

MACM  
MCCANN & MCCANN, P.C.

ATTORNEYS AT LAW  
89 NEWBURY STREET ~ SUITE 302  
DANVERS, MASSACHUSETTS 01923  
TELEPHONE: 978-739-8484  
FACSIMILE: 978-739-8455  
E-MAIL: [NMCCANN@MCCANNLAW.COM](mailto:NMCCANN@MCCANNLAW.COM)

February 27, 2019

Topsfield Board of Appeals  
Town Hall  
Topsfield, MA 01983

Re: 9-11 South Main Street

Dear Board Members:

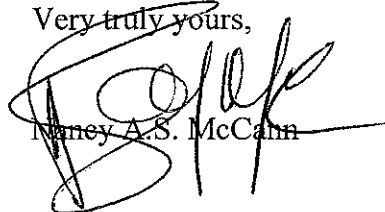
On behalf of 9-11 South Main Street, LLC, owner of the property located at 9-11 South Main Street, enclosed please find an Application package requesting a Finding and Site Plan Approval, relative to the proposed alteration of the existing non-conforming office use on the second floor to create two new residential units; office space would be limited to the first floor of the building. The Board previously granted a Finding and Site Plan Approval to permit a mix of commercial and two residential units on the second floor; the Applicant proposes to change the second floor commercial use to residential use.

The Application package consists of:

1. Application Form A
2. Form B with certified abutter's list and map
3. Form C
4. Current Deed
5. ZBA decision dated Jan. 3, 2019 (Book 37304, Page 229)
6. Site Plan
7. Elevation Plans and Floor Plans
8. Filing Fee \$400.00
9. Two sets of stamped abutter envelopes.

I would appreciate this matter being placed on the agenda of the March 26, 2019 Board of Appeals meeting. Thank you for your consideration.

Very truly yours,



Nancy A.S. McCann

## NATURE OF APPLICATION:

\_\_\_\_\_ Petition for Special Permit pursuant to Article \_\_\_\_\_, Section \_\_\_\_\_ of the Zoning Bylaw.

X Petition for Finding pursuant to Article III, Section 3.05 of the Bylaw.

\_\_\_\_\_ Petition for a Variance from Article \_\_\_\_\_, Section \_\_\_\_\_, of the Zoning Bylaw.

X Petition for Site Plan Review pursuant to Article IX of the Zoning Bylaw (and the Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaw; and Supplement Form C for submitted requirements and formats).

\_\_\_\_\_ Petition for a Comprehensive Permit pursuant to G.L.c. 40B, Section 20-23.

\_\_\_\_\_ Appeal from the decision dated \_\_\_\_\_ of the Building Inspector or others pursuant to L.L. c. 40A, Section 15.

## DESCRIPTION OF APPLICANT:

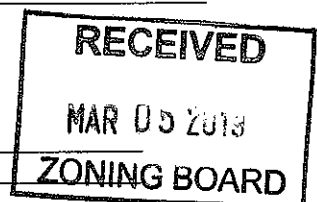
- a. Name 9-11 South Main Street LLC
- b. Address 28 High Street, Topsfield, MA 01983
- c. Phone Number \_\_\_\_\_
- d. Interest in Premises (e.g., owner, tenant, prospective purchaser, etc.) Owner  
(Attach copy of lease and/or letter of authorization from owner, if applicable)

## DESCRIPTION OF PREMISES:

- a. Assessor's Map 40, Lot(s) 9, Zoning District CR
- b. Location of Premises (number and street) 9-11 South Main Street
- c. Name and address of legal owner (if different from Applicant) Applicant
- d. Deed to the Premises recorded at (if known):  
X Essex South District Registry of Deeds, Book 36865 Page 396  
 \_\_\_\_\_ Essex South Registry District of the Land Court, Certificate Number \_\_\_\_\_
- e. Prior zoning decisions affecting the Premises (if any):  
 Date of Decision \_\_\_\_\_ Name of Applicant 9-11 South Main Street LLC  
 Nature of Decision Alteration of a non-conforming use and non-conforming structure. \*See Attached Sheet
- f. Present use of the Premises Office and 2 Residential Units.
- g. Present structures conform to current Zoning Bylaw. \_\_\_\_\_ Yes X No. If no, in what respect does it not conform. Front setback

## PROPOSAL (attach additional sheets if necessary):

- a. General Description: See Exhibit A Attached



b. If proposal is for construction or alteration of an existing structure, please state:

	FRONT	REAR	SIDE(S)
1. Setbacks required per bylaw	<u>20'</u>	<u>30'</u>	<u>10' 10'</u>
2. Existing setbacks	<u>18'</u>	<u>77'</u>	<u>26'</u>
3. Setbacks proposed	<u>18'</u>	<u>77'</u>	<u>26'</u>

	FRONTAGE	AREA
4. Frontage and area required by bylaw	<u>100'</u>	<u>20,000</u>
5. Existing frontage (s) and area	<u>171' 101'</u>	<u>43,000</u>
6. Frontage (s) and area proposed	<u>171' 101'</u>	<u>43,000</u>

	FEET	STORIES
7. Existing Height	<u>35'</u>	<u>2</u>
8. Height proposed	<u>32' 8"</u>	<u>2</u>

c. Other town, state or federal permits or licenses required, if any:

#### NECESSARY ACCOMPANYING DATA:

It is required that every application be accompanied by appropriate supporting data. Failure to submit appropriate and complete data could result in delay and/or denial of application for zoning relief. Place a check next to the applicable accompanying supporting data:

##### Variance or Special Permit Applications:

(See Zoning Board of Appeals Rules and Procedures Section III)

All required supporting data attached ☒ Yes ☐ No

##### Site Plan Review Applications:

(See Town of Topsfield Zoning Bylaw, Article IX, Section 9.05. See also Guidelines and Performance Standards for Activities Subject to the Provisions of Article IX of the Topsfield Zoning Bylaw)

All required supporting data attached ☒ Yes ☐ No

##### Comprehensive Permit Applications:

(See G.L.c. 40B, Sections 20-23)

All required supporting data attached ☐ Yes ☐ No

##### Appeals from decisions of Building Inspector or Others:

(See Zoning Board of Appeals Rules and Procedures, Section III (1) (e))

All required supporting data attached ☐ Yes ☐ No

If all required supporting data is not attached, why not:

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

2-27-19  
Date

  
Signature of Applicant

*only for applicant/surveys*

Prior Decisions:

Date of Decision Jan. 3, 2019 Name of Applicant 9-11 South Main Street, LLC

Nature of Decision Alteration of a non-conforming use and structure; and Appeal of Building Inspector decision.

Date of Decision 06-26-07 Name of Applicant P. Barry McDonough

Nature of Decision Alteration of a non-conforming use

Exhibit A

Board of Appeals Application  
9-11 South Main Street

Finding and Site Plan Approval:

In December, 2018, the Applicant received a Finding and Site Plan approval to allow the alteration of the existing non-conforming building, (circa 1742) by filling in the first floor area between two wings at the rear of the property, and constructing a second floor above the wings and the new first floor area, and to alter the existing non-conforming use of the building by

- a. Expanding the office use into the proposed 380 s.f. first floor addition; such that the entire first floor will be used for commercial office purposes
- b. Creating 2 two-bedroom residential units on the second floor such that the second floor would consist of a mix of commercial office and residential units.

The Applicant is proceeding forward with the approved building renovations and in doing so has determined that continuing to use a portion of the second floor for commercial office purposes does not have good marketability and is not the best use of the space. Rather, the Applicant believes there is a need for additional residential units in the downtown area and conversion of the second floor commercial office space to residential use is a preferable use.

Therefore, the Applicant proposes to convert the second floor office space into 2 one- bedroom residential units; the result will be the two previously approved residential units plus two new residential units for a total of four residential units on the second floor. Commercial use will be limited to the first floor as previously approved. This modification of the prior Board decision will require internal renovations only; no new square footage is being proposed. There are no changes proposed to the previously approved Site Plan; Site Plan Approval is requested only due to the change of use. Adequate required parking is provided on-site. The two proposed units will be modestly sized consist of one-bedroom and 468 s.f.

The Applicant requests a Finding under G.L. ch. 40A Section 6 and Article III Section 3.05 of the Topsfield Zoning Bylaw to allow the alteration and expansion of the existing non-conforming use. The property is located in the Central Residential Zoning District which permits residential uses by right; the district prohibits office use. This application reduces the non-conforming office use, limiting it to the first floor only; the second floor will be entirely residential and will be in keeping with the residential uses permitted in the Central Residential District and will not be substantially more detrimental to the neighborhood than the existing non-conforming office use. Providing needed modestly sized housing in the downtown area is in keeping with the intent and purpose of the Zoning Bylaw by encouraging housing options, and preservation of structures with historic character.

# TOWN OF TOPSFIELD, MA ZONING BOARD OF APPEALS

## Application Supplement Form B

Attach to this form a copy of the Assessor's map (scale 1" equals 200') showing the property and all other properties and roadways within 300 feet of any portion of the property. Also, show the lot number and lot owner's name on each lot within the 300'.

List below the lot owner names and mailing addresses as shown in the Assessors' records, beginning with the property of the Applicant (locus).

**Applicant's Name, Mailing Address:** 9-11 South Main Street LLC

c/o Nancy A.S. McCann, Esq., 89 Newbury Street - Ste 302, Danvers, MA 01923

**Telephone No.** 978-739-8484

**Locus:** 9-11 South Main Street

			<i>(If different from location)</i>
Map 40 Block 9	Location 9-11 South Main Street	Owner Applicant	Mailing Address

**SEE ATTACHED LIST**

If needed, attach additional sheets.

## Assessor's Certification

To the Topsfield Zoning Board of Appeals:

This is to certify that, at the time of the last assessment for taxation made by the Town of Topsfield, the names and mailing addresses of the parties assessed as owners of land within 300' of the parcel of land shown in the attached sketch were as listed.

Authorized Signature

Assessors' Office \_\_\_\_\_

Date of Verification \_\_\_\_\_



## TOWN OF TOPSFIELD

### BOARD OF ASSESSORS

8 West Common Street  
Topsfield, Massachusetts 01983  
Telephone: (978) 887-1514 Fax: (978) 887-1502

This form must be completed and Assessor fee of \$20.00 must be paid before release of the certified abutters list.

Submission Date **Thursday, January 17, 2019** Issue Date **Monday, January 22, 2019**

Department requiring list: **Planning Board**

300 Ft. ☒ 100 Ft. ☐ (Conservation Only) ☐ Direct Abutters

Person/Party requesting list: **Nancy McCann, Esq.**

Address: **89 Newbury St., Ste., 302, Danvers, MA 01923**

Phone #: **978-739-8484** Email Address **nmccann@mccannlaw.com** Misc: \_\_\_\_\_

Property Owner: **Gabtan, LLC**

Assessor's Map(s) **40** Lot(s) **9** Location **9-11 Main Street**

Assessor's Fee Paid: \_\_\_\_\_ Yes ☒ No

The Assessors' Office requires ten (10) working days to certify an Abutters List. This list is valid for sixty days only from date of issue.

Certified By:

  
\_\_\_\_\_  
Topsfield Assessors



### **Certification of Parties in Interest**

The Board of Assessors of the Town of Topsfield do hereby certify, in accordance with the provisions of Section 10 and 11 of Chapter 808 of the Acts of 1975, that the following named persons, firms and corporations are parties in interest, as in said Section 11 defined, with respect to the premises herein above described.



# 300 foot Abutters List Report

Topsfield, MA  
January 22, 2019



## Subject Property:

Parcel Number: 40-9  
CAMA Number: 40-9  
Property Address: 9 SOUTH MAIN ST

Mailing Address: GABTAN LLC  
900 LYNNFIELD STREET, UNIT 23  
LYNNFIELD, MA 01940

## Abutters:

Parcel Number: 40-10  
CAMA Number: 40-10-1  
Property Address: 3 SOUTH MAIN ST Unit 3

Mailing Address: DOORLY MARYJANE  
P O BOX 245  
TOPSFIELD, MA 01983

Parcel Number: 40-10  
CAMA Number: 40-10-2  
Property Address: 5 SOUTH MAIN ST Unit 1

Mailing Address: BLAIS VICTORIA  
5 SOUTH MAIN ST  
TOPSFIELD, MA 01983

Parcel Number: 40-10  
CAMA Number: 40-10-3  
Property Address: 5 SOUTH MAIN ST Unit 2

Mailing Address: HERBEL WOLFGANG  
5 SOUTH MAIN ST #2  
TOPSFIELD, MA 01983

Parcel Number: 40-11  
CAMA Number: 40-11  
Property Address: 6 GROVE ST

Mailing Address: QUIMBY GREGG P & CARYN LEE  
113 BOSTON ST  
MIDDLETON, MA 01949

Parcel Number: 40-12  
CAMA Number: 40-12  
Property Address: 10 GROVE ST

Mailing Address: JOHNSON TIMOTHY M  
10 GROVE ST  
TOPSFIELD, MA 01983

Parcel Number: 40-13  
CAMA Number: 40-13  
Property Address: 14 GROVE ST

Mailing Address: BETTANO STEPHEN A  
14 GROVE ST  
TOPSFIELD, MA 01983

Parcel Number: 40-14  
CAMA Number: 40-14  
Property Address: 16 GROVE ST

Mailing Address: ROBINSON BRYANT K  
16 GROVE ST  
TOPSFIELD, MA 01983

Parcel Number: 40-15  
CAMA Number: 40-15  
Property Address: 24 GROVE ST

Mailing Address: WALSH ROSEMARIE  
24 GROVE ST  
TOPSFIELD, MA 01983

Parcel Number: 40-30  
CAMA Number: 40-30  
Property Address: 40 GAIL ST

Mailing Address: MOTT RUTH M TR  
40 GAIL ST  
TOPSFIELD, MA 01983

Parcel Number: 40-31  
CAMA Number: 40-31  
Property Address: 45 GAIL ST

Mailing Address: LINK DOUGLAS E  
43 GAIL ST  
TOPSFIELD, MA 01983



www.cai-tech.com

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

1/22/2019

Page 1 of 3





## 300 foot Abutters List Report

Topsfield, MA  
January 22, 2019

Parcel Number: 40-32 CAMA Number: 40-32 Property Address: 43 GAIL ST	Mailing Address: PRATT DAVID R TR 45 GAIL ST TOPSFIELD, MA 01983
Parcel Number: 40-33 CAMA Number: 40-33 Property Address: 39 GAIL ST	Mailing Address: MALTACEA MARIANNE R 39 GAIL ST TOPSFIELD, MA 01983
Parcel Number: 40-6 CAMA Number: 40-6 Property Address: 17 PROSPECT ST	Mailing Address: ROMAN CATHOLIC ARCHBISHOP PO BOX 258 TOPSFIELD, MA 01983
Parcel Number: 40-7 CAMA Number: 40-7 Property Address: 13 PROSPECT ST	Mailing Address: LONGO DAVID J 13 PROSPECT ST TOPSFIELD, MA 01983
Parcel Number: 40-71 CAMA Number: 40-71 Property Address: 7 GROVE ST	Mailing Address: GROVE REALTY PARTNERS LLC 6 PARK ST TOPSFIELD, MA 01983
Parcel Number: 40-72 CAMA Number: 40-72 Property Address: 2 MAIN ST	Mailing Address: CARGILL WILLIAM R JR TR 2 MAIN ST TOPSFIELD, MA 01983
Parcel Number: 40-74 CAMA Number: 40-74 Property Address: 30 MAIN ST	Mailing Address: TOPSFIELD VILLAGE SHOPPING 50 BROAD ST SALEM, MA 01970
Parcel Number: 40-8 CAMA Number: 40-8 Property Address: 11 PROSPECT ST	Mailing Address: INGALLS JOHN K 11 PROSPECT ST TOPSFIELD, MA 01983
Parcel Number: 40-81 CAMA Number: 40-81 Property Address: 15 MAIN ST	Mailing Address: INSTITUTION OF SAVINGS IN NEWB P O BOX 32 IPSWICH, MA 01938
Parcel Number: 40-82 CAMA Number: 40-82 Property Address: 18 SOUTH MAIN ST	Mailing Address: TOPSFIELD CROSSING LLC 10 SOUTH MAIN ST TOPSFIELD, MA 01983
Parcel Number: 40-85 CAMA Number: 40-85 Property Address: 31 SOUTH MAIN ST	Mailing Address: GUIDO JONATHAN D 31 SOUTH MAIN ST TOPSFIELD, MA 01983
Parcel Number: 40-86 CAMA Number: 40-86 Property Address: 19 SOUTH MAIN ST	Mailing Address: GATTI MARK 19 SOUTH MAIN ST TOPSFIELD, MA 01983



[www.cai-tech.com](http://www.cai-tech.com)

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

1/22/2019

Page 2 of 3



## 300 foot Abutters List Report

Topsfield, MA  
January 22, 2019

Parcel Number: 40-87 CAMA Number: 40-87 Property Address: 15 SOUTH MAIN ST	Mailing Address: WINFREY SCOTT 15 SOUTH MAIN ST TOPSFIELD, MA 01983
Parcel Number: 40-88 CAMA Number: 40-88 Property Address: 13 SOUTH MAIN ST	Mailing Address: MCALLISTER 13 SOUTH MAIN ST LL 13 SOUTH MAIN ST TOPSFIELD, MA 01983
Parcel Number: 40-89 CAMA Number: 40-89 Property Address: 8 PROSPECT ST	Mailing Address: BUDROSE MARY 8 PROSPECT ST TOPSFIELD, MA 01983
Parcel Number: 40-90 CAMA Number: 40-90 Property Address: 10 PROSPECT ST	Mailing Address: PATCH TODD K 10 PROSPECT ST TOPSFIELD, MA 01983
Parcel Number: 40-91 CAMA Number: 40-91 Property Address: 12 PROSPECT ST	Mailing Address: TOWN OF TOPSFIELD 8 WEST COMMON ST TOPSFIELD, MA 01983
Parcel Number: 40-92 CAMA Number: 40-92 Property Address: 18 PROSPECT ST	Mailing Address: TODD MICHAEL 18 PROSPECT ST TOPSFIELD, MA 01983
Parcel Number: 40-99 CAMA Number: 40-99 Property Address: 2 ANTORIA WAY	Mailing Address: HUSSAIN DILDAR 2 ANTORIA WAY TOPSFIELD, MA 01983
Parcel Number: 41-6 CAMA Number: 41-6 Property Address: 8 SUMMER ST	Mailing Address: MASS BAY TRANSPORTATION AUTH 77 FRANKLIN ST - 9TH FL BOSTON, MA 02110
Parcel Number: 41-7 CAMA Number: 41-7 Property Address: 6 PARK ST	Mailing Address: BUTLER CABIN LLC 6 PARK ST TOPSFIELD, MA 01983

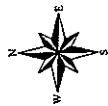


[www.cai-tech.com](http://www.cai-tech.com)

Data shown on this report is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this report.

1/22/2019

Page 3 of 3

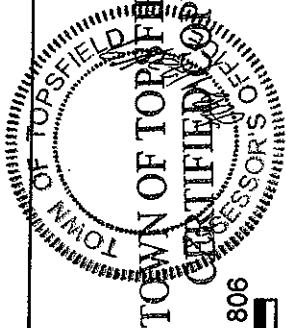


# 9-11 High St

Topsfield, MA

January 22, 2019

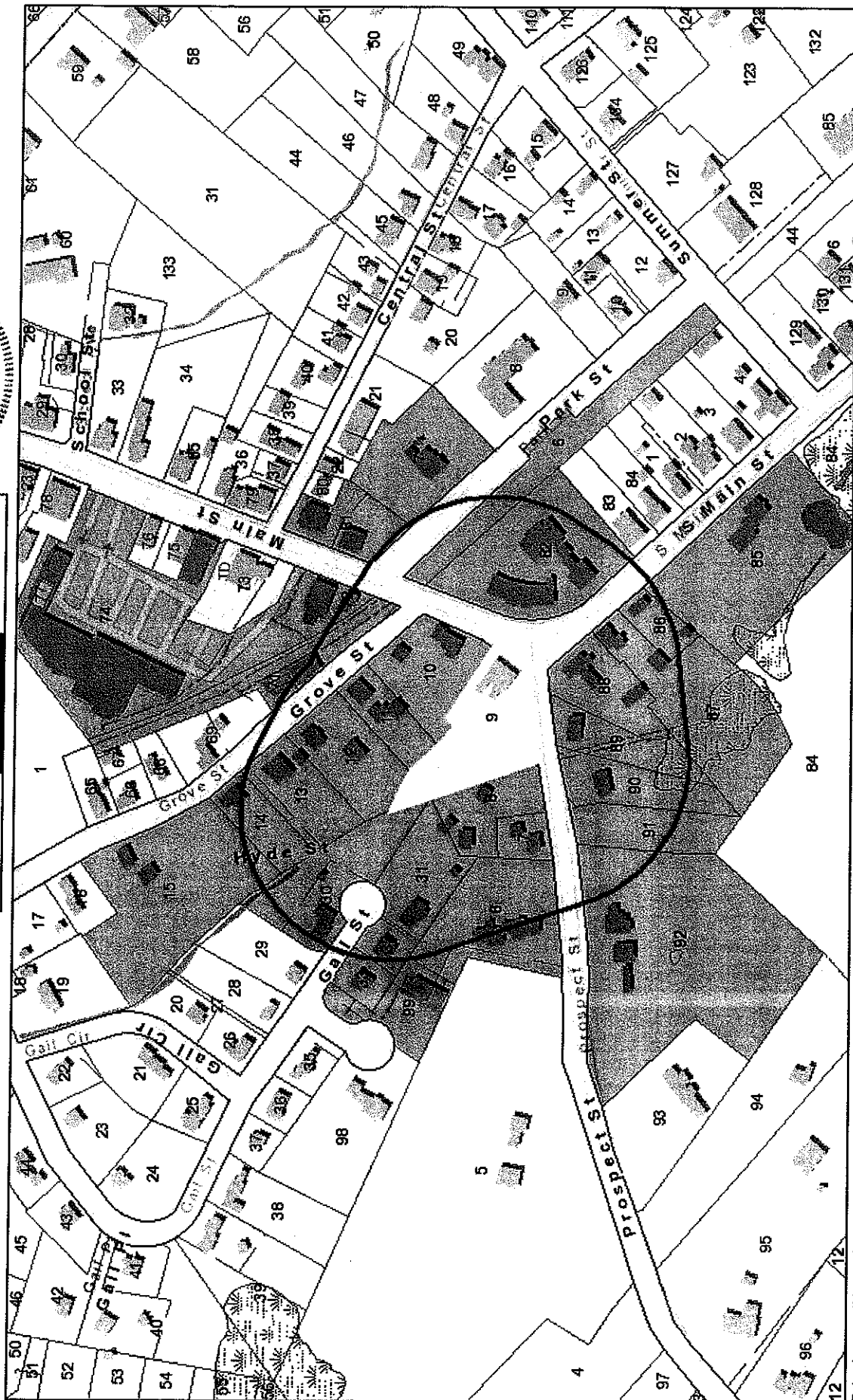
1 inch = 268 Feet



**CAI Technologies**  
Precision Mapping. Operational Solutions.

**CERTIFIED COPY**  
OF THE RECORDING

www.cai-tech.com



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

**TOWN OF TOPSFIELD, MA  
ZONING BOARD OF APPEALS**

**Application Supplement Form C  
Site Plan Review Submittal Requirements & Formats**

Submittal Distribution Requirements and Formats:

1. An applicant shall file with the Town Clerk copies of all required documents in the quantities and forms as outlined below. The Clerk's copy of the required documents shall be kept on file by the Town Clerk for the duration of the permitting process and the remaining copies shall be distributed immediately by the Town Clerk to the following:

	Plan
Town Clerk	1
Granting Authority *	7
Granting Authority electronic	1
Reviewing Engineer	1
Conservation Commission	1
Public Works Department (Water & Highway)	1
Board of Health**	1
Historical Commission**	1
Building Inspector**	1
Fire Department**	1
Police Department**	1
Tree Warden**	1
Planning Board or Board of Appeals	
if not the Granting Authority **	1

\* Two full size and five reduced size (11" x 17")

\*\* Reduced size plans (11" x 17" ) are acceptable

Additional copies of any and all documents shall be furnished if requested by the Granting Authority or any other Board, Commission or Department.

2. An electronic copy of all documents shall be submitted to the Granting Authority, formatted in a single paginated PDF file with descriptive bookmarks for each plan set and for each document on either a CD or DVD disc.
3. An electronic copy of the final plans with same format as in section "4.11.2." above, and a full size hard copy of said plans showing the Signatures of the Granting Authority and date of approval shall be submitted to the Granting Authority.

---

**SUMMARY:**

\* Granting Authority: **(2) Full Scale, (5) Reduced Size 11 x 17**  
 Town Clerk, Review Engineer, Conservation, Public Works: **Full Scale**  
 All Others: **Reduced Size 11 x 17**

**Total: (6) Full Scale; (12) Reduced Size 11 x 17; (1) electronic copy**

Return to:  
Robert C. McCann  
McCann & McCann, P.C.  
89 Newbury Street, Suite 302  
Danvers, MA 01923

MASSACHUSETTS EXCISE TAX  
Southern Essex District ROD  
Date: 07/16/2018 12:14 PM  
ID: 1249019 Doc# 20180716003190  
Fee: \$2,872.80  
Cons: \$630,000.00

This space reserved for the Registry of Deeds

**QUITCLAIM DEED**

GABTAN, LLC, a Massachusetts limited liability company with its principal place of business at 900 Lynnfield Street, Unit 23, Lynnfield, MA 01940

For consideration paid of Six Hundred Thirty Thousand Dollars (\$630,000.00)

Grants to: 9-11 SOUTH MAIN STREET, LLC  
with a mailing address of: 28 High Street, Topsfield, MA 01983

**WITH QUITCLAIM COVENANTS**

The land together with the buildings thereon know and numbered 9-11 South Main Street, Topsfield, Essex County, Massachusetts being shown as Lot 9 on the Topsfield Assessors Map and more particularly described as follows:

Beginning at the center of the stone post standing at the corner of the roads southerly of the structure on the premises herein described, thence running:

Northeasterly on Main Street to land now or formerly of Justin Allen, thence running  
Northwesterly by said land of Allen and by land now or formerly of Galloup and Welch to a brook and land formerly of William B. Cummings, thence  
Southwesterly by said land now or formerly of Cummings to land now or formerly of Dane, thence  
Southeasterly to the highway and thence by said highway to the point of beginning.

The above described parcel is affected by that certain Boundary Line Agreement dated April, 2004 and recorded in Book 22641, Page 467. See also plan entitled "Plan of Land located in Topsfield, Mass." Prepared by Eastern Land Survey Associates, Inc. dated March 12, 2004 and recorded in Plan Book 375, Plan 85.


The Grantor is not taxed as a corporation.

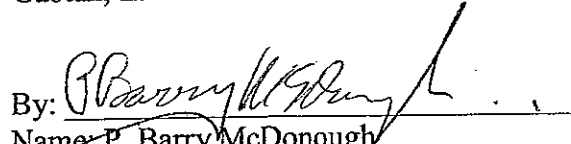
Locus: 9-11 South Main Street, Topsfield, MA 01983

Meaning and intending to describe and convey the same premises conveyed to Gabtan, LLC, by deed of Eleven South Main Street, LLC dated October 4, 2007 and recorded in Book 27274, Page 142 of the Essex South District Registry of Deeds.

Executed this 11 day of July, 2018.

Gabtan, LLC

  
Witness

By:   
Name: P. Barry McDonough  
Title: Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

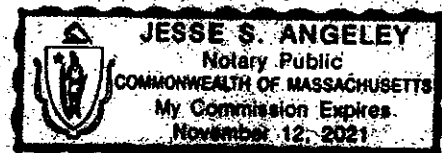
On July 11, 2018, before me, the undersigned notary public, personally appeared B. Barry McDonough, Manager of Gabtan, LLC, proved to me through satisfactory evidence of identification, which was:

- ☒ photographic identification with signature issued by a federal or state governmental agency,  
☐ oath or affirmation of a credible witness,  
☐ personal knowledge of the undersigned,

to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose, on behalf of the company.

  
Notary Public  
My Commission Expires: \_\_\_\_\_

[SEAL]





2019 JAN -3 AM 10:00

RECEIVED  
TOWN CLERK  
TOPSFIELD, MA

193  
No notice of appeal was received during 20 days  
next after receipt of recording of notice from the  
Zoning Board of Appeals approval.

Mary E. Willis 01/23/19  
Topsfield Town Clerk Date

# TOWN OF TOPSFIELD

## ZONING BOARD OF APPEALS

8 West Common Street, Topsfield, Massachusetts 01983

### Certificate of Decision

**Finding Pursuant to Article III, Section 3.05 and Site Plan Review**  
**of the Topsfield Zoning By-Law**  
**Appeal from Decision of the Building Inspector**

**Property Address: 9-11 South Main Street**

**Applicant: 9-11 South Main Street LLC**

**Hearing Date: October 23, 2018**

#### 1. The Application

An application was filed on October 2, 2018 with the Topsfield Town Clerk by the Nancy McCann, McCann & McCann, P.C., for a Finding pursuant to Article III, Section 3.05 and Site Plan Review of the Topsfield Zoning By-Law and Appeal from the Decision dated 9/6/18 of the Building Inspector at the above Property.

#### 2. The Hearing

Notice was published in the Salem News on October 9, 2018 and October 16, 2018, mailed postage prepaid to all interested parties, including all abutters on the List of Abutters certified by the Assessors and posted in a conspicuous place in the Town Hall for a period of not less than fourteen days before the day of such hearing. Pursuant to the notices, a public hearing was opened on October 23, 2018 and continued until November 27, 2018, at the Town Hall Board of Selectmen meeting room. Present at the hearing was Robert Moriarty, Chairman; David Merrill, Clerk; Jody Clineff, Member; David Moniz, Member and Gregor Smith, Member.

A TRUE COPY

ATTEST:

Mary E. Willis  
TOWN CLERK/  
TOPSFIELD, MA 01983

Nancy McCann, McCann & McCann presented the request of a Finding pursuant to Article III, section 3.05, Site Plan Review, pursuant to Article IX, both of the Zoning Bylaw and an appeal of the Building Inspectors decision dated 9/6/18 pursuant of Massachusetts General Law chapter 40A, section 15. McCann described historically what the uses had been over the years at 9-11 South Main Street; a single family, an Inn, physicians/medical offices, a two-family and a real estate business, all non-conforming within the central-residential district. McCann explained that the applicant is proposing an addition in the back of the building that would include a second floor. The addition would allow for 380 square feet of office space on the first level and 2-two bedroom units, each 800 square feet, on the second level. There were no changes proposed for the front façade of the building, therefore preserving the integrity of the building. McCann explained that the neighbors at 3 South Main Street had requested additional landscaping along the side of their yard and the applicant proposed an arborvitae hedge, which would be coordinated with the property owners. Michael Laham, The Morin-Cameron Group, Inc. described the Site Plan, stating that there would be no changes to what exists presently. The traffic would flow from Prospect Street to South Main. Laham explained the location of 16 parking spaces, which included 4 residential parking spaces denoted at the back of the parking area. The Board asked if directional arrows would be striped on the pavement, Latham reported that they would be. Member Jody Clineff asked if the Historical Commission had been consulted as to the changes to the 1742 structure, McCann noted they hadn't been. Sid Silveira, DMS design, LLC described the architectural design of the addition, noting that the colors and materials would remain the same as the rest of the building. There was a discussion relative to the non-conforming use and noted mixed uses over the years. Chairman Moriarty asked about parking and McCann noted that the number of parking spaces was within the requirements. It was noted that this location is within 300 feet to the municipal parking area on Park Street. Chairman Moriarty asked if there were any comments from the public. John Ingalls, abutter, expressed his positive feelings toward the project. Applicant, Mark Mscisz stated that he had met with the neighbors at 3 South Main Street and discussed the screening, which was decided to be a lining of trees opposed to a fence. Other items discussed where the location of a dumpster and exterior lighting in the back of the building. It was noted that the project would be going before the Conservation Commission as the addition falls within their jurisdiction.

### **3. The Findings**

The Board found that the granting of Finding pursuant to Article III, section 3.05, Site Plan Review, pursuant to Article IX, both of the Zoning Bylaw and an appeal of the Building Inspectors decision dated 9/6/18 pursuant of Massachusetts General Law chapter 40a, section 15

- would not be detrimental to the public convenience or welfare
- would not create undue traffic congestion or impair pedestrian safety
- would not overload any municipal system
- would not impair the integrity or character of the district or adjoining zones
- would not be detrimental to health, safety or welfare

### **4. Decision**

After due consideration of the Application and the testimony presented at the Hearing, the Board made the following finding pursuant to Article III, section 3.05, Site Plan Review,



pursuant to Article IX, both of the Zoning Bylaw and an appeal of the Building Inspectors decision dated 9/6/18 pursuant of Massachusetts General Law chapter 40a, section 15:

The proposed requests ☐ will ☒ will not be substantially more detrimental or objectionable to the neighborhood.

Moriarty, Chairman	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Merrill, Clerk	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Clineff, Member	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Moniz, Member	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain
Smith, Member	<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	Absent/Abstain

#### 5. The Conditions

The following conditions were imposed as part of the Board's Finding of no substantial detriment to the neighborhood:

- The project would receive confirmation from the Historical Commission to whether it falls under their jurisdiction or not. If it does, the Project shall comply with any requirements of the Commission.
- There will be 2 sconces type exterior lighting installed by the side of the 2 residential units. No lighting shall be permitted that exceeds the property lines.
- There will be a line of arborvitae trees or other landscaping to shield the abutting property at 3 South Main Street, to be coordinated with the abutters, and installed along the property line at 3 South Main Street.
- The project requires Conservation Commission review. Any substantial changes required by the Commission shall be submitted to the Board for review and approval.

#### 6. Appeals

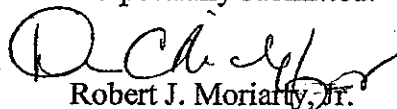
Appeals of the above decision shall be filed pursuant to M.G.L. 40A, § 17 within 20 days of the date of filing of this certificate with the Topsfield Town Clerk.

#### 7. Validation

This Decision shall be recorded at the Essex Southern District Registry of Deeds and shall not be effective until such time as evidence thereof shall be submitted to the Topsfield Town Clerk and the Building Inspector.

**Dated: January 3, 2019**

Respectfully submitted:



Robert J. Moriarty, Jr.  
Chairman



# Town of Topsfield

8 West Common Street

Topsfield, MA 01983

INSPECTIONAL SERVICES  
DEPARTMENT

## PERMIT DENIAL

NAME: 9-11 So. Main Street LLC

ADDRESS: 28 High Street, Topsfield, MA 01983

LOCATION: 9 So Main Street

ZONING DISTRICT: CR

PERMIT REQUESTED FOR: (MIXED USE) 2-Residential Units on Second Floor & Business Use on First & Second.

THIS DENIAL IS BASED ON THE NEED FOR AN APPROVAL FROM THE:

☒ ZONING BOARD OF APPEALS

☐ PLANNING BOARD

☐ BOARD OF SELECTMEN

FOR A:

☒ USE VARIANCE

☐ FINDING

☐ SPECIAL PERMIT

- |  |  |  |                                       |                                     |
|--|--|--|---------------------------------------|-------------------------------------|
| <input type="checkbox"/> Lot Area                      | <input type="checkbox"/> Lot Frontage                    | <input type="checkbox"/> Building Height | <input type="checkbox"/> Lot Coverage |                                     |
| <input type="checkbox"/> Front Yard                    | <input type="checkbox"/> Side Yard                       | <input type="checkbox"/> Rear Yard       | <input type="checkbox"/> Parking      | <input type="checkbox"/> Open Space |
| <input type="checkbox"/> Sign (size, height, location) | <input type="checkbox"/> Expansion of Non-Conforming Use |  |                                       |                                     |
| <input type="checkbox"/> Change in Non-Conforming Use  | <input type="checkbox"/> Additional Principal Building   |  |                                       |                                     |
| <input type="checkbox"/> Other                         |  |  |                                       |                                     |

ZONING REQUIREMENT: Mixed Use not allowed in CR District

PROPOSED: Mixed Use

Date Permit Denied 9/6/2018

Inspector of Buildings  
Zoning Enforcement Officer



The Commonwealth of Massachusetts  
Board of Building Regulations and Standards  
Massachusetts State Building Code, 780 CMR



Building Permit Application To Construct, Repair, Renovate Or Demolish a  
One- or Two-Family Dwelling

This Section For Official Use Only

Building Permit Number: \_\_\_\_\_

Date Applied: \_\_\_\_\_

Glenn Clohecy

Building Official (Print Name)

Signature

Date

SECTION 1: SITE INFORMATION

1.1 Property Address:

9-11 MAIN ST TOPSFIELD, MA 01983

1.2 Assessors Map & Parcel Numbers

1282

40-9

Map Number

Parcel Number

1.1a Is this an accepted street? yes ☒ no ☐

1.3 Zoning Information:

CR

Central Residential

Zoning District

Proposed Use

1.4 Property Dimensions:

42,994

272.44

Lot Area (sq ft)

Frontage (ft)

1.5 Building Setbacks (ft)

Front Yard

Side Yards

Rear Yard

Required

Provided

Required

Provided

Required

Provided

20

10

30

1.6 Water Supply: (M.G.L.c. 40, §54)

Public ☒

Private ☐

1.7 Flood Zone Information:

Zone: AE

Outside Flood Zone?

Check if yes ☐

1.8 Sewage Disposal System:

Municipal ☐ On site disposal system ☒

SECTION 2: PROPERTY OWNERSHIP<sup>1</sup>

2.1 Owner<sup>1</sup> of Record:

9-11 Main Street, LLC

Topsfield, MA. 01983

Name (Print)

City, State, ZIP

28 Hwy St.

No. and Street

Telephone

Email Address

SECTION 3: DESCRIPTION OF PROPOSED WORK<sup>2</sup> (check all that apply)

New Construction ☐ Existing Building ☐ Owner-Occupied ☐ Repairs(s) ☒ Alteration(s) ☒ Addition ☒

Demolition ☐ Accessory Bldg. ☐ Number of Units \_\_\_\_\_ Other ☐ Specify: \_\_\_\_\_

Brief Description of Proposed Work<sup>2</sup>: Upgrade structure of existing space  
add two residential units and expand commercial  
space that exists

SECTION 4: ESTIMATED CONSTRUCTION COSTS

Item	Estimated Costs: (Labor and Materials)	Official Use Only	
		1. Building Permit Fee: \$ _____	Indicate how fee is determined:
1. Building	\$ 150,000.-	<input type="checkbox"/> Standard City/Town Application Fee	
2. Electrical	\$ 30,000.-	<input type="checkbox"/> Total Project Cost <sup>3</sup> (Item 6) x multiplier _____ x _____	
3. Plumbing	\$ 35,000.-	2. Other Fees: \$ _____	
4. Mechanical (HVAC)	\$ 30,000.-	List: _____	
5. Mechanical (Fire Suppression)	\$ 6,000.-	Total All Fees: \$ _____	
6. Total Project Cost:	\$ 281,000.-	Check No. _____ Check Amount: _____ Cash Amount: _____	
		<input type="checkbox"/> Paid in Full <input type="checkbox"/> Outstanding Balance Due	

AUG 02 2018

TOWN OF TOPSFIELD  
INSPECTION DEPT.



## REQUEST FOR LEGAL NOTICE

I understand that by signing this form I am agreeing to the cost of the legal notice to be published in the newspaper.

Payment is required at the time of the legal notice being received by the city and before it is published in the newspaper.

Please make checks payable to the SALEM NEWS and mail immediately to  
SALEM NEWS  
Attention Gloria Pobiedzinski  
32 DUNHAM ROAD  
BEVERLY, MA 01915

\*\*Average legal notice costs are estimated

\*\*Customer will either be refunded or billed when the legal notice is published

Salem News = \$250.00 per day

Check #

Credit Card please call Gloria @ the Salem News 978-338-2512

If payment is not received the Legal Notice will be cancelled

  
Signed Applicant/Authorized Agent

2-27-19  
Date

Print Name

Nancy McLann ally/brother/applicant

Address

89 Newbury St. Ste 302

Danvers Ma 01923

Phone

978-739-8484

32 DUNHAM ROAD  
BEVERLY, MA 01915-1895  
TELEPHONE 978-922-1234

ADVERTISING FAX 978-922-4380  
NEWSROOM FAX 978-927-4524  
E-MAIL ECNNEWS.COM

ORIGINAL DOCUMENT PRINTED ON CHEMICAL REACTIVE PAPER WITH MICROPRINTED BORDER

9-11 SOUTH MAIN STEET LLC

PO BOX 402  
TOPSFIELD, MA 01983

**NORTH SHORE BANK**

PEABODY MA 01961-6165

53-7129/2113

02/25/2019

144

PAY TO THE TOWN OF TOPSFIELD  
ORDER OF

\*\*\*\* FOUR HUNDRED AND 00/100 DOLLARS

Town of Topsfield  
P.O. Box 564  
Medford, MA 02155-0006

VOID AFTER 60 DAYS

DOLLARS

\$ 400.00

MEMO

Application Fee



"0000144" :222372298: 47290169"

THIS DOCUMENT CONTAINS HEAT SENSITIVE INK. TOUCH OR PRESS HERE. RED IMAGE DISAPPEARS WITH HEAT.



Security Features Included.



Details on back.