

Kathleen A. Reagan  
Attorney At Law LLC  
400 Crown Colony Drive, Suite 601  
Quincy, MA 02169

**COPY**

Tel. 617-773-1597  
Fax: 617-773-1557

www.kathleenreaganlaw.com  
kar@kathleenreaganlaw.com

July 6, 2017

**VIA COURIER**

Tara Shaw, Town Clerk  
Plympton Town Hall  
5 Palmer Road  
Plympton, MA 02367

**VIA COURIER**

Tricia Detterman, Assistant Town Clerk  
Plympton Town Hall  
5 Palmer Road  
Plympton, MA 02367

**VIA COURIER FOR HAND DELIVERY TO**

Robert Keating, Zoning Enforcement Officer  
Plympton Town Hall  
5 Palmer Road  
Plympton, MA 02367

**IN RE: ORDER TO CEASE AND DESIST VIOLATIONS OF TOWN OF PLYMPTON  
ZONING BYLAWS – 0 WINNETUXET ROAD, PLYMPTON, MA – STORAGE  
YARD – SPECIAL PERMIT**

**RESPONSE TO: Robert Keating, Zoning Enforcement Officer  
Letter dated May 4, 2017**

**RESPONDENT: Mr. Gene Beliveau, Manager  
Plymouth County Paving, LLC  
AKA PCP Realty Trust  
376 Main Street  
Plympton, MA 02367**

Dear Ms. Shaw, Ms. Detterman and Mr. Keating:

Enclosed for filing with regard to the above matter, please find the following documents:

1. Application for Special Permit, in duplicate with attachments;
2. 3 checks as required-
  - \$100.00 to Town of Plympton – ZBA Determination fee
  - \$80.00 to Town of Plympton for advertising fee;
  - A blank check made payable to the Town of Plympton for Abutters Certified Letter Postage Cost for 23 Abutters. The check may be filled out with the

appropriate amount to cover the postage. Please note that this check also covers the postage for the Appeals being filed regarding the same parcel of land, 0 Winnetuxet Road, Plympton, MA.

The \$35.00 cost for the Certified Abutter's List has already been paid, and a copy of the certified Abutter's List is attached to this application.

This property is not being used as a "contractor's yard" as it is defined. The commercial use definition in the Plympton by laws requires such use by a "building contractor" or a "general contractor" or "subcontractor" none of which is Plymouth Paving LLC, see page 65 of the Plympton Zoning By laws. Further, the storage of soil and gravel, and woodchips, trees, branches, loam, and vehicles used in forestry and forestry land management is consistent with the agricultural use of the property as primary use and accessory, contiguous parcel use. See attached 61A certificate of the surrounding land 25 acre parcel contiguous to and accessory use for, forestry products, for which these parcels are in active forestry use. The Cease and Desist Order violates the "Right To Farm" by laws of Plympton, including Municipal By Law Article XXV, pages M.28-M30. Please also note that the storage of vehicles and equipment in use on an active farm is an exempted use for storage of these products and equipment. These items may also be used off site, but that does not take away from their use on site for forestry purposes. Further, Applicant has demonstrated that no undue nuisance, hazard, or congestion will be created by the grant of this special permit and that there will be no substantial harm to the established or future character of the neighborhood nor of the town.

Please feel free to contact this office with any questions or concerns.

Thank you.

Sincerely,



Kathleen A. Reagan, Esq.

KAR/jmm

Enclosure

Cc: Outback Arms, LLC

# TOWN OF PLYMPTON

# BOARD OF APPEALS



Application For (check one):

Variance   
Special Permit   
Appeal   
Comprehensive Permit

Date

6/29/17

Name of Applicant

Gene Beliveau  
PCP Realty Trust

Received by Town Clerk:

**RECEIVED**

JUL 06 2017

TOWN CLERK'S OFFICE  
PLYMPTON

Case Number: 17-0706SP

# TOWN OF PLYMPTON BOARD OF APPEALS RULES

(Revised March 15, 2017)

In order to be considered a valid application, your application must be submitted to the Town Clerk's office with the appropriate fees as stated below and must comply with all of the following rules:

1. The fees are as follows and will require 4 checks:

\_\_\_\_\_ **Check 1**=\$100.00 Application Fee for ZBA Determination  
Check made out to: **TOWN OF PLYMPTON**

\_\_\_\_\_ **Check 2**=\$80.00-Advertising Fee  
Check made out to: **TOWN OF PLYMPTON**

\_\_\_\_\_ **Check 3**=\$35.00-Certified Abutter's List (from Assessor's Office)  
Check made out to: **TOWN OF PLYMPTON**

4 \_\_\_\_\_ **Check 4**-Abutters Certified Letter Postage Cost  
\_\_\_\_\_ # Abutters x \$6.59\* \$ \_\_\_\_\_ Check made out to: **TOWN OF PLYMPTON**  
*Subject to prices of US Post Office*  
*The applicant is responsible for any other fees that may apply to this case.*

2. All applications **must be submitted in duplicate** on this form or equivalent. All fields must be completed.
3. The location of the property in question must be described by Assessors map and lot number, by street number if any, and by measurement from the nearest known point if no street number is available.
4. All applications shall be accompanied by a plan of the land affected, drawn to a scale of 1"=40' or 1"=80', showing all monuments, structures, street lines, ways, and proposed structures or uses. The Board reserves the right to require that the plan be prepared by a registered land surveyor or registered professional engineer. The Board also reserves the right to waive plan requirements as appropriate.
5. The applicant shall provide the names and addresses of direct abutters, owners of land directly opposite on any street or way, and abutters to the abutters within three hundred feet of the property line. The Board reserves the right to require that the abutters list be certified by the Board of Assessors. The Board also reserves the right to notify persons not on the abutters list.
6. The Board may employ outside consultants if it determines by majority vote that it requires outside technical advice unavailable from Town employees to review an application. Whenever possible it shall work cooperatively with the applicant to identify appropriate consultants and to negotiate payment of part or all of the consultant fees by the applicant. Alternatively, the Board may, by majority vote, require that the applicant pay a reasonable fee for the employment of outside consultants chosen by the Board alone. A review fee may be imposed only if the work is in connection with the applicant's specific project, and all written results and report are made part of the record before the Board. The minimum qualifications for consultants shall consist of either an educational degree in a related field or three or more years of practice in a related field. Each review fee shall be deposited in a special account established by the Town Treasurer pursuant to MGL Ch44, Section 53G. Funds from the special account may be expended only for the purposes described above.

Upon the Town Clerk's receipt of your properly completed application and fee the Board will schedule, advertise and hold a Public Hearing on your application. After the Public Hearing the Board will rule on your application.

TOWN OF PLYMPTON BOARD OF APPEALS  
APPLICATION

This is an application for: (complete only one of the following):

1. A Variance from Section \_\_\_\_\_ of the Zoning Bylaw for \_\_\_\_\_
2. A Special Permit under Section 7.1 of the Zoning Bylaw for Section 3.1 not Section 10
3. An Appeal of a Zoning Ruling by the Building Inspector or planning agency,  
dated \_\_\_\_\_ (a copy of which must be attached)
4. A Comprehensive Permit Application for low or moderate income housing under MGL Chapter **40B** \_\_\_\_\_

Date 6/29/17

Name of Applicant Gene Beliveau

Name of Property Owner (if a corporation or trust, also give names of beneficial owners) PCP Realty Trust LLC, Gene Beliveau

Address of Applicant for Public Hearing Notice 93 Upland Road, Plympton, MA

Phone 508-209-7370 E-Mail 93uplandrd@comcast.net

Property Location: Assessor's Map # 21 Lot # 1-24

Street Address or Measurement from known point 0 Winnetuxet Road

Lot Area 27.2 AC Frontage 280 Depth 1600

Applicant's interest in land was acquired on (date) 1/5/2005  
From Peter Mead, John Mead, & Stewart Grossman

Complete statement of nature of this application (may be attached):

Please see attached letter dated May 30, 2017

Names and address of Abutters (may be attached)

Applicant will provide list of abutters

A hearing is requested in the above matter:

Applicant's Signature \_\_\_\_\_ Date \_\_\_\_\_

TOWN OF PLYMPTON BOARD OF APPEALS  
APPLICATION

This is an application for: (complete only one of the following):

1. A Variance from Section \_\_\_\_\_ of the Zoning Bylaw for \_\_\_\_\_
2. A Special Permit under Section \_\_\_\_\_ of the Zoning Bylaw for \_\_\_\_\_
3. An Appeal of a Zoning Ruling by the Building Inspector or planning agency,  
dated \_\_\_\_\_ (a copy of which must be attached)
4. A Comprehensive Permit Application for low or moderate income housing under MGL Chapter 40B \_\_\_\_\_

Date 06-29-17

Name of Applicant Gene Beliveau

Name of Property Owner (if a corporation or trust, also give names of beneficial owners) PEP TRUST LLC GENE BELIVEAU

Address of Applicant for Public Hearing Notice 93 UPLAND ROAD PLYMPTON

Phone 508 209 7370 E-Mail 730PLANDRD@COMCAST.NET

Property Location: Assessor's Map # 21 Lot # 1-24

Street Address or Measurement from known point 0 WINDY TUXET RD

Lot Area 27,246 Frontage 280 Depth 1600

Applicant's interest in land was acquired on (date) 1-5-2005  
From PAUL MERRILL, JOHN MERRILL & STEWART COLEMAN

Complete statement of nature of this application (may be attached):

Names and address of Abutters (may be attached)

A hearing is requested in the above matter

Applicant's Signature Gene Beliveau Date 06-29-2017

May 4, 2017

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Gene Beliveau  
376 Main Street  
Plympton, MA 02367

Mr. Gene Beliveau  
Manager  
Plymouth County Paving, LLC  
376 Main Street  
Plympton, MA 02367

**ORDER TO CEASE AND DESIST VIOLATIONS  
OF TOWN OF PLYMPTON ZONING BYLAWS  
0 WINNETUXET ROAD, PLYMPTON, MA**

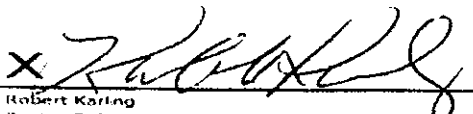
Dear Mr. Beliveau:

You are hereby ordered to **Cease and Desist** from your use of the property located at 0 Winnetuxet Road, Plympton, Massachusetts, (Assessors M21 B1 L24) for purposes of a contractor's yard and commercial vehicle storage in connection with your paving business, Plymouth County Paving, LLC.

I have reviewed the property on Google Earth and I have reviewed Plymouth County Paving's website and I understand that you and Plymouth County Paving, LLC are using the property located 0 Winnetuxet Road for the storage and stockpiling of mounds of earth and gravel for use in connection with a commercial paving business and that such materials are moved to and from the site from time-to-time. I have also observed that the subject property is being used for the storage of more than three commercial vehicles and other equipment associated with said business. The subject property is located within the Town's Agricultural-Residential Zoning District. Commercial uses, such as contractor's yard and commercial vehicle storage, are not allowed by right in the A-R District. In fact, contractor's yard use is prohibited in the A-R District and the storage of more than three commercial vehicles is only allowed by special permit, which you do not have.

**Therefore, you and all persons acting on your behalf or in concert with you are hereby ORDERED to IMMEDIATELY CEASE AND DESIST each of the activities described above as they violate the Plympton Zoning Bylaws. This means that all use of the property for contractor's yard and commercial vehicle storage must cease; the trucking of earth, gravel and other materials to and from the property must cease; and all of the materials vehicles and equipment associated with such use must be removed from the Property, forthwith.**

Please be advised that, if you are aggrieved by this Order, it may be appealed in accordance with M.G.L. c. 40A, §§8,15 and Section 2.4.2 of the Town's Zoning Bylaw; however any such appeal would not excuse your immediate compliance with the order as set forth herein.

  
Robert Koring  
Zoning Enforcement Officer

Town of Plympton Assessing Department  
5 Palmer Road  
Plympton, MA. 02337

Board of Assessors  
Ethan C. Stiles  
Jocelyn A. Anderson  
Richard E. Nordahl

RECEIVED

JUN 29 2017

ASSESSORS OFFICE  
PLYMPTON, MA

Telephone: (781) 585-3227  
Extension: 309/310  
FAX: (781) 582-1505

Deborah Stuart  
Assessor/Appraiser  
assessor@town.plympton.ma.us

REQUEST FOR

ABUTTERS LIST

CK 1213  
6/29/17

MAP 21 BLOCK 1 LOT A-24

PARCEL ADDRESS REQUESTED 0 WINNETUXET ROAD 617-688-5243

RECORD OWNER DAVID SMITH TRUSTEE PEPPERCORNY TRUST

CONTACT PERSON GENA BELIVANT TELEPHONE# 508 209 7370

MAILING ADDRESS 93 UPLAND ROAD

SIGNATURE [Signature] DATE 6/29/17

COST: \$35.00 FOR EACH PARCEL REQUESTED

- \* 100'- Board of Selectmen
- \* 100'- Conservation Commission
- \* 200'- Wetlands Protection Bylaw
- \* 300'- Zoning Board of Appeals
- \* 300'- Planning Board

This is to certify that at the time of the last assessment for taxation made by the Town of Plympton, the names and addresses of the parties assessed as adjoining owners to the parcel land shown as above written.

[Signature]  
Deborah Stuart

7/5/17  
Date



TOWN OF PLYMPTON  
 ABUTTERS LIST  
 PARCEL 21-1-24

21/ 1/ 2/ 0/	392 MAIN ST	BROWN DANE C & AMY ESTATE OF	C/O LLANES MICHELE	392 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 3/ 0/	380 MAIN ST	COLBY, GEORGE E. & SANDRA J. TTE	GEORGE & SANDRA COLBY TRUST	380 MAIN ST	PLYMPTON, MA 02367
21/ 1/ 4/ 0/	376 MAIN ST	BELIVEAU GENE S TR	POP REALTY TRUST	376 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 5/ 0/	372 MAIN ST	HAMILTON, RYAN J		372 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 6/ 0/	368 MAIN ST	NORRIE EDMUND A		368 MAIN ST.	PLYMPTON, MA 02367
21/ 1/ 6/ A/	364 MAIN ST	NORRIE EDMUND A	NORRIE A DEBORAH	364 MAIN STREET	PLYMPTON, MA 02367
21/ 1/ 8/ 0/	352 MAIN ST	PERRY ROBERT D & NICOLE M, TTEES	352 MAIN ST REALTY TRUST	5 SNAPIT RD	CARVER, MA 02330
21/ 1/ 10/ 0/	1 WINNETUXET RD	SPRINGER MAUREEN A		P.O. BOX 209	PLYMPTON, MA 02367
21/ 1/ 13/ 0/	11 WINNETUXET RD	SANTOS ROBERT J	SANTOS BARBARA P	11 WINNETUXET RD.	PLYMPTON, MA 02367
21/ 1/ 14/ 0/	15 WINNETUXET RD	MATHIAS JOHN D		15 WINNETUXET RD.	PLYMPTON, MA 02367
21/ 1/ 14/ A/	0 WINNETUXET RD	MATHIAS JOHN D		15 WINNETUXET RD	PLYMPTON, MA 02367
21/ 1/ 14/ B/	11 WINNETUXET RD	SANTOS ROBERT J	SANTOS BARBARA P	11 WINNETUXET RD.	PLYMPTON, MA 02367
21/ 1/ 23/ 0/	0 WINNETUXET RD	MATHIAS JOHN D		15 WINNETUXET RD	PLYMPTON, MA 02367
21/ 3/ 7/ 0/	0 WINNETUXET RD	TOWN OF PLYMPTON		5 PALMER RD	PLYMPTON, MA 02367
21/ 3/ 8/ 0/	0 MAIN ST	TOWN OF PLYMPTON		5 PALMER RD	PLYMPTON, MA 02367
21/ 5/ 10/ 0/	357 MAIN ST	NEVES MANUEL T JR	NEVES SHEILA	355-357 MAIN ST	PLYMPTON, MA 02367
21/ 5/ 14/ 0/	373 MAIN ST	JAFFERIAN, DEAN & SUZANNE		373 MAIN ST	PLYMPTON, MA 02367
21/ 5/ 14/ A/	363 MAIN ST	REID RAYMOND A, II		373 MAIN ST.	PLYMPTON, MA 02367
21/ 5/ 15/ 0/	387 MAIN ST	ZARELLA JACKI		387 MAIN ST.	PLYMPTON, MA 02367
21/ 5/ 16/ 0/	389 MAIN ST	MCDERMOTT PAUL V	MCDERMOTT NATALIE G	389 MAIN ST.	PLYMPTON, MA 02367
21/ 5/ 20/ 0/	355 MAIN ST	NEVES MANUEL T JR	NEVES SHEILA	385-357 MAIN ST	PLYMPTON, MA 02367
21/ 5/ 22/ 0/	0 MAIN ST	HARJU BROTHER CRANBERRIES INC		801 PLYMOUTH ST	MIDDLEBORO, MA 02346
24/ 1/ 20/ 0/	0 MAIN ST	GASS SHANA MIRIAM	C/O GASS ROBERT	36 HARVEST CIRCLE	HOLDEN, MA 01520

21/ 1/ 2/ 0/  
BROWN DANE C & AMY  
ESTATE OF  
C/O LLANES MICHELE  
392 MAIN STREET  
PLYMPTON, MA 02367

21/ 1/ 3/ 0/  
COLBY, GEORGE E. & SANDRA J. TTE  
GEORGE & SANDRA COLBY TRUST  
380 MAIN ST  
PLYMPTON, MA 02367

21/ 1/ 4/ 0/  
BELIVEAU GENE S TR  
PCP REALTY TRUST  
376 MAIN STREET  
PLYMPTON, MA 02367

21/ 1/ 5/ 0/  
HAMILTON, RYAN J  
372 MAIN STREET  
PLYMPTON, MA 02367

21/ 1/ 6/ 0/  
NORRIE EDMUND A  
368 MAIN ST.  
PLYMPTON, MA 02367

21/ 1/ 6/ A/  
NORRIE EDMUND A  
NORRIE A DEBORAH  
364 MAIN STREET  
PLYMPTON, MA 02367

21/ 1/ 8/ 0/  
PERRY ROBERT D & NICOLE M,  
TTEES  
352 MAIN ST REALTY TRUST  
5 SNAPIT RD  
CARVER, MA 02330

21/ 1/ 10/ 0/  
SPRINGER MAUREEN A  
P.O. BOX 209  
PLYMPTON, MA 02367

21/ 1/ 13/ 0/  
SANTOS ROBERT J  
SANTOS BARBARA P  
11 WINNETUXET RD.  
PLYMPTON, MA 02367

21/ 1/ 14/ 0/  
MATHIAS JOHN D  
15 WINNETUXET RD.  
PLYMPTON, MA 02367

21/ 1/ 14/ A/  
MATHIAS JOHN D  
15 WINNETUXET RD  
PLYMPTON, MA 02367

21/ 1/ 14/ B/  
SANTOS ROBERT J  
SANTOS BARBARA P  
11 WINNETUXET RD.  
PLYMPTON, MA 02367

21/ 1/ 23/ 0/  
MATHIAS JOHN D  
15 WINNETUXET RD  
PLYMPTON, MA 02367

21/ 3/ 7/ 0/  
TOWN OF PLYMPTON  
5 PALMER RD  
PLYMPTON, MA 02367

21/ 3/ 8/ 0/  
TOWN OF PLYMPTON  
5 PALMER RD  
PLYMPTON, MA 02367

21/ 5/ 10/ 0/  
NEVES MANUEL T JR  
NEVES SHEILA  
355-357 MAIN ST  
PLYMPTON, MA 02367

21/ 5/ 14/ 0/  
JAFFERIAN, DEAN & SUZANNE  
373 MAIN ST  
PLYMPTON, MA 02367

21/ 5/ 14/ A/  
REID RAYMOND A, II  
REID HEATHER  
373 MAIN ST.  
PLYMPTON, MA 02367

21/ 5/ 15/ 0/  
ZARELLA JACKI  
387 MAIN ST.  
PLYMPTON, MA 02367

21/ 5/ 16/ 0/  
MCDERMOTT PAUL V  
MCDERMOTT NATALIE G  
389 MAIN ST.  
PLYMPTON, MA 02367

21/ 5/ 20/ 0/  
NEVES MANUEL T JR  
NEVES SHEILA  
355-357 MAIN ST  
PLYMPTON, MA 02367

21/ 5/ 22/ 0/  
HARJU BROS CRANBERRIES INC  
801 PLYMOUTH ST  
MIDDLEBORO, MA 02346

24/ 1/ 20/ 0/  
GASS SHANA MIRIAM  
C/O GASS ROBERT  
36 HARVEST CIRCLE  
HOLDEN, MA 01520

Kathleen A. Reagan  
Attorney At Law LLC  
400 Crown Colony Drive, Suite 601  
Quincy, MA 02169

Tel. 617-773-1597  
Fax: 617-773-1557

www.kathleenreaganlaw.com  
kar@kathleenreaganlaw.com

May 30, 2017

**VIA COURIER**

Tricia Detterman, Assistant Town Clerk  
Plympton Town Hall  
5 Palmer Road  
Plympton, MA 02367

**VIA COURIER FOR HAND DELIVERY TO**

Robert Keating, Zoning Enforcement Officer  
Plympton Town Hall  
5 Palmer Road  
Plympton, MA 02367

**IN RE: ORDER TO CEASE AND DESIST VIOLATIONS OF TOWN OF PLYMPTON  
ZONING BYLAWS – 0 WINNETUXET ROAD, PLYMPTON, MA –  
STORAGE YARD**


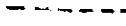









**RESPONSE TO:** Robert Keating, Zoning Enforcement Officer  
Letter dated May 4, 2017

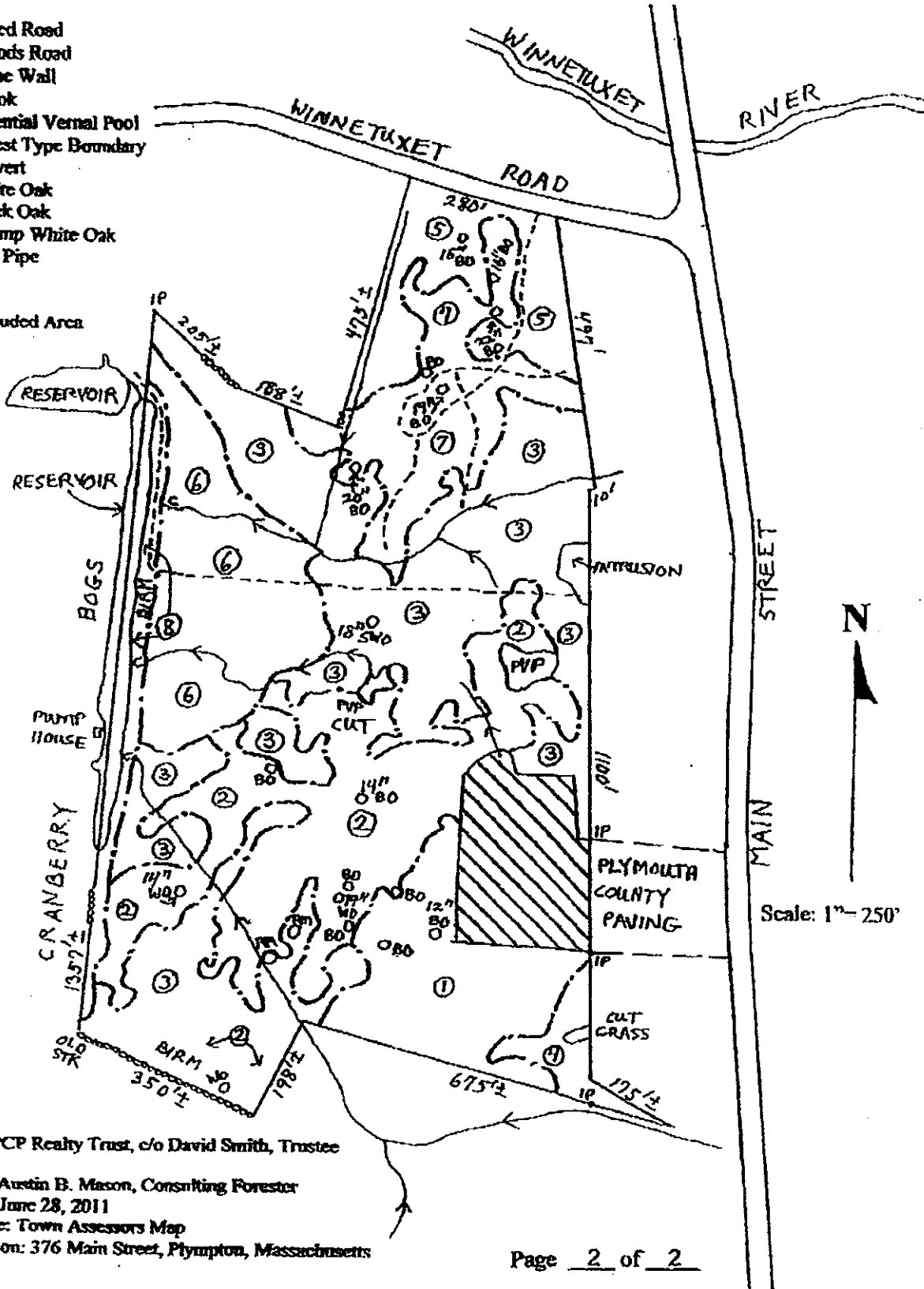
**RESPONDENT:** Mr. Gene Beliveau, Manager  
Plymouth County Paving, LLC  
AKA PCP Realty Trust  
376 Main Street  
Plympton, MA 02367

Dear Ms. Detterman, Mr. Keating and Plympton Zoning Board:

The respondent's appeal contests each allegation on the merits. This property is not being used as a "contractor's yard as it is defined. The commercial use definition in the Plympton by laws requires such use by a "building contractor" or a "general contractor" or "subcontractor" none of which is Plymouth Paving LLC, see page 65 of the Plympton Zoning By laws. Further, the storage of soil and gravel, and woodchips, trees, branches, loam, and vehicles used in forestry and forestry land management is consistent with the agricultural use of the property as primary use and accessory, contiguous parcel use. See attached 61A certificate of the surrounding land 25 acre parcel contiguous to and accessory use for, forestry products, for which these parcels are in active forestry use. This zoning order violates the "Right To Farm"

Legend

-  Paved Road
-  Woods Road
-  Stone Wall
-  Brook
-  PVP Potential Vernal Pool
-  Forest Type Boundary
-  Culvert
-  White Oak
-  Black Oak
-  Swamp White Oak
-  Iron Pipe



Scale: 1" = 250'

Property of: PCP Realty Trust, c/o David Smith, Trustee

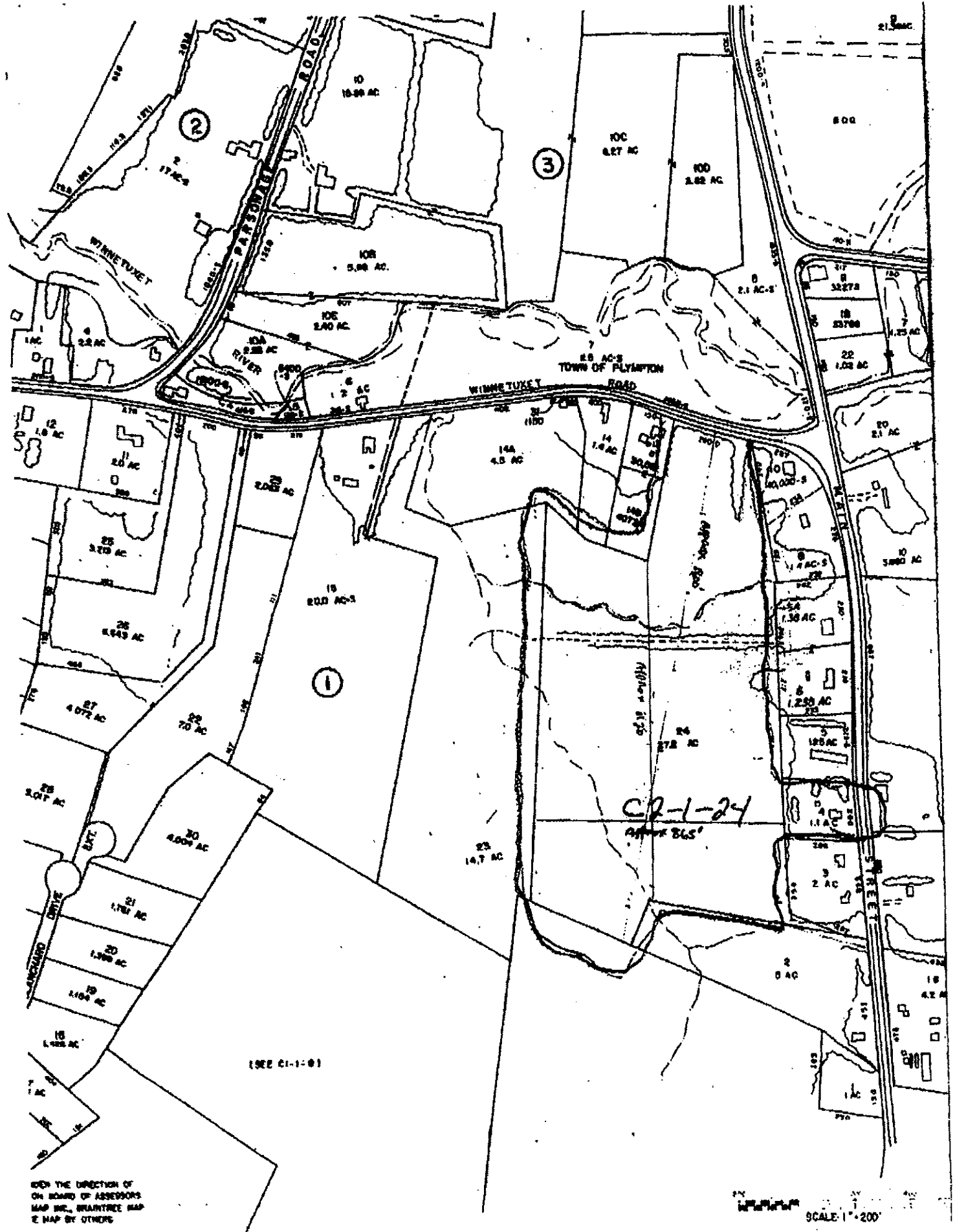
Prepared by: Austin B. Mason, Consulting Forester

Date: June 28, 2011

Source: Town Assessors Map

Location: 376 Main Street, Plympton, Massachusetts

Physical Features and Forest Type Map



BEAR THE DIRECTION OF  
ON BOARD OF ASSESSORS  
MAP INC., WINTERTREE MAP  
E MAP BY OTHERS

SCALE 1" = 200'