

From: [Jonathan D. Eichman](#)
To: [Jennifer Hager \(j.hager@town.sutton.ma.us\)](mailto:j.hager@town.sutton.ma.us)
Subject: FW: land swap pre-exist non-conform lot
Date: Friday, May 13, 2022 1:29:50 PM
Attachments: [18 OM & 41M aerial.pdf](#)

Jen:

I don't see anything in the Zoning Bylaws that would prevent the division of 18 Old Mill in the manner proposed, assuming 18 Old Mill is a legal preexisting nonconforming lot (i.e., was legal when it was created). I read Section I.C.3.a to allow for a reduction/alteration of a nonconforming lot that will not increase the nonconformity. Further, there is nothing in the retreat lot bylaw that prevents creation of retreat lots in this manner. If the existing lot is legal, I think they can proceed.

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From: Jennifer Hager <j.hager@town.sutton.ma.us>

Sent: Thursday, May 12, 2022 5:38 PM

To: Jonathan D. Eichman <JEichman@k-plaw.com>

Subject: land swap pre-exist non-conform lot

Hi Jon – See the attached aerial and plan. In the past we have allowed exact land swaps on pre-existing non-conforming lots where the frontage is not effected and nothing becomes more non-conforming. 18 Old mill is non-conforming as to frontage (40' on each roadway and a 9' tip of the weird triangle out to Manchaug) and 41 Manchaug is non-conforming as to area (.78 acres). The yellow triangles are a potential swap from #41 to #18 but they are willing to give #41 even more if they want. BUT WAIT THERE'S MORE! The main reason they want to do the swap is the parents on #18 want to split it and apply for a Special Permit to make the lower half of #18 Old Mill a conforming retreat lot with 50' frontage and 240,000 s.f. for their son. #18 doesn't become less conforming since the area is still way more than the 80,000 s.f. requirement and the frontage doesn't change – SO Thoughts???? Jen

Jennifer S. Hager

Planning & Economic Development Director

Town of Sutton

4 Uxbridge Road

Sutton, MA 01590

(508) 865-8729

I.C.3.a.

3. Nonconforming Lots

- a. Any nonconforming lot shall not be reduced/alterd so as to be in greater nonconformity.**
- b. Any nonconforming lot which has come into conformity shall not again be changed to a nonconforming lot.
- c. Any lawful pre-existing non-conforming unimproved lot within the R-1, R-2 or V Districts with a minimum of 20,000 s.f. of area and 50' of frontage that is/was held in common ownership with an adjacent legally developed lot and for which the 5-year zoning change exemption period of G.L. c. 40A §6 has expired, may be determined to be buildable pursuant to a Special Permit granted by the Zoning Board of Appeals in accordance with the provisions of Section VII.A. The Zoning Board of Appeals must additionally find that said vacant lot is substantially consistent in size and frontage with other developed lots in the immediate area. Said special permit shall only apply to one such vacant lot held in common ownership.
- d. An otherwise conforming structure on a nonconforming lot may be altered and/or extended by right as long as no new nonconformities are created. New nonconformities shall only be allowed pursuant to a Special Permit grant by the Zoning Board of Appeals in accordance with Section VII.A. A nonconforming structure on a nonconforming lot may be altered in accordance with section 2.d.
- e. A free standing accessory structure may be constructed on a nonconforming lot by right as long as no new nonconformities are created. New nonconformities shall only be allowed pursuant to a Special Permit granted by the Zoning Board of Appeals in accordance with Section VII.A.



Sutton, MA

1 inch = 208 Feet



May 12, 2022

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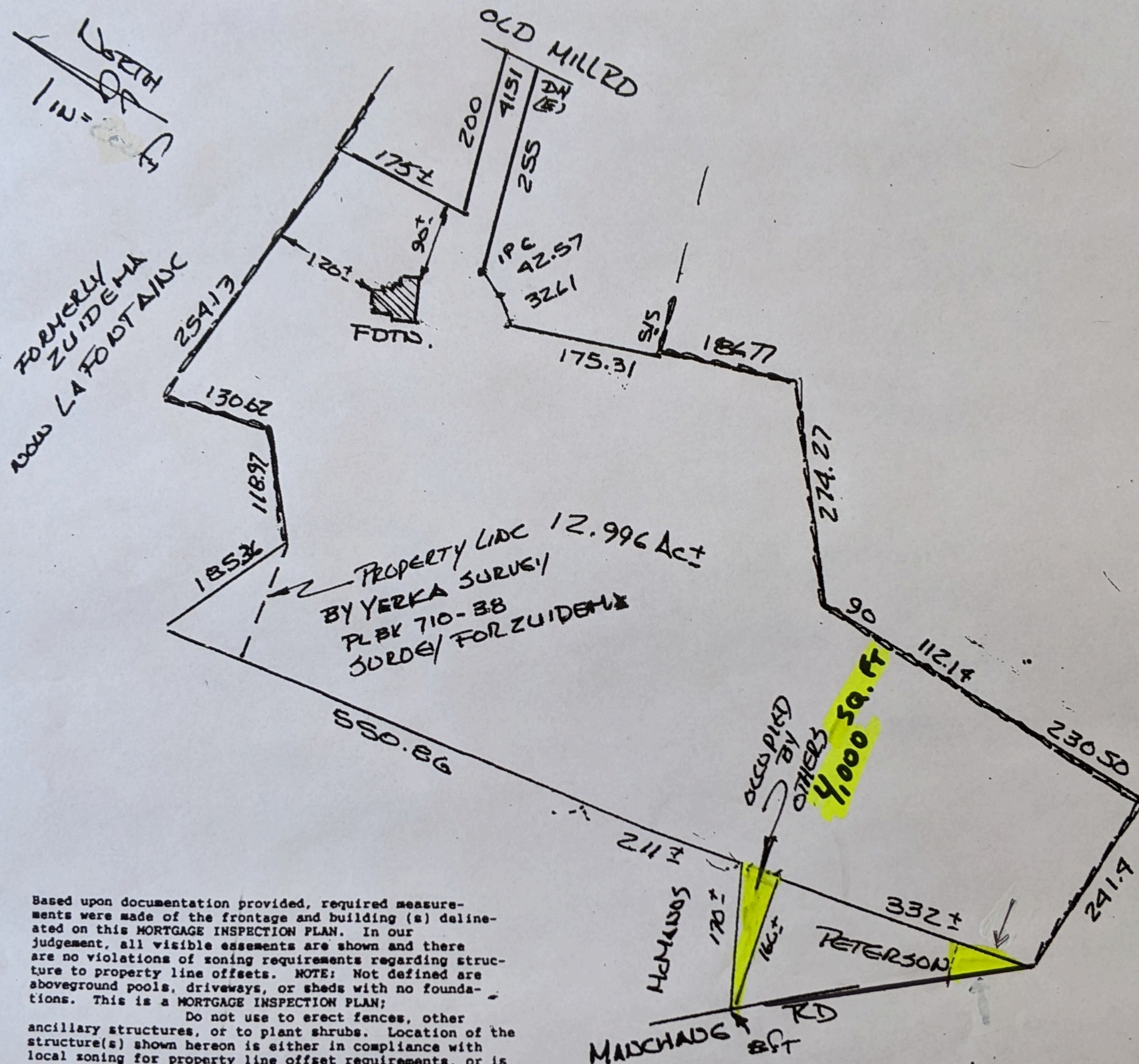


Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map.

PLOT

PLAN

MORTGAGOR JOSEPH J. & LINDA A. POSTERRO
 LOCATION 18 OLD MILL RD SUTTON MA.

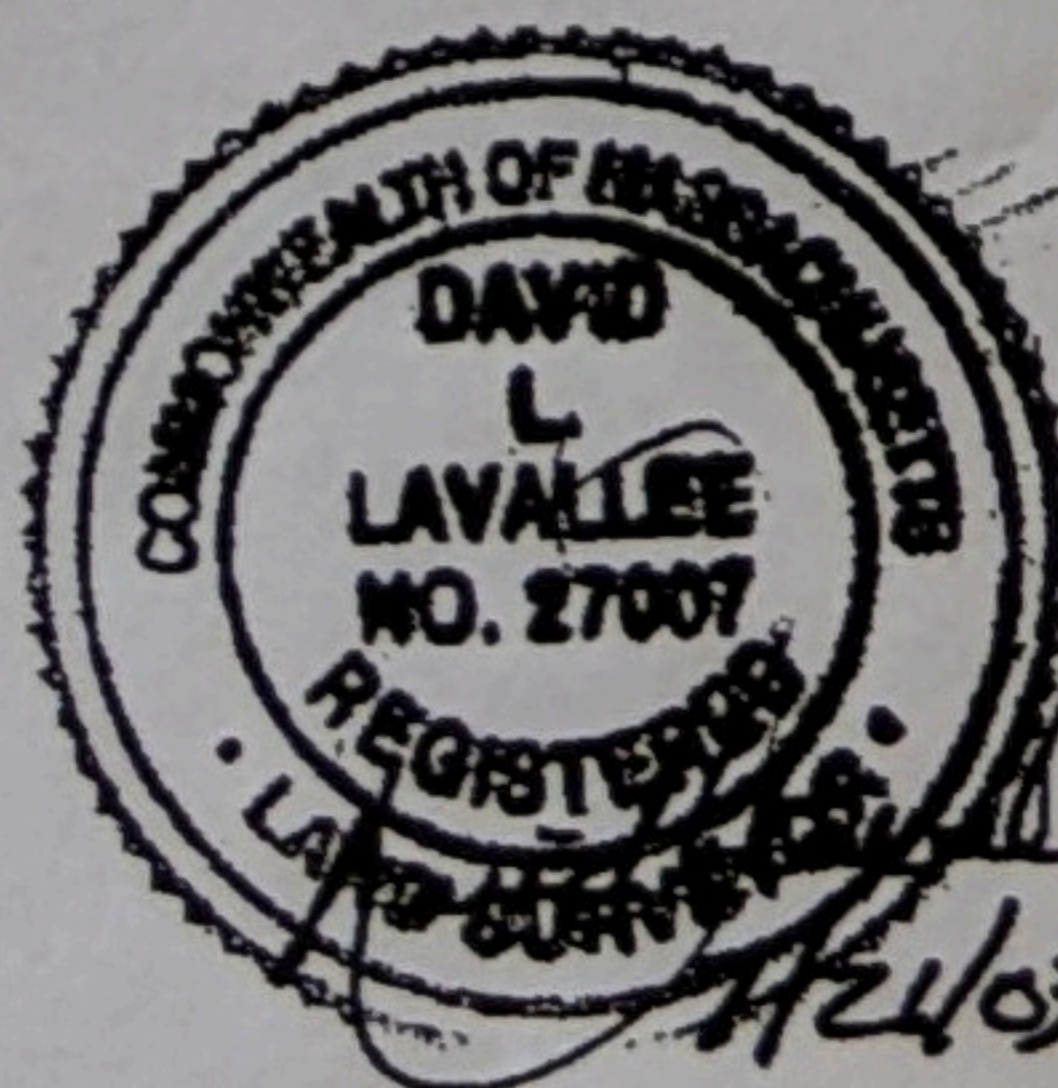
DATE 7/21/03

Based upon documentation provided, required measurements were made of the frontage and building (s) delineated on this MORTGAGE INSPECTION PLAN. In our judgement, all visible easements are shown and there are no violations of zoning requirements regarding structure to property line offsets. NOTE: Not defined are aboveground pools, driveways, or sheds with no foundations. This is a MORTGAGE INSPECTION PLAN;

Do not use to erect fences, other ancillary structures, or to plant shrubs. Location of the structure(s) shown hereon is either in compliance with local zoning for property line offset requirements, or is exempt from violation enforcement action under Mass. G.L. Title VII, Chap. 40A, Sec. 7, unless otherwise noted. This certification is non-transferable. The above certifications are made with the provision that the information provided is accurate and that the monuments used are accurately located in relation to the property lines.

I certify that this property is ☐ is not ☒ in the special flood hazard area as shown on the H.U.D. map for the Town of SUTTON Signed [Signature]

NOTE: This plan is for the banks purpose only and is not to be relied upon by anyone else.



LAVALLEY BROTHERS INC.
197 CENTRAL TURNPIKE
SUTTON, MASS