shingles
- Other: _____

8/15/01 - N.F. Foundation is in place, location appears approx. as per site plan
 1st level wall + floor framing in place, ok so far, no stairs yet.
 10/12/01 - N.F. Framed, sheathed and roofed. Column locations supporting beam are excessively spaced - informed builder of need to address (16' on center in 2 places) cont.

Permit Number 19707 Building Inspection Record - City of Auburn, Maine Owner: _____

CONTINUED

Chimneys:

1. Type: NA

Heating:

1. Type of Heat: NA

Electrical:

1. Service Entrance Size: NA

Wiring Required: _____

Plumbing:

1. Approved soil test if required: Yes: No: _____ City Sewer: _____

2. No. of Tubs or Showers: 0 No. of Flushes: 0 No. of Lavatories: 0

Swimming Pools:

1. Type: NA Pool Size: _____ Square Footage: _____

Comments:

cont. 10/12/01-NF Also must correct stair treads at top level.
Treads inconsistent in depth (approx. 1 1/2" difference)
Also correct platform width at dogleg of stairs. (lacking 5")
otherwise o.k. so far.

10/26/01-NF. corrections made, ok to proceed.

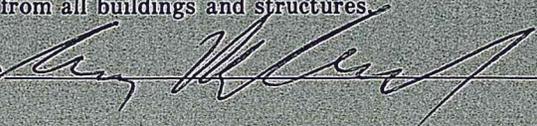
7/10/02-NF Drywall complete / has placed kitchen in garage Bay?
informed him that this presents a problem relative to fire
seperation requirement for living space.

Also must install handrails and siding, otherwise o.k.

8/20/03-NF. complete

The permit holder, property owner, person or persons, firm or corporation accepting this permit agrees to comply with all the provisions of the statutes of Maine and of the Ordinances of the City of Auburn regulating the construction, maintenance, use of the buildings, structures and of the application on file in this department. Permit holder understands he/she is responsible for correct set backs from ALL PROPERTY LINES and from all buildings and structures.

Application Signature



BURN RD.

135' WIDE ENTRANCE

IRON PIPE

TIBBETTS PROPERTY

225'

IRON PIPE IN STONE WALL

15' WIDE DRIVEWAY
12' SETBACK FROM TIBBETTS

250'

IRON PIPE

240'

12' SETBACK FROM STONE WALL

APPROX. E @ 110°

HOUSE 3 BDRM 40 X 55

FRONT

450' ZONE

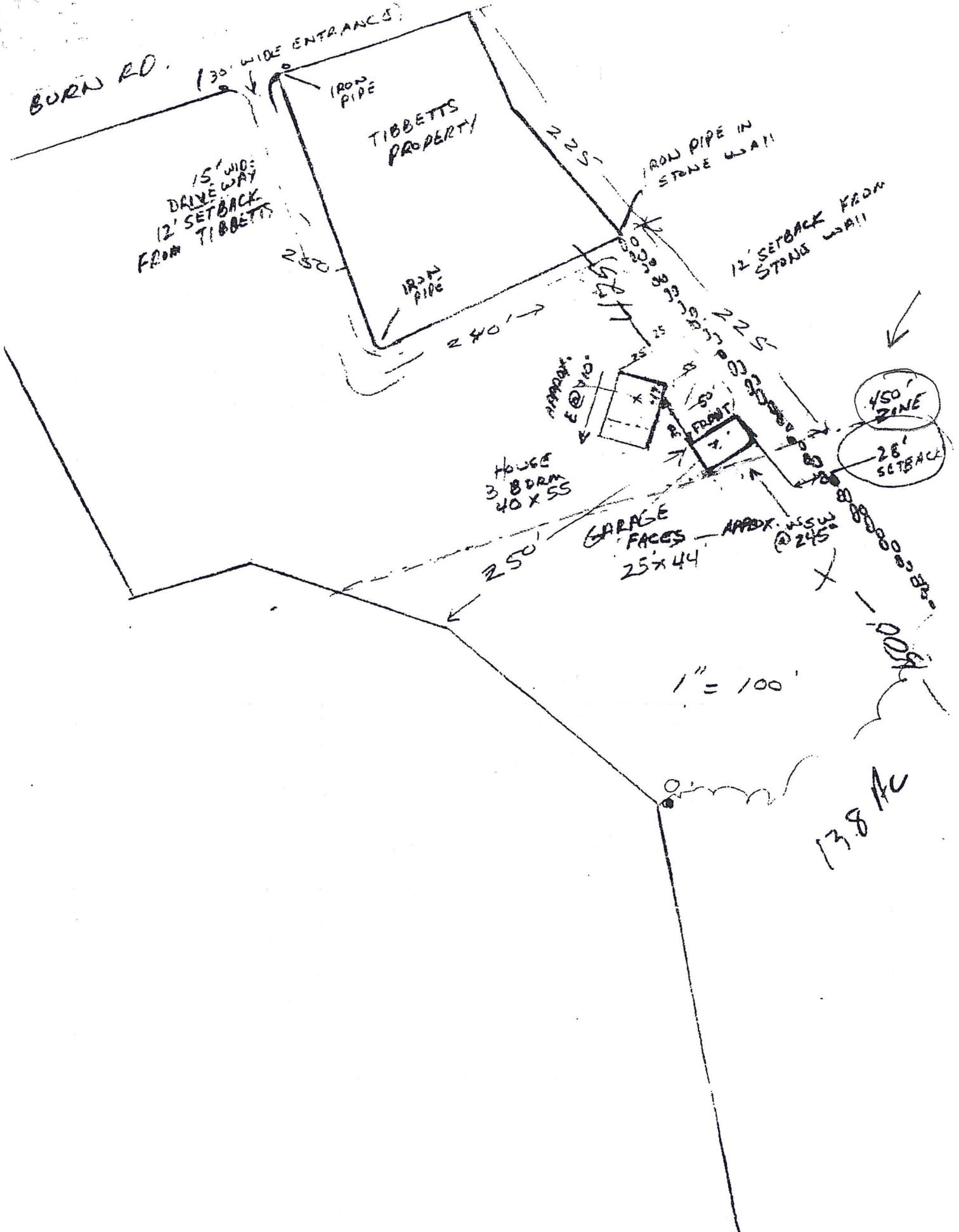
28' SETBACK

250'

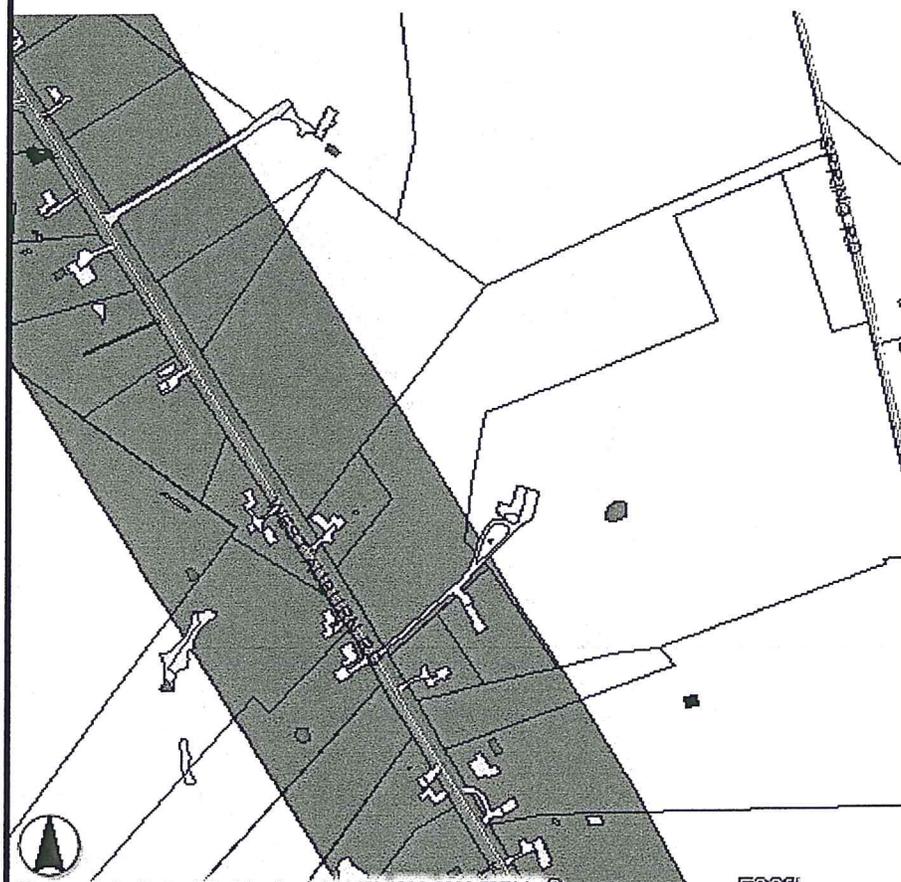
GARAGE FACES - APPROX. WSW @ 245°
25 X 44

1" = 100'

13.8 AC



ArcIMS 3.0 HTML Viewer Map



Map created with ArcIMS 3.0 - Copyright (C) 1996-2000 ESRI Inc 500ft

Legend

- Road Names**
- Roads**
- Buildings**
- FOUNDATION
- RUIN
- GREENHOUSE
- POOL_IG
- GENERAL
- DOCK
- POOL_UG
- MOBILEHOME
- Driveways**
- ISLAND
- PAVED
- UNPAVED
- Parcels
- Parking
- Water**
- RIVER
- WETLAND
- POND_LAKE
- LAND
- Zoning**
- RR
- MFU
- MFS
- UR
- AG
- NB
- LAKE AUBURN
- TAYLOR POND
- GB
- LDCR
- SR
- CB
- ID
- DEZ
- City Border

CITY OF AUBURN, MAINE
Community Development Department

CERTIFICATE OF OCCUPANCY

ISSUED TO: Bob Parent

DATE: August 21, 2003

This is to certify that the building or part thereof located at . 621 W. Auburn Rd
Map No. 34.1.05.200.0000 . has had a final inspection under building permit No. 18781
and occupancy is hereby authorized.

Limiting Conditions:

This Certificate Supersedes
Certificate Issued



Morrison
McLennan

Building Inspector

C.M.V.T.I. IM 10/87