

Supplement to

ZBA Application D

Michael & Jennifer Duddy, Applicants

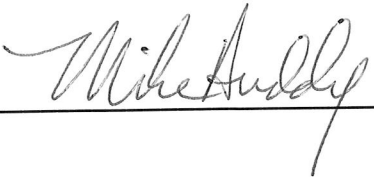
11 Crescent View Avenue

April 15, 2010

1. At the ZBA hearing in March 2010, the ZBA generally agreed that our proposed variance application satisfied the criteria for a side line set back variance to 12 feet. However, the ZBA was not persuaded that the resulting size of the structure also satisfied the standards for a variance.
2. Accordingly, we are modifying the scope of work to be done. In our variance application, we originally proposed replacing our existing mudroom and one car garage, with a mudroom, two car garage, and second story family room over the mud room and both bays of the garage. Supp. Exhibit 1 provides a concept drawing of what the construction would have looked like.
3. As a compromise, and to make the resulting structure more comparable with other homes in the neighborhood, we now propose to have the second story family room extend only over the mudroom and one bay of the garage, rather than over both bays of the garage. Supp. Exhibit 2 provides a concept drawing of what we now propose the construction to look like.
4. The resulting mudroom and two bay garage would still extend 28 ft from the side of the main house, to a location 12 ft from the side line, and would be 24 feet deep. However, the second story would extend only 18 ft from the side of the main house, which would limit the second story to the extent of the current structure.
5. The modified scope of work provides at least two benefits to the analysis. First, in October 2003, the ZBA approved our variance application to build over the current mudroom and one car garage. Supp. Exh. 3. There is no reason why the ZBA should now object to the size of that portion of the construction.
6. Second, the modified proposal shrinks the size of the resulting structure by 240 sq. ft., making the resulting structure more comparable in size to other structures in the neighborhood. All we are seeking to build, beyond what the ZBA has

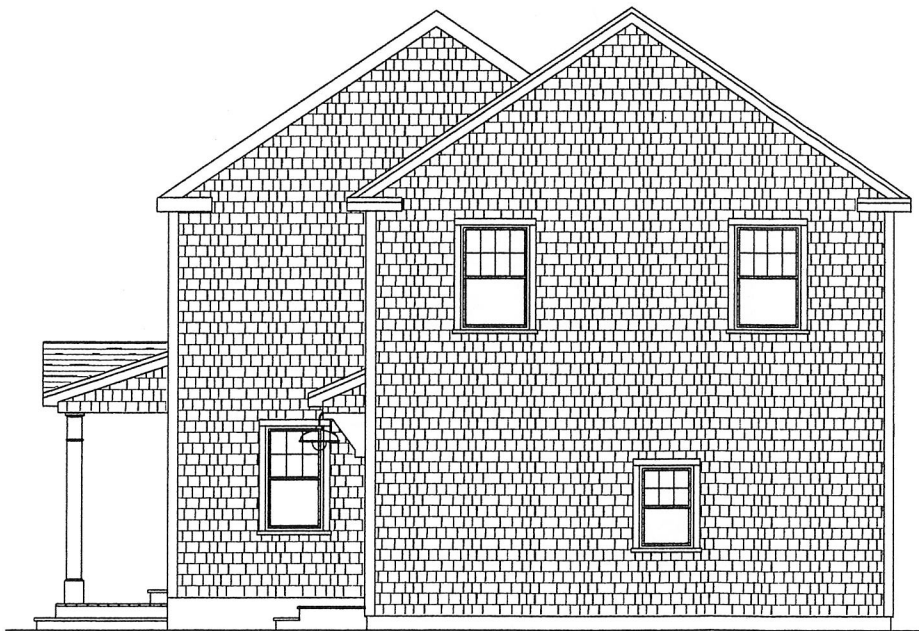
previously approved, is a one additional garage bay with a shed roof off the side of the addition.

7. The resulting structure would be 2,640 sq. ft. Of that, only 336 sq. ft. require a variance.
8. We re-measured structures in the neighborhood, based on the definitions of structure in the Ordinance, and based on discussions with the CEO. Supp. Exh. 4 is an updated table of setbacks and size, and replaces Exhibit 2 in our original variance application.
9. Based on the figures shown in Supp. Exh. 4, the resulting structure would be smaller than five other structures in the neighborhood (Lots 45, 46, 48, 49, and 63), and basically the same as one other structure (Lot 40). See Supp. Exh. 5 showing the location of these six Lots.
10. Additionally, the resulting structure would be comparable in size to 11 other structures in the neighborhood (Lots 35A, 47, 53, 54, 55, 56, 57, 58, 59, 60, 61). See Supp. Exh. 6 showing the location of Lots with comparable structures. Each of these structures is situated on Lots which are either large corner Lots, or Lots considerably wider (110 ft. to 115 ft.) across the front than our lot (99 ft.). Accordingly, the owners of these Lots have the present ability—without a variance—to expand their structures to a size equal to or larger than what we seek to build with a variance.
11. Thus, we meet the definition of significant economic injury because strict application of the Ordinance would prevent us from having a structure comparable in size to what over 50% of the neighborhood has or can presently achieve without a variance.
12. In conclusion, we seek a variance to expand our current structure to include a second garage bay (10 ft. wide and 24 ft. deep) extending 12 ft. to the side line, with second story living space extending out from the main house only as far as the current one bay garage, which is 23 ft to the side line.





FRONT ELEVATION



RIGHT ELEVATION

EXHIBIT
Supp.
1

tabbles®



FRONT ELEVATION



RIGHT ELEVATION

EXHIBIT
Suppⁿ
2

tabbies



TOWN OF CAPE ELIZABETH

Code Enforcement Office
P. O. Box 6260
320 Ocean House Road
Cape Elizabeth, Maine 04107-0060

Phone: 207-799-1619
Fax: 207-799-5598
Email:
cecodes@maine.rr.com

CERTIFICATE OF VARIANCE

MAP U16 LOT 41

On October 28, 2003 the Cape Elizabeth Board of Zoning Appeals granted a right side property line variance of two (2) feet from the required twenty-five (25) feet to construct a 2nd story addition over the existing garage & breezeway at twenty-three (23) feet from the property line.

Michael A. & Jennifer J. Duddy are the current record owners of the property located at 11 Crescent View Road. Reference may be made to a deed recorded at Cumberland County Registry of Deeds, Book 14679, Page 40.

TOWN OF CAPE ELIZABETH

Bruce A. Smith
Code Enforcement Officer

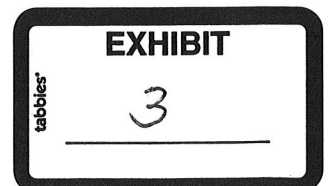
State of Maine
Cumberland, ss

Personally appeared before me the above named Bruce A. Smith and acknowledged the foregoing to be his free act and deed in his said capacity this 15th day of December, 2003.

Hiromi Dolliver, Notary Public
My commission expires October 24, 2007

SENT

This variance becomes null and void if not recorded in the Cumberland County Registry of Deeds within 90 days of approval. A copy of this recorded certificate must be provided to the Code Enforcement Office within 10 days of the recording.



**BOARD OF ZONING APPEALS
TOWN OF CAPE ELIZABETH, MAINE
NOTICE OF VARIANCE DECISION**

Upon the appeal of Michael A. & Jennifer J. Duddy for a variance from the strict application of the Zoning Ordinance requirement of Sec. 19-6-1, a hearing was held on 10/28/03.

The appellants request a right side property line variance of two (2) feet from the required twenty-five (25) feet to construct a 2nd story addition over the existing garage & breezeway at twenty-three (23) feet from the property line.

FINDING OF FACTS

The appellants are owners of a property at 11 Crescent View Ave., Tax Map U16, Lot 41.

The property is located in a Residential A District and contains 8600 sf. of land area with 100 ft. of street frontage, and is therefore a nonconforming lot of record.

CONCLUSIONS

1. The proposed variance is not a substantial departure from the intent of the Ordinance.
5 in favor, 0 opposed, 0 abstained
2. A literal enforcement of the Ordinance would cause a practical difficulty.
5 in favor, 0 opposed, 0 abstained
3. The need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.
5 in favor, 0 opposed, 0 abstained
4. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties.
5 in favor, 0 opposed, 0 abstained
5. The practical difficulty is not the result of action taken by the applicant or a prior owner.
5 in favor, 0 opposed, 0 abstained
6. No other feasible alternative to a variance is available to the petitioner.
5 in favor, 0 opposed, 0 abstained
7. The granting of a variance will not unreasonably adversely affect the natural environment.
5 in favor, 0 opposed, 0 abstained
8. The property is not located in whole or in part within shoreland areas as described in Title 38, section 435.
5 in favor, 0 opposed, 0 abstained

JUDGEMENT

A motion was made by Mr. Mendleson to approve the variance appeal and seconded by Mr. Guglielmetti.

5 in favor, 0 opposed, 0 abstained

Signed:



Jay Chatmas
Chairman
Zoning Board of Appeals

Members Present:

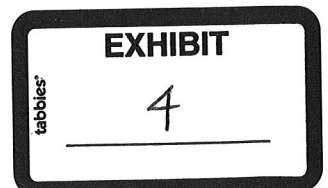
Jay Chatmas
Joseph Guglielmetti
Steven LaPlante
Gib Mendleson
Michael Tranfaglia

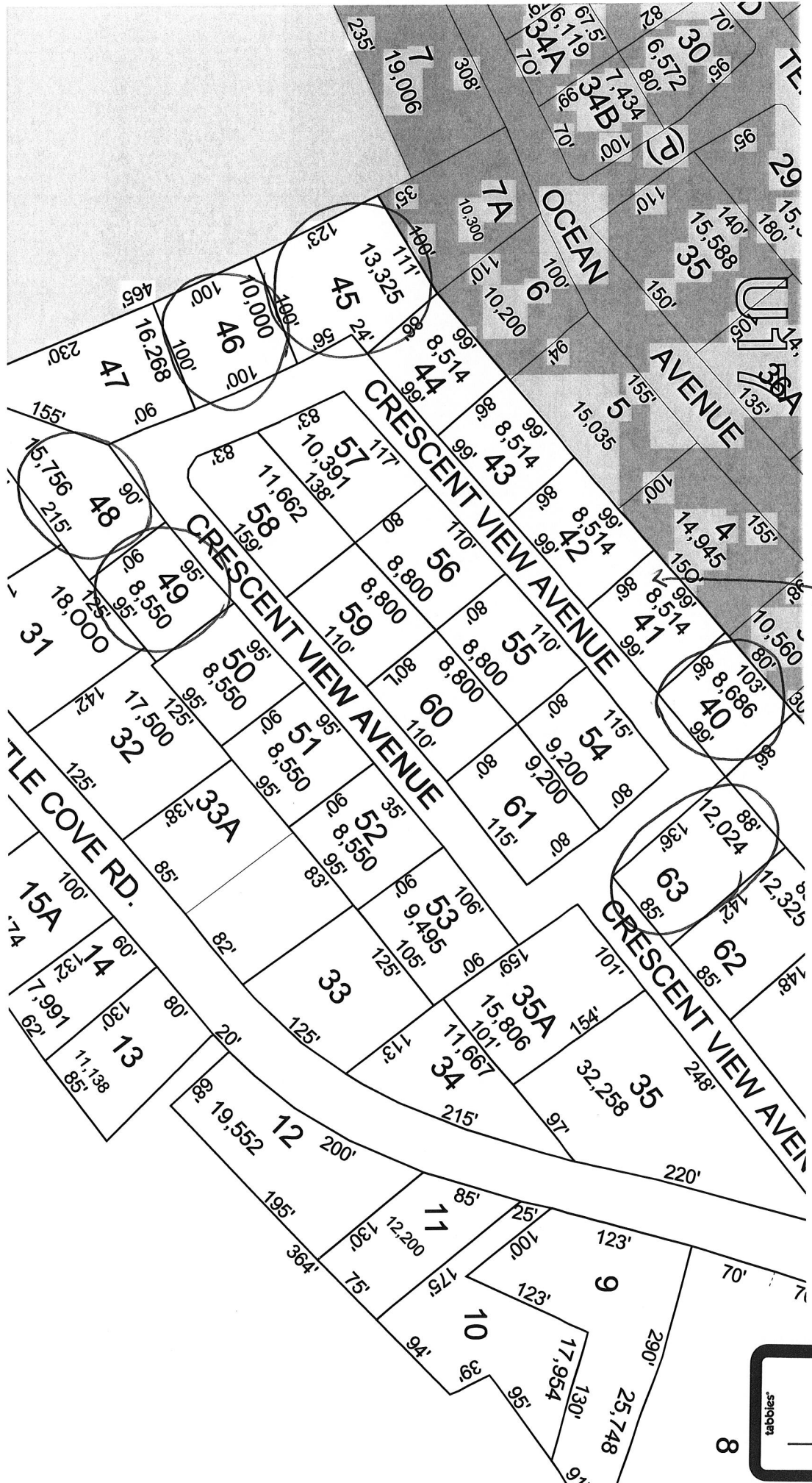
Received
Recorded Register of Deeds
Dec 22, 2003 11:41:27A
Cumberland County
John B. O'Brien

**COMPARISON OF NEIGHBORING PROPERTIES TO SUBJECT PROPERTY
CRESCENT VIEW AVENUE**

ADDRESS/LOT NO.	FRONT SETBACK	SIDE SETBACK	SQ. FT.	SQ. FT. REV.
#5/Lot 62	22 feet	10 and 13 feet	1,158	
#6/Lot 54	25 feet	25 and 28 feet	1,428	
#7/Lot 63	32 feet	75 and 23 feet	2,172	2,884
#8/Lot 55	22 feet	20 and 22 feet	1,272	
#9/Lot 40	27 feet	18 and 20 feet	2,298	2,616
#10/Lot 56	22 feet	28 and 20 feet	1,314	
#11/Lot 41	30 feet	23 and 25 feet	1,968	
#12/Lot 57	33 feet	17 and 10 feet	1,589	1,749
#13/Lot 42	27 feet	8 and 30 feet	1,524	1,684
#14/Lot 58	30 feet	5 and 18 feet	1,908	2,220
#15/Lot 43	25 feet	14 and 10 feet	1,484	
#16/Lot 59	25 feet	25 and 12 feet	1,662	1,872
#17/Lot 44	25 feet	5 and 30 feet	1,492	
#18/Lot 60	25 feet	25 feet and 14 feet	1,194	
#19/Lot 45	20 feet	44 and 10 feet	2,598	2,795
#20/Lot 61	25 feet	15 and 24 feet	1,418	
#21/Lot 46	28 feet	9 and 17 feet	2,532	2,925
#23/Lot 47	30 feet	17 feet and 13	2,228	
#25/Lot 48	27 feet	16 feet and 12	2,823	
#27/Lot 49	25 feet	25 and 15 feet	2,338	2,674
#29/Lot 50	25 feet	4 and 15 feet	1,459	
#31/Lot 51	24 feet	6 and 20 feet	1,359	
#33/Lot 52	25 feet	14 and 17 feet	1,886	2,159
#35/Lot 53	24 feet	20 and 15 feet	2,130	2,158
#4/Lot 35A	20 feet	15 and 30 feet	2,322	2,346

*** All property measurements are estimated from the house to the road or abutting property.





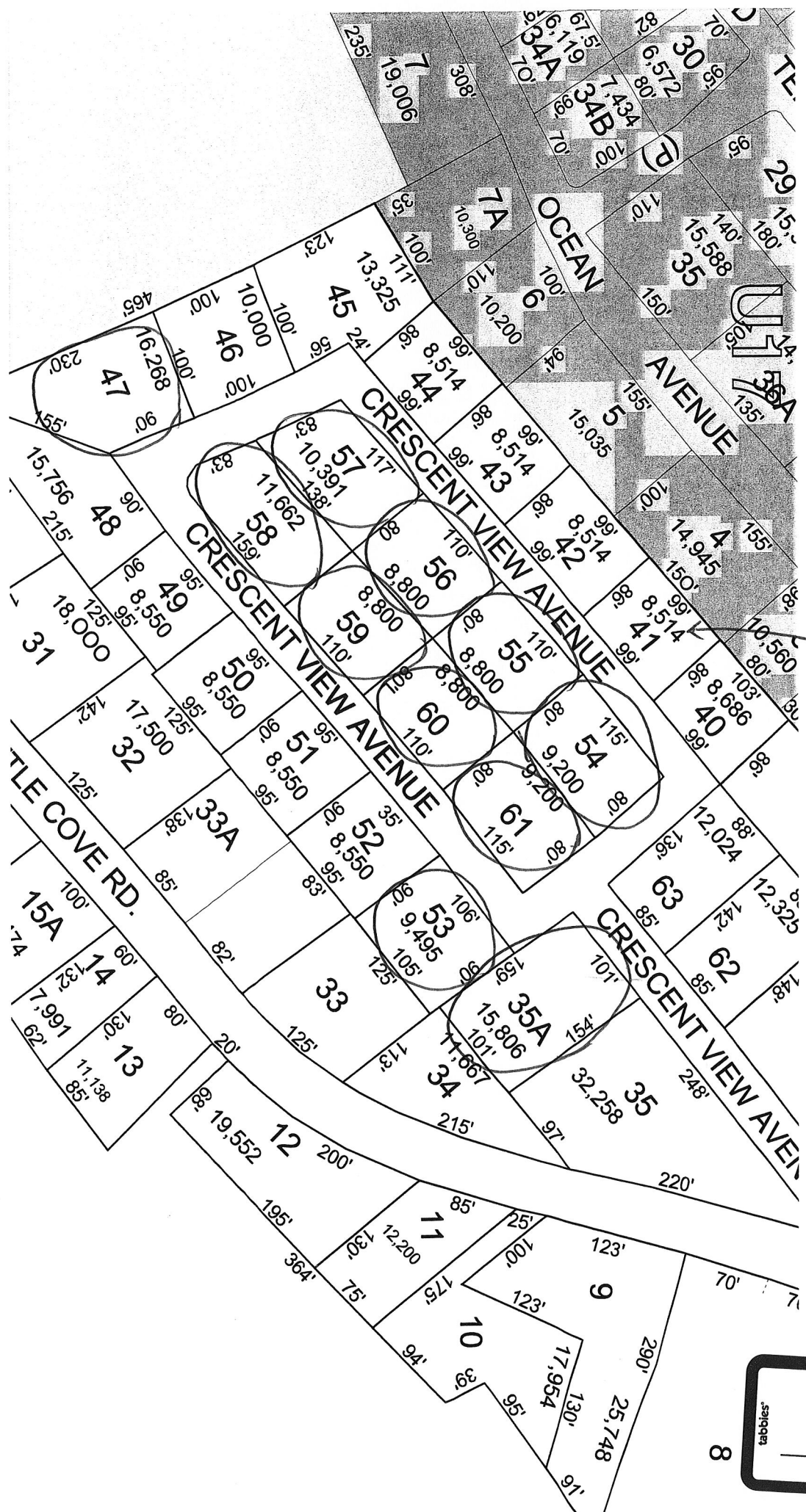
Subject Property

tabbles

EXHIBIT

5

8



Subject Property

EXHIBIT

6

8

tabbles