TOWN OF ROCKLAND ZONING BOARD OF APPEALS APPLICATION FOR A PUBLIC HEARING

SECTI A I/W	ON 1: e hereby apply for a public hearing before the Zoning Board for the following:					
	(Check all that are applicable)					
<u>X</u>	Application for Dimensional Variance Application for a Use Variance Application for a Section 6 Finding Special Permit for Use permissible by Special Permit Appeal from a Decision of the Zoning Enforcement Officer Comprehensive Permit (Chapter 40B)					
SECTI						
B. Ans	wer all of the following questions that pertain to your application:					
I.	Address of the property in question: 59 North Avenue					
2.	2. Name(s) of Owner(s) of Property: <u>Lighthouse Development</u> , <u>LLC</u>					
3.	3. Owner's Address: 59 North Avenue, Rockland					
4.	4. Name of Applicant(s): <u>Lighthouse Development</u> , <u>LLC</u>					
5.	5. Address of Applicant: 59 North Avenue, Rockland					
6.	Applicant's Phone: Home: Work: _781-261-9711 Cell: Fax: E-Mail: ivy@lighthouse-electrical.com					
7.	State the Assessor's Map# 34 and Lot# 48 of the property.					
8.	8. State the Zoning District in which the property is located: Residential 29. Explain in-depth what you are proposing to do:					
9.						
	See attached letter from Adam. J. Brodsky, Esq.					

10.	Describe in detail any existing variance(s) or special permit(s) pertaining to this property. Copy/copies must be obtained at the Town Clerk's Office and must be attached to this application:				
	See attached letter from Adam J. Brodsky, Esq.				
11.	List all applicable sections of the Zoning Bylaw that pertains to this application:				
	See attached letter from Adam J. Brodsky, Esq.				
12.	If you are applying for a dimensional variance, state in detail any specific condition that effects the shape, soil, topography or structures on your lot that specifically effects your lot and does not effect the zoning district as a whole, and why these conditions cause a hardship to the land that warrants the granting of a variance (use a separate piece of paper if necessary)				
	See attached letter from Adam J. Brodsky, Esq.				
13.	If this is an application for a special permit, describe in detail the permit you are seeking and provide the Board with specific information as to how the proposed use will meet the Performance Standards of the Zoning By-Laws of Rockland:				
	Not Applicable				

	Not Applicable			
Signed: _				
		W. Aikens, M		
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Signed:_	Herbert U	T. aikens	L	 _
Ap	plicant(s) If Differe	nt from owner		
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DROHAN TOCCHIO & MORGAN, P.C.

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

ADAM J. BRODSKY abrodsky@-law.com

July 21, 2021

VIA Email and Federal Express

Robert Rosa, Chair Zoning Board of Appeals Rockland Town Hall 242 Union Street Rockland, MA 02370

RE: Application for Dimensional Variance

59 North Avenue, Rockland (Parcel Map 34 Lot 48)

Lighthouse Development LLC

Dear Mr. Rosa:

This office represents Lighthouse Development, LLC ("Lighthouse Development") in connection with this matter. Lighthouse Development requests that the Zoning Board of Appeals (the "Board") grant dimensional variances pursuant to § 415.89.1 of the Town of Rockland Zoning Bylaw (the "Bylaw") to maintain a parking area in the front yard of Lighthouse Development's commercial property at 59 North Avenue, Rockland, Massachusetts (the "Property").

I. Background Facts

Lighthouse Development is the owner of the Property on North Avenue, identified on the Town of Plymouth Assessors Map 34 as Lot 48. Lighthouse Development holds title to the Property by virtue of deed dated May 2, 2007, recorded with the Plymouth County Registry of Deeds at Book 34480, Page 110. A copy of the deed is attached as <u>Attachment 1</u>. The Property is located in the R-2 Residential Zoning District and has frontage on North Avenue. A paper street known as Garrity Court is located adjacent to the western property line at the Property. The Property is in Zone X as depicted on Flood Insurance Rate Map, Community Panel No. 25023C 90093K, effective as of July 6, 2021.

The Property comprises approximately 8,462 s.f. and is improved with a 3,830 s.f. commercial building formerly occupied by Rockland Trust. The building was initially erected on the Property in or around 1900. The entrance to the building is located in the side yard, adjacent to Garrity Court. There is a paved parking and loading area in the rear of the Property, currently

Zoning Board of Appeals July 21, 2021 Page 2

used and accessed by company vehicles. Lighthouse recently constructed a recycled asphalt (gravel) parking area in the front yard of the Property.

The existing conditions at the Property are depicted on the Site Plan attached hereto as Attachment 2, entitled "Site Plan, Assessors Lot 34-48, 59 North Avenue, Rockland, Massachusetts," prepared by Grady Consulting, LLC, dated July 13, 2021 (the "Site Plan").

Lighthouse Development desires to maintain the parking area in the front yard of the Property (the "Parking Project"). Ideally, Lighthouse would like to pave the parking area.

In furtherance of the Parking Project, Lighthouse Development seeks variances from the Board pursuant to § 415.89.1 of the Bylaw, for the following dimensional nonconformities at the Property for the parking area:

- § 415-22.A(1). Dimensions of parking spaces. The Bylaw requires that: (i) parking spaces be a minimum of 10 x 20 feet for full size vehicles and 9 x 18 feet for compact vehicles, (ii) there be a ratio of 30% compact vehicles to 70% full size vehicles spaces. (iii) parking spaces have a back-up are no less than 23 feet, and (iv) parking spaces designed to be used for the handicapped shall be designed to meet the regulation set forth by the Americans with Disability Act (ADA) and Architectural Access Board (AAB). Lighthouse Development does not propose to stripe the parking spaces.
- § 415-22.A(2)(A). Setback of Parking Areas in Residential Zone. This Bylaw requires that parking area be set back a minimum of 10 feet from any property line, and that there be landscaping in this setback. Lighthouse Development seeks to park vehicles within the 10 foot setback and maintain the existing lawn areas.

II. The Zoning Board of Appeals Should Grant a Variance.

Under § 415-89.1.A. of the Bylaws and M.G.L. c. 40A, § 10, the Board may authorize a variance where owing to circumstances relating to the soil conditions, shape or topography of such land, a literal enforcement of the provisions of the Bylaws would involve substantial hardship, financial or otherwise, to the applicant and where relief may be granted without nullifying or substantially derogating from the intent or purpose of the Bylaws.

In order to grant a variance, § 415-89.1.B. requires that the Board find the following conditions to be present:

(1) Conditions and circumstances unique to the applicant's lot, structure or building and do not apply to the neighboring lands, structures or buildings in the same district.

- (2) Strict application of the provisions of this bylaw would deprive the applicant of reasonable use of the lot, structure or building in a manner equivalent to the use permitted to be made by other owners of their neighborhood lands, structures or buildings in the same district.
- (3) The unique conditions and circumstances are not the result of actions of the applicant taken subsequent to the adoption of this bylaw.
- (4) Relief, if approved, will not cause substantial detriment to the public good or impair the purposes and intent of this bylaw.
- (5) Relief, if approved, will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the district.

See also M.G.L. c. 40A, §10.

1. There are Unique Conditions and Circumstances Supporting a Variance.

The Property is an irregularly shaped, undersized rectangular lot. The pre-existing nonconforming commercial building at the Property comprises a significant portion of the Property, (approximately 45%), and basically encompasses the entirety of the western side yard. There is no room for a driveway at the Property. The means of ingress and egress at the Property is from Garrity Court.

The existing conditions at the Property, including the siting of the building, impose site restrictions that significantly reduce the lot area available for parking. There are few suitable areas for vehicle parking for this business. Lighthouse Development may use Garrity Court for access but cannot use Garrity Court for parking vehicles. Similarly, there is no on-street parking allowed on North Avenue. Although there is a pre-existing nonconforming parking area at the rear of the Property, this parking is insufficient for the business use. The only remaining parking area is the front yard, where there is little to no room to also provide a landscape buffer. These conditions do not generally affect other lots within the zoning district. Variances are required to address the need for additional parking and the lack of a landscape buffer.

Creating a modest parking area in the front yard acknowledges the unique characteristics of the Property and the character of the surrounding neighborhood. The surrounding area consists of a mix of residential and commercial uses. Allowing Lighthouse Development to maintain its thriving business on the Property by creating modest parking is consistent with the nature of the neighborhood and promotes the commercial tax base.

2. The Strict Enforcement Of § 415-22.A.(1) and (2) Would Deprive Lighthouse Development of Reasonable Use of the Property in an Equivalent Manner.

As mentioned, the surrounding neighborhood consists of a mix of residential and commercial properties and having a parking area in the front of the Property is not inconsistent with these uses. Several of the properties surrounding the subject Property have parking areas in their front yards. Some of the residential homes across the street and to the east of the Property have some sort of parking in the front of the homes. Moreover, there are commercial buildings and an apartment to the east of the Property, toward Union Street, which have parking areas fronting North Avenue. There is also a nearby Child Care Center with numerous parking lots and with a paved parking area in front of its building.

Given the character of the neighborhood, Lighthouse Development asserts that the denial of the requested parking variances here would deny Lighthouse Development a reasonable use of its Property in a manner equivalent to the use permitted other property owners. Lighthouse Development further asserts that denial of the requested parking variances would cause Lighthouse undue hardship, financial and otherwise. Lighthouse Development needs the front parking area in order to have sufficient parking to support its successful operations.

Pursuant to Massachusetts case law, the hardship requirement for dimensional variances under M.G.L. c. 40A, §10 is less strict than that for use variances, and even relatively minor "hardships" can justify a variance. See Marashlian v. Zoning Bd. of Appeals of Newburyport, 421 Mass. 719 (1996) (hardship requirements satisfied by showing that it would be "economically impractical" and not "economically feasible" as a result of the unique conditions); see also Furlong v. Zoning Bd. of Appeals of Salem, 90 Mass. App. Ct. 737 (2016) (elimination of an existing safety hazard justified encroachment into setback). A lesser showing of hardship is often appropriate for dimensional variances because they usually do not change the character of the zoning district or endanger nearby properties with an inconsistent land use. "Whether the same strict standards are necessary in the protection of the public interest when dimensional variances are involved is doubtful." See Mass. H. R. Rep. No. 5009, at 65 (1972) ("the Report of the Department of Community Affairs Relative to Proposed Changes in the Zoning Enabling Act"). "[I]t is the use variance which is the greatest source of danger to the integrity of the zoning process, while at the same time being the most difficult to justify legally." Id.

Lighthouse Development submits that denial of the front yard parking area at its Property, needed for its operations, is sufficient hardship to justify the dimensional variances requested here.

3. The Unique Conditions And Circumstances are Not The Result of Actions Of The Trust Taken Subsequent to the Adoption of the Bylaw.

Lighthouse Development purchased the Property in 2007. Lighthouse Development has not taken any actions which resulted in the creation of the limiting condition here.

4. The Grant of a Variance Will Not Cause Substantial Detriment To The Public Good Or Impair The Purposes and Intent Of The Bylaw.

Creating a parking area in the front yard at the Property will not create any noise, traffic or result in other similar negative impacts in the neighborhood. Currently, Garrity Court serves as the means of access for vehicles to parking at the Property. This will not change. Vehicles will enter the front parking area from Garrity Court, and there will be no hazards created to pedestrians or otherwise. Additionally, there will be grass areas remaining to provide a green buffer for the neighbors. There is also a fence at the property, also providing a visual buffer, and this will remain in place. Overall, the new parking area will not create any adverse effects on the neighborhood and there will be no harm to the public good.

Case law recognizes that "some derogation from the By-Law's purpose is anticipated by every variance; [o]therwise, the denial of relief on the basis of a slight or insubstantial departure from the goals of the by-law would prohibit the grant of any variance." <u>Cavanaugh v. DiFlumera</u>, 9 Mass. App. Ct. 396, 400 (1980). The proposed project is designed to conform to the character of the neighborhood and is well-conceived.

5. The Grant of a Variance Will Not Constitute a Grant of Special Privilege Inconsistent with the Limitations Upon Other Properties in the District.

Lighthouse Development asserts that there is no special treatment or privilege being requested here. Lighthouse Development is simply seeking to obtain the most reasonable and best use of the Property, consistent with the underlying zoning district and with the neighborhood in which it lies.

III. Conclusion

Accordingly, Lighthouse Development respectfully request that the Board grant Variances from the parking dimensional requirements in § 415-22.A(1) and § 415-22.A(2)A and allow a parking area in the front yard at the Property. Lighthouse Development asserts that all conditions of § 415-89 of the Bylaws and the requirements of M.G.L. c. 40A, §10, have been met.

Zoning Board of Appeals July 21, 2021 Page 6

Should you require additional information, please do not hesitate to contact us. Thank you for your consideration.

/ Adam J. Brodsky

Enclosure

cc: Thomas Ruble, Inspector of Buildings and Zoning Enforcement (via email)

Robert W. Galvin, Jr., Town Counsel (via email)

John Lucas, Building Department, Assistant (via email)

ATTACHMENT 1

QUITCLAIM DEED

Received & Recorded PLYMOUTH COUNTY REGISTRY OF DEEDS 02 MAY 2007 01:40PM JOHN R.BUCKLEY, JR. REGISTER

I, HOWARD F. WARMINGTON, of Rockland, Massachusetts, for Bk 34480 Pg 110-111 consideration paid of THREE HUNDRED FIVE THOUSAND DOLLARS (\$305,000.00) grant to LIGHTHOUSE DEVELOPMENT, LLC, a Massachusetts limited liability company, having its principal office at 355 Union Street, Randolph, MA 02368, with quitclaim covenants,

The land in Rockland, Plymouth County, Massachusetts, situated on the northerly side of North Avenue and easterly side of Garrity Court, bounded and described as follows:

BEGINNING at the Southwesterly corner of the premises at the intersection of the northerly line of North Avenue and the easterly line of Garrity Court;

THENCE running northerly by said easterly line of Garrity Court, 166 feet to a point;

THENCE turning and running easterly by land now or formerly of Jeremiah Driscoll, Trustee, 51.50 feet to a point;

THENCE turning and running southerly by land now or formerly of said Driscoll, Trustee, 166.00 feet to the north line of North Avenue;

THENCE turning and running westerly by said northerly line of North Avenue, 51.50 feet to the point of BEGINNING.

Containing about 8,462 square feet of land, together with a right of way in said Garrity Court appurtenant to the lot herein conveyed.

Subject to easements and restrictions of record insofar as now in force and applicable.

Being the same premises conveyed to the within grantor by deed of Rockland Trust Company dated November 25, 1992 and recorded in Plymouth County Registry of Deeds Book 11454, Page 54.

WITNESS my hand and seal this 30 day of APRIL , 2007

Howard F. Warmington

Return to Harbart Albans
24 Facility

Pembroke, M 02359

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COMMONWEALTH OF MASSACHUSETTS

Tymowth County, ss

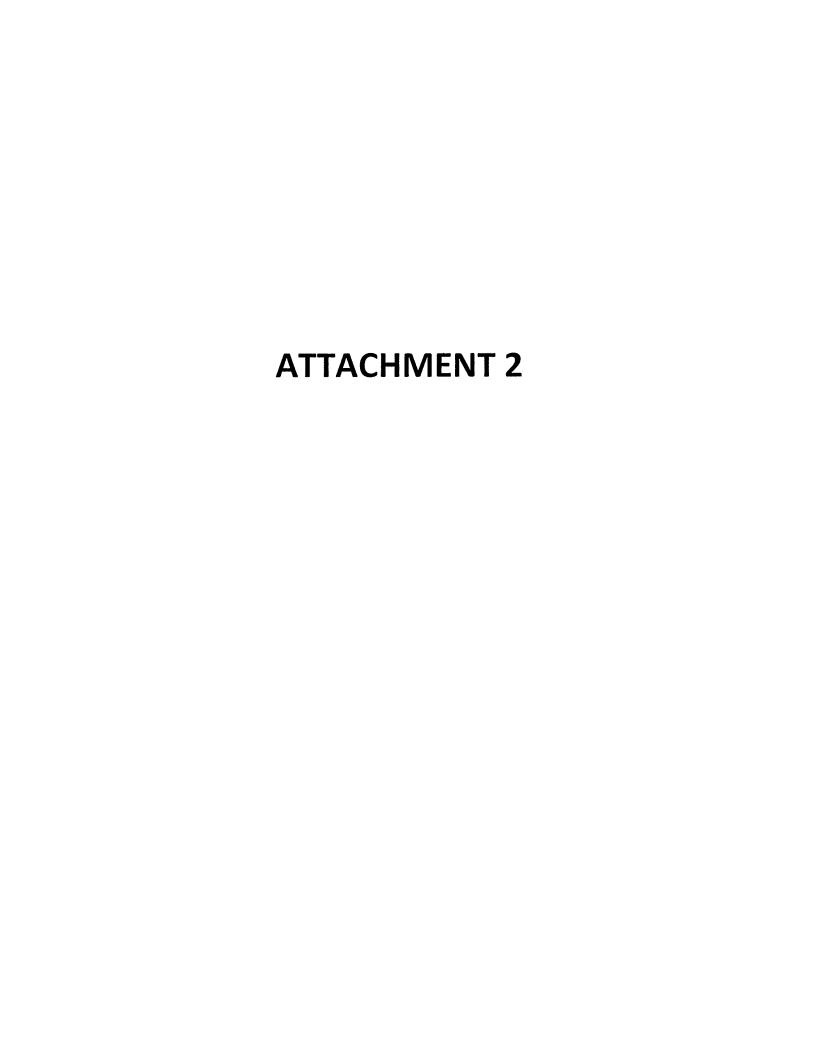
On this <u>30</u> day of <u>FRIL</u>, 2007, before me, the undersigned notary public, personally appeared Howard F. Warmington, proved to me through satisfactory evidence of identification, which was (check one)

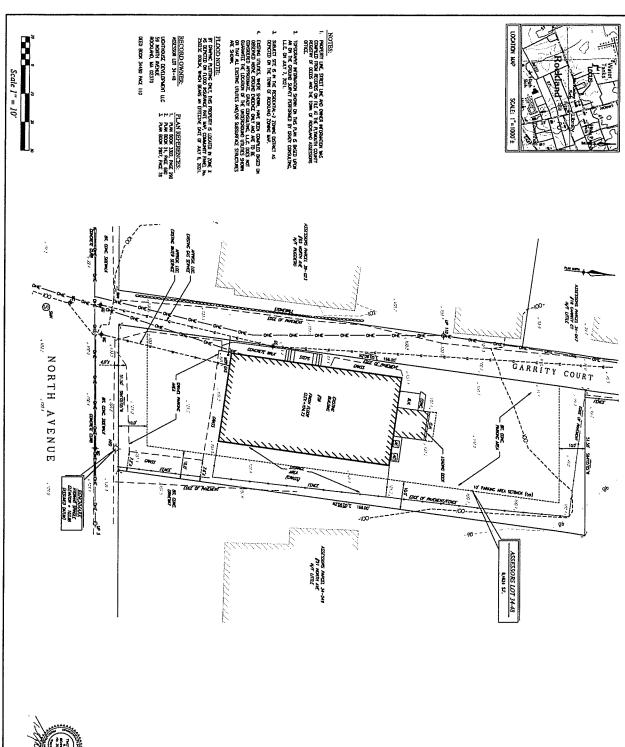
my personal knowledge of his identity,

a Massachusetts State Driver's License bearing
his photographic image and his signature
to be the person who signed the preceding or attached document
in my presence, and who acknowledged to me that he signed it
voluntarily for its stated purpose.

Notary Public

My Commission Expires:







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ASSESSORS LOT 34-48
59 NORTH AVENUE
ROCKLAND, MASSACHUSETTS SITE PLAN

Civil Engineers, Lond Surveyors & Londscope Architects 71 Empes Stret, Sale I, Kapston, M. (1954 Phase (781) 565-1900 for (781) 565-1978

SHEET 1 OF 1

State Tax Form 290 Certificate: 6449 Issuance Date: 07/19/2021 MUNICIPAL LIEN CERTIFICATE Town of Rockland, MA COMMONWEALTH OF MASSACHUSETTS

Requested by ADAM J BRODSKY, ESQ
DROHAN, TOCCHIO & MORGAN, PC
175 DERBY STREET SUITE 30
HINGHAM, MA 02043

I certify from available information that all taxes, assessments and charges now payable that constitute liens as of the date of this certificate on the parcel of real estate specified in your application received on 07/19/2021 are listed below.

DESCRIPTION OF PROPERTY

Parcel ID:34-0048

59 NORTH AV

LIGHTHOUSE DEVELO 59 NORTH AVE ROCKLAND	PMEŅT LLC .MA 02370	;	Land area Land Value Impr Value Land Use Exemptions Taxable Value:	0.19 AC 104,200 238,400 0 342,600
Deed date: Class: 316-316	Book/Page:		•	,
FISCAL YEAR		2022	2021	2020
DESCRIPTION COMMERCIAL REAL COMMUNITY PRESE		\$3,127.94 \$46.92	\$5,920.13 \$88.80	\$5,817.00 \$87.26
TOTAL BILLED: Charges/Fees Abatements/Exem Payments/Credit Interest to 07/	ptions s 19/2021	\$3,174.86 \$.00 \$.00 -\$3,174.86 \$.00	\$6,008.93 \$.00 \$.00 -\$6,008.93 \$.00	\$5,904.26 \$.00 \$.00 -\$5,904.26 \$.00
TOTAL BALANCE DUE	· ·	\$.00	\$.00	\$.00

NOTE: Actual 2022 taxes not yet issued.

FINAL READINGS/WATER, SEWER AND TRASH LIENS CALL:
WATER 781-878-0901; SEWER 781-878-1964; 781-871-1874 EXT 1005
ACCT# 767
DUE DATE 06/30/21
WATER: \$0.00
SEWER: \$0.00
TRASH: \$N/A
SEWER BETTERMENT: NO

TOWN COLLECTOR

THIS FORM APPROVED BY THE COMMISSIONER OF REVENUE

TOWN OF ROCKLAND



Board of Assessors

Town Hall 242 Union Street Rockland, Massachusetts 02370

July 14, 2021

CERTIFIED ABUTTERS LIST OF MAP 34 PARCEL 48 59 NORTH AVE

BOARD - ZBA

REQUIREMENTS – Abutters, next abutter within 300 ft and directly across a public or private street or way.

CERTIFIED BY

Chrissi MacPherson – Senior Administrative Assistant

Parcel ID	Owner	Location	Mailing Street	Mailing City, ST, Zip
34-48	LIGHTHOUSE DEVELOPMENT LLC	59 NORTH AVE	59 NORTH AVE	ROCKLAND, MA 02370
34-47	LITTLE MATTHEW	18 GARRITY CT	51 NORTH AVE	ROCKLAND, MA 02370
34-49	LITTLE MATTHEW A	51 NORTH AVE	51 NORTH AVE	ROCKLAND, MA 02370
34-50	BENOIT LEON R & JUNE E TRUSTEE BENOIT FAMILY TRUST	45 NORTH AVE	45 NORTH AVE	ROCKLAND, MA 02370
34-247	KINGSLEY PROPERTIES LLC	16 TIRRELL DR	51 NICKERSON DR	STOUGHTON, MA 02072
39-23	RUGGIERO SUSAN E	65 NORTH AVE	65 NORTH AVE	ROCKLAND, MA 02370
39-29	KELLY EDWARD F & MARY A	62 NORTH AVE	62 NORTH AVE	ROCKLAND, MA 02370

Planning Boards: Rockland, Abington, Whitman, Norwell, Hanson, Hanover, Hingham & Weymouth:

Rockland Board of Assessors (Notice of decision only)

The above constitutes a complete list of all parties in interest as found in the most recent tax list, pursuant to Chapter 40A, Section 11, of the General Law.



Edward F. and Many A. Kelly 62 North Avenue Rockiemel, MA 02370



Edward F and Mary A. Kelly 62 North Avenue Rockland, MA 02370



Susan E. Ruggiero 65 North Arence Rockland, MA 02370



Susan & Ruggiero 65 North Are Rockland, MA 02370



Kingsley Properties LLC 51 Nickerson Drive Stoughton, MA 02072





Kingsley Properties LLC 51 Nickerson Dr. stoughton, MA 02072



Leon and June Benot, Thistees Benoit Family Trust 45 North Avenue Rockland, MA 02370





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Mathew A. Little 51 North Arence Recipiond, MA 02370



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Matthew Little 51 North Arenez Rocaland, MA 02370



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Planning Bockrot Town of Hingtham 210 Central Street Hingham, MA 020013



Planning Board.
Town of Handrer
550 Hanover Street
Hanover, MA C2339



Planning Bocciest
Town of Hanson

542 Liberty Sirrect
Itenson, MA 02341



Pianning Bocurch Town of Norwell 345 Main Street Norwell, MA 02061



Planning Boarce Town of whitman 54 South Prence Conitman, MM 02382

Planning Bockrol
Town of Abington
500 Giviewicz Way





Shithouse Development LLC 59 North Avenue Rockland, MA 02370

	COM ELLE TIMO CLOTTON ON DELIVETT
■ Complete items 1, 2, and 3.	A. Signature
Print your name and address on the reverse so that we can return the card to you.	X ☐ Agent ☐ Addressee
Attach this card to the back of the mailpiece, or on the front if space permits.	B. Received by (Printed Name) C. Date of Delivery
Article Addressed to:	D. Is delivery address different from item 1? ☐ Yes
Lighthouse Development we 50, North Alence Rockland, MA 023+0	If YES, enter delivery address below: No
59 North ALEME	
Rockland, MA 023+0	:
	3. Service Type ☐ Adult Signature ☐ Adult Signature Restricted Delivery ☐ Certified Mail® ☐ Registered Mail Restricted Delivery ☐ Delivery
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Article Number (Transfer from service label)	☐ Collect on Delivery Restricted Delivery ☐ Insured Mail
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Lighthouse Development LLG.
59 North Menue
Rockland, MA 02370



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SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON	DELIVERY
■ Complete items 1, 2, and 3. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 1. Article Addressed to: Lighthouse Development LLC S9 North Arence Rockland, MA 02370	A. Signature X B. Received by (Printed Name) D. Is delivery address different from If YES, enter delivery address	Agent Addressee C. Date of Delivery nitem 1? Yes below: No
9590 9402 6542 1028 2496 18 2. Article Number (Transfer from service label) 021 0350 0001 5082 4956	S. Service Type Adult Signature Adult Signature Restricted Delivery Certified Mail® Certified Mail Restricted Delivery Collect on Delivery Collect on Delivery Insured Mail Insured Mail	☐ Priority Mall Express® ☐ Registered Mall™ ☐ Registered Mall Restricted Delivery ☐ Signature Confirmation™ ☐ Signature Confirmation Restricted Delivery
PS Form 3811, July 2020 PSN 7530-02-000-9053		Domestic Return Receipt