

EHRHARD & ASSOCIATES, P.C.

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December 13, 2018

Town of Sturbridge
Zoning Board of Appeals
c/o Town Clerk
308 Main Street
Sturbridge, Massachusetts 01566

2018 DEC 13 P 1:14
OFFICE OF TOWN CLERK
STURBRIDGE, MA

Re: Appeal of Zoning Enforcement Officer Cease & Desist Letter for 33 Main Street
- Robert Cassim and Sturbridge Auto Sales, LLC

Dear Members of the Zoning Board of Appeals,

I represent Robert Cassim and Sturbridge Auto Sales, LLC (hereinafter "Cassim"), the owners of the real estate located at 33 Main Street in Sturbridge, Massachusetts (hereinafter "33 Main"), in regards to a Cease and Desist Letter (hereinafter "Letter") issued to Cassim by Nelson Burlingame, the Zoning Enforcement Officer (hereinafter "ZEO") on November 14, 2018. A copy of the Letter is attached hereto.

This correspondence (hereinafter "Appeal") is sent as the formal Appeal of the Letter pursuant to M.G.L. c. 40A, sec. 15. A formal Hearing is requested on this Appeal. All correspondence regarding this Appeal should be sent to me as counsel moving forward.

This Appeal will reasonably follow the format and outline of the appeal form provided by the Planning Department. It is being submitted in this letter form because of the space and formatting constraints of the pdf form.

1. Petitioner: Robert Cassim and Sturbridge Auto Sales, LLC.
33 Main Street, Sturbridge, MA 01566
Telephone contact: the undersigned counsel
2. The owner of the real estate is the same as the Petitioner on this Appeal.
3. Property: 33 Main Street, Sturbridge, MA 01566
Assessor's Map #415-03913, lot #033

p: 508-791-8411 f: 508-752-6168

Please direct all correspondence to our Worcester Office

250 Commercial Street, Suite 410

1365 Main Street - 2nd Floor

7 Foster Street

Worcester, Massachusetts 01608

Springfield, Massachusetts 01103

Quincy, Massachusetts 02169

www.ehrhardlaw.com

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ZONING BOARD
OF APPEALS

Registry of Deeds where deed, plan or both are recorded: Worcester
Deed recording info, Book#55187, Page #202
Plan recording: Plan# not applicable
Property is located in the Commercial Zoning District along Route 131

4. Nature of relief requested:

Cassim was issued the Letter from the ZEO on November 14, 2018. The Letter is somewhat unspecific and simply says that “the only current business that is allowed as a non-conforming use is the Auto Sales Business. All other business activity on this property is **not**, allowed under the Town’s Zoning Bylaws (*sic*). In light of the above, I require that you immediately **CEASE** and **DESIST** the operations of all other businesses on your property, and bring your property into compliance with the Zoning Bylaws” (bold emphasis is ZEO’s).

The Letter has attached to it four (4) pictures. Three of the pictures show what is clearly an auto sales type business which is exactly what the Letter says can occur on that property. The Letter’s only indication of specificity of violation is the picture that shows two amateur signs that say “Berkley Tree Service.” The only presumption of violation that can be surmised is that a “tree service” is operating on the property and that, somehow, that is not allowed by the Zoning Bylaw for the commercial district.

The nature of the relief requested from the Zoning Board of Appeals is the voiding and overruling of the Cease & Desist Letter.

5. Evidence to support grant of appeal to decision:

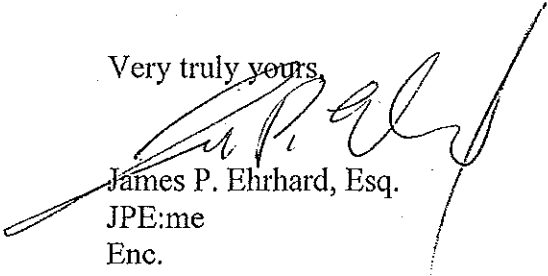
This Appeal is grounded in the fact that the violation which appears to be asserted in the Letter is that a “tree service” is operating on the property. Without broaching the issue of whether or not such a business is indeed a violation (and Cassim without equivocation asserts that it is *not*), the simple fact is that there is no tree service business operating at 33 Main.

33 Main has four (4) garage bay windows and motor vehicle type equipment has been repaired and stored in those bays for decades, along with the selling and storing of motor vehicle type of equipment in the lot. Indeed, the Letter does not deny that this is a proper and approved use for 33 Main. All four bays are still only being used for motor repair. The placing of those signs by Berkley Tree Service was in error. Berkley operates out of and has its headquarters in

Southbridge, Massachusetts. Berkley's only use of the property is the parking of trucks and small motor equipment in the lot in the evening, along with the occasional keeping of tangential wood.

The granting of this Appeal request will in no way be a detriment to the public good because there is no meaningful change in the use of 33 Main. It is being used in fundamentally the same way as it always has been. Additionally, the granting of the Appeal will not be in any way a derogation of the Zoning Bylaw because the property is being used as it always has been in form and fashion.

Very truly yours,



James P. Ehrhard, Esq.

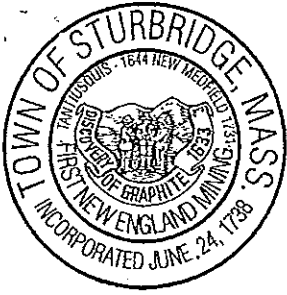
JPE:me

Enc.

Appeal authorized under the pains and penalties of perjury:



Robert Cassim
Robert Cassim



Town of Sturbridge

Department of Inspectional Services

Building Code Enforcement

Nelson B. Burlingame - Building Commissioner

nburlingame@town.sturbridge.ma.us

Sent via hand delivery and certified mail # 7015 1730 0001 6454 2943

November 14, 2018

Mr. Robert Cassim
33 Main Street
Sturbridge, MA 01566

RE: Zoning Violations at 33 Main Street: Cease & Desist Order

Dear Mr. Cassim,

For the past few months, you have been ignoring Zoning Violations at the above referred address despite the fact that this was brought to your attention several times.

This property is located in a Commercial District. As such, the allowed uses are only those identified in Chapter Seven of the Town's Zoning Bylaws. These allowed uses were adopted in 1965. The only current business that is allowed as a non-conforming use is the Auto Sales Business. All other business activity on this property is **not**, allowed under the Town's Zoning Bylaws.

In light of the above, I require that you immediately **CEASE** and **DESIST** the operations of all other businesses on your property, and bring your property into compliance with the Zoning Bylaws. If you fail to comply with this order within thirty (30) days, the Town may proceed with legal action against you to obtain compliance. You may appeal this order to the Zoning Board of Appeals within thirty (30) days from the above said date.

I appreciate your immediate attention to this matter.

Sincerely,

Nelson Burlingame
Building Commissioner & Zoning Enforcement Officer

Cc: Theodore Kozak, Interim Town Administrator
Jonathan D. Eichman, Town Counsel
Thomas Ford, Chief of Police

Center Office Building 308 Main Street
Sturbridge, MA 01566

Telephone (508)347.2505
Fax (508)347.8243

"Public Safety ~ A Joint Responsibility"



Tree Service Signs on Garage Doors of Auto Sales



To the right side of the building



To the left side of building

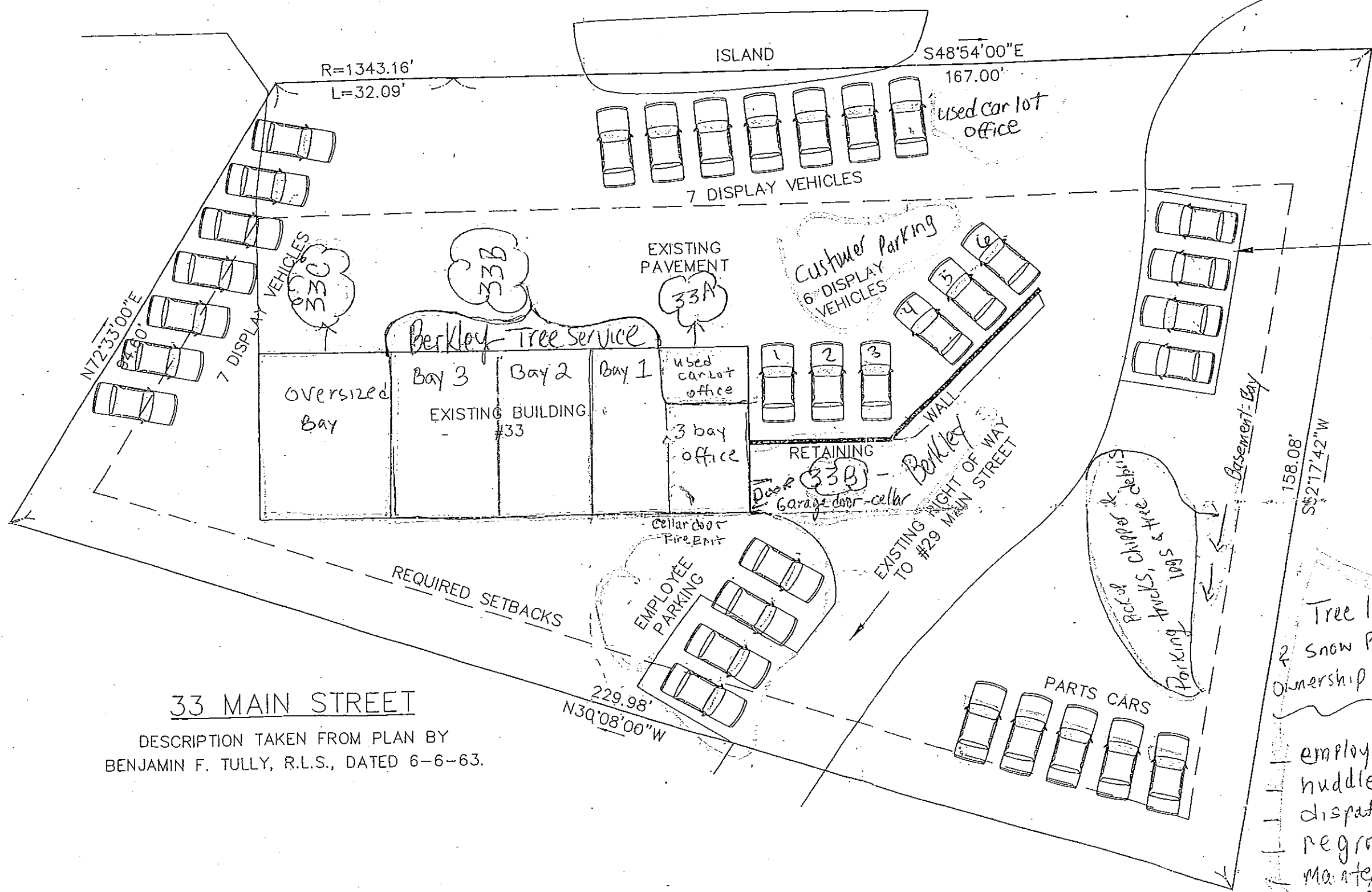


View of front, along the street (Main St - Rt. 131)

RECEIVED
 OCT 24 2019
 STURBRIDGE
 BUILDING DEPT.

MAIN STREET - ROUTE 131

33A → Used car lot
 33B → Berkley Tree
 33C → TBD
 → General Customer Parking



33 MAIN STREET

DESCRIPTION TAKEN FROM PLAN BY
 BENJAMIN F. TULLY, R.L.S., DATED 6-6-63.

BERKLEY Tree service LLC
 Tree limbing, Tree Removal, snow plowing
 & snow plowing & snow removal, real estate
 ownership & all other lawful purposes.

employee meetings
 huddle at 7am
 dispatching
 regroup at 10PM
 maintenance & repair → 9AM
 repair equipment

Berkley Tree Service, LLC
 James H. Maray
 25 Brewer St.
 01861, MA
 781-551-7057