

*City of Biddeford*  
**Zoning Board of Appeals**  
**November 09, 2016/6:00 PM/COUNCIL CHAMBERS**

1. Pledge of Allegiance
2. Acceptance of Minutes
3. Old Business/Tabled Items
4. New Business
  - **Brian and Angelique Luro, 64 Old Cliff Rd., Kennebunkport, ME 04046.** Applicants are applying for an after-the-fact variance from setback requirements. Property is located at 10 Peter Pond Ln., Map 65 and Lot 2 in the CR Zone. Presentation will be made by the applicants.
    - 4.1. Luro ZBA Application
      - [November 2016 Luro.pdf](#)
5. Other Business
6. Adjourn

# Zoning Board of Appeals Agenda Item Report

Agenda Item No. 2016-172

Submitted by: Danielle Charron

Submitting Department: Codes Enforcement

Meeting Date: November 9, 2016

## **SUBJECT**

Luro ZBA Application

## **Recommendation:**

## ATTACHMENTS

- [November 2016 Luro.pdf](#)

APPLICATION FOR VARIANCE OR  
APPEAL TO BOARD OF ZONING APPEALS

CITY OF BIDDEFORD, MAINE

NAME OF APPELLANT Brian + Angelizuc Luro

MAILING ADDRESS 64 Old Cluff Rd.

CITY OR TOWN Kennebunkport, ME 04046

TELEPHONE 207 286 2347 MAP 65 LOT 2 ZONE CR #1

NAME OF OWNER Brian + Angelizuc Luro

PROPERTY LOCATION 10 Peter Pond Ln., Biddeford, Me.

The undersigned requests that the Board of Appeals consider one of the following:

- Administrative Appeal** Relief from decision, or lack of decision, of the Code Enforcement Officer or Planning Board in regard to an application for a permit. The undersigned believes that (check one).
- an error was made in the denial of the permit.
- the denial of the permit was based on misinterpretation of the ordinance.
- there has been a failure to approve or deny the permit within a reasonable period of time.
- other \_\_\_\_\_

Please explain in more detail the facts surrounding this appeal (please attach a separate piece of paper). You should be as specific as possible so that the Board of Appeals can give full consideration to your case.

X **Variance**

a. Nature of Variance: Describe generally the nature of the variance \_\_\_\_\_

(according to mortgage survey, of) - Garage and <sup>(10' setback)</sup> greenhouse are too close to setback by inches. (25' setback). House is being sold and buyer cannot obtain Title Insurance without a variance.

In addition, a sketch plan of the property must accompany this application showing dimensions and shape of the lot, the size and locations of existing buildings, the locations and dimensions of proposed buildings or alterations, and any natural or topographic peculiarities of the lot in question.

b. Justification of Variance: In order for a variance to be granted, the appellant must demonstrate to the Board of Appeals that the strict application of the terms

of the Zoning Ordinance would cause undue hardship. The following criteria must be met before the Board of Appeals can find that a hardship exists. Please explain how our situation meets each of these criteria listed below.

- 1. The land in question cannot yield a reasonable return unless a variance is granted.  
The property is under contract to be sold, the buyer cannot obtain Title Insurance due to the setback violation.
- 2. The need for a variance is due to the "unique circumstances of the property (not desired use or personal hardship) and not to the general conditions in the neighborhood.  
The variance is required to remedy the setback requirement of 25' and 10'
- 3. The granting of a variance will not alter the essential character of the locality.  
The setback is located on the side of a secondary ROW, which has no impact on anyone living or living in the neighborhood.
- 4. The hardship is not the result of action taken by the applicant or a prior owner.  
The house was built by a general contractor - we erected the greenhouse and did not realize we were in any violation of the setbacks.
- 5. Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this Ordinance.  
The variance would have no impact on the public or impair the purpose or intent of the Ordinance, it is a matter of inches.

Other: This was discovered on a mortgage survey which the surveyor initially thought the setback was 40' otherwise would not have reported the garage and greenhouse being too close to the setback. The setback is 25' and 10' for the greenhouse.

I certify that the information contained in this application and its supplement is true and correct.

Date 10/18/16

Angerique + Brian Ruv  
APPELLANT

# MORTGAGE LOAN INSPECTION PLAN

I HEREBY STATE TO  
HULL LAW OFFICE  
BIDDEFORD SAVINGS BANK  
AND ITS TITLE INSURER

LOCUS ADDRESS  
PETER POND LANE  
BIDDEFORD, MAINE

NORTHEASTERN LAND  
SURVEYING  
16 COLLEGE AVENUE  
GORHAM, MAINE 04038  
PHONE (207) 831-3250

THE BUILDING SETBACKS ARE NOT\*  
IN CONFORMITY WITH THE  
MUNICIPAL ZONING REQUIREMENTS

BUYER: DANIEL S. MARTIN

JOB NUMBER 235-04  
INSPECTION DATE

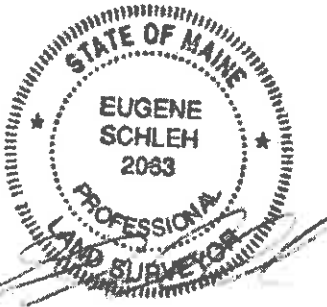
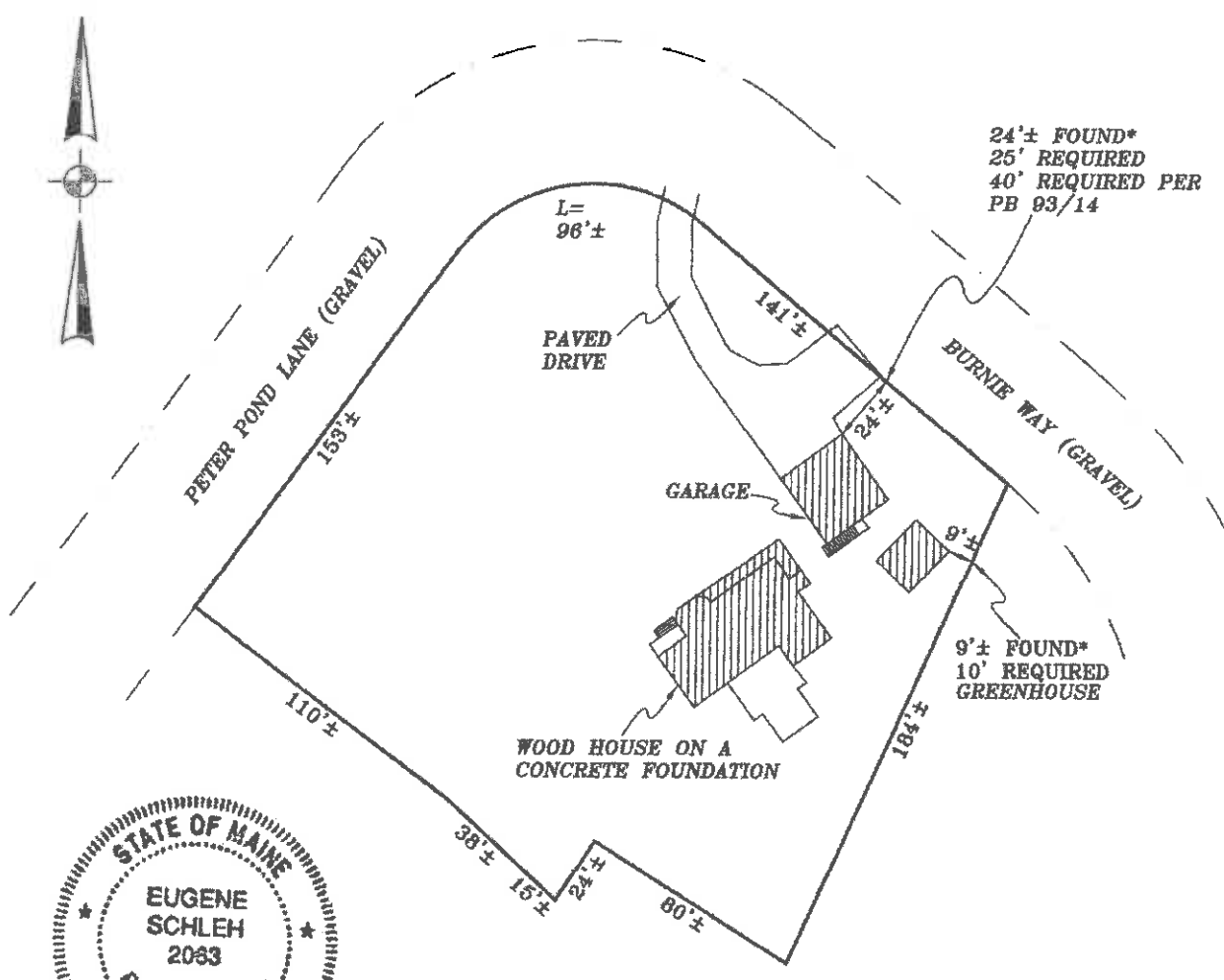
THE DWELLING DOES NOT FALL  
WITHIN THE SPECIAL FLOOD  
HAZARD AREA AS DELINIATED BY  
F.E.M.A.

SELLERS: BRIAN D. LURO  
AND ANGELIQUE M. LURO

10-8-2016

THE LAND DOES NOT FALL  
WITHIN THE SPECIAL FLOOD  
HAZARD AREA AS DELINIATED  
BY F.E.M.A. ON COMMUNITY/  
PANEL # 230145/001B

SCALE: 1" = 60'



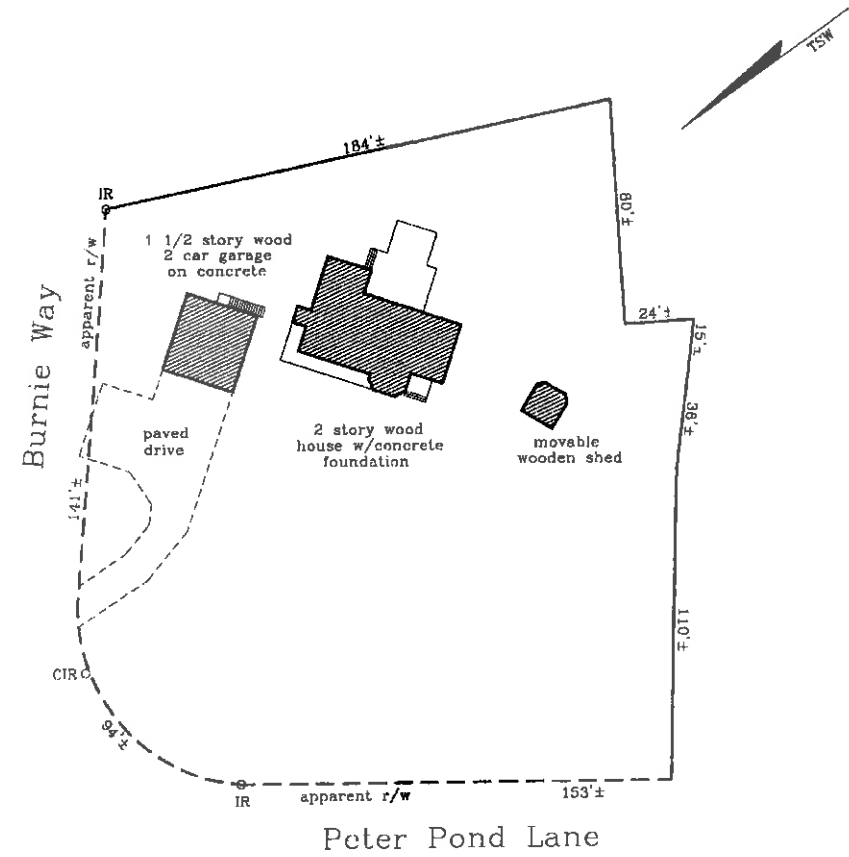
THIS IS NOT A BOUNDARY SURVEY. THIS PLAN IS NOT TO BE USED FOR PROPERTY LINE LOCATION, BUILDING PURPOSES, CONVEYING OR DESCRIBING PROPERTY, OR RECORDING PURPOSES. THIS PLAN IS FOR LENDING PURPOSES ONLY. THIS PLAN MAY NOT REVEAL CONFLICTS WITH ABUTTING DEEDS. THE PARCEL IS SUBJECT TO ALL RIGHTS, COVENANTS, RESTRICTIONS, AND EASEMENTS OF RECORD. A BOUNDARY SURVEY MAY YIELD DIFFERENT RESULTS.

REFERENCES  
 PLAN BOOK 93 PAGE 14 LOT 2  
 DEED BOOK 9854 PAGE 241  
 COUNTY YORK DRAWN BY GRRS

THIS IS NOT A BOUNDARY SURVEY

MORTGAGE INSPECTION OF: DEED BOOK 9845 PAGE 241 COUNTY York  
PLAN BOOK 93 PAGE 14 LOT 2

ADDRESS: 10 Peter Pond Lane, Biddeford, Maine Job Number: 312\_53R  
Inspection Date: 6-01-2002  
Owners: Brian D. & Angelique M. Luro Scale: 1" = 50'



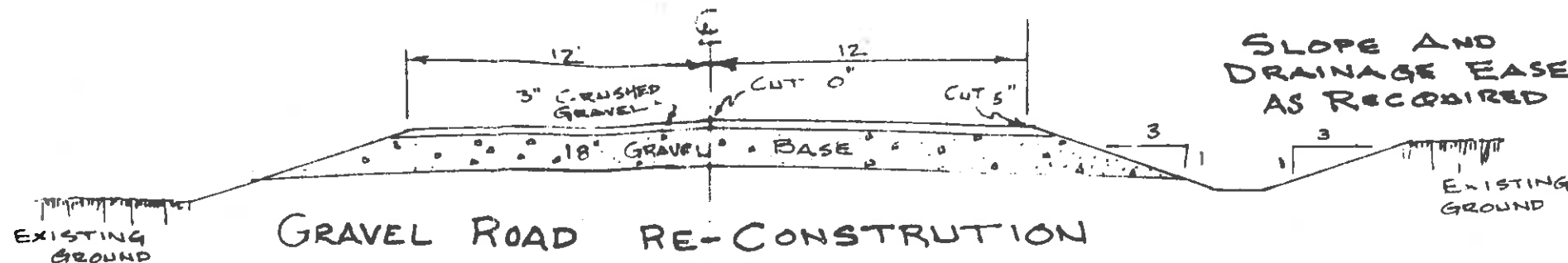
*[Signature]*  
I HEREBY CERTIFY TO: Stephen Y. Hodsson, Esq., Ocean National Bank, and its title insurer.

Monuments found did not conflict with the deed description.  
The dwelling setbacks do not violate town zoning requirements.  
As delineated on the Federal Emergency Management Agency Community 230145-0011B  
The structure does not fall within the special flood hazard zone.  
The land does not fall within the special flood hazard zone.  
A wetlands study has not been performed.

APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES, RECORDED OR NOT, MAY EXIST. THIS SKETCH WILL NOT REVEAL ABUTTING DEED CONFLICTS, IF ANY.

**Livingston - Hughes**  
Professional Land Surveyors & Foresters  
88 Guinea Road  
Kennebunkport - Maine 04046  
207-967-9761 phone 207-967-4831 fax

THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY



GRAVEL ROAD RE-CONSTRUCTION  
 TYPICAL CROSS-SECTION  
 SCALE 1"=6'

1973  
 BANFIELD  
 CONTINUE EXISTING GRAVEL PRIVATE ROAD  
 END 24' GRAVEL PRIVATE ROAD  
 PROPOSED 24' GRAVEL PRIVATE ROAD

50' PRIVATE RIGHT-OF-WAY

POND

COMMON AREA  
 13,643 SQ. FT.  
 PROPOSED AMERIZATION CHAMBERS

Lot # 2  
 44,606 SQ. FT.

ZONED R-1A

Lot # 3  
 44,233 SQ. FT.

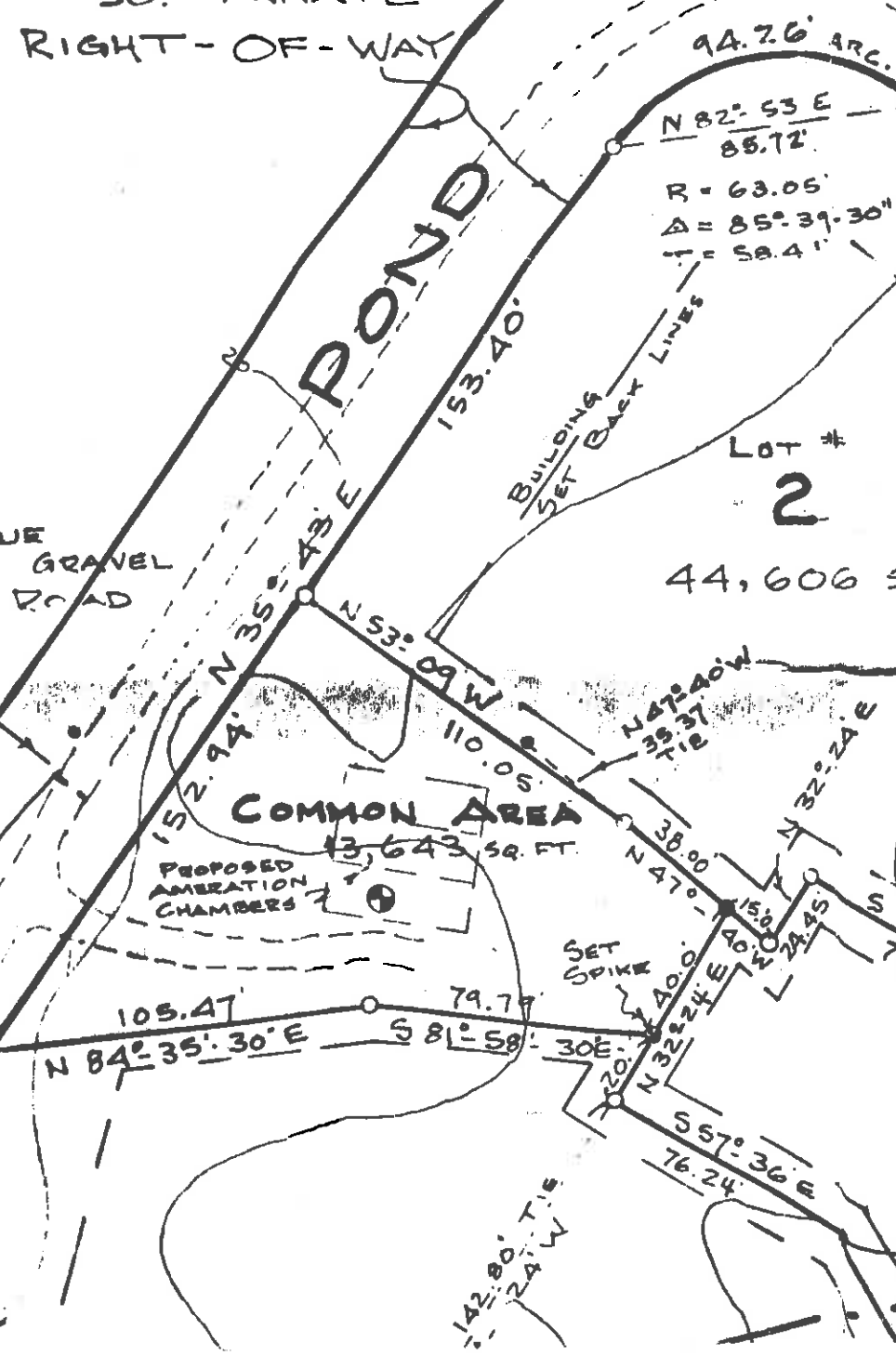
LANE I  
 54°-57'-30"E  
 141.45'

BANFIELD

SHORE

WEYAND

PETER  
 N 17°-35'-30"E  
 100.0'



1  
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