

MEMORANDUM OF STAFF COMMENTS

TO: Zoning Board of Appeals
FROM: Adam Levitus, ZEO
DATE: May 21, 2021
RE: ZBA #2021-10 Change of Nonconforming Use Approval
APPLICANT: Ken Wallen, KMK Plumbing and Heating
ADDRESS: 2378 Berlin Turnpike
Map 27-2 Block 119 Lot 6
ZONE: BT-2

Proposal and Background

Ken Wallen (KMK Plumbing and Heating) is requesting an approval for a change of nonconforming uses per Berlin Zoning Regulation IV.C.3.e for a plumbing and heating company to replace a fiber optics contractor use. The property is owned by Thomas Bukowski and is zoned BT-2.

At its special meeting of March 26, 2019, the ZBA unanimously approved the application of American Fiber Communications to conduct business at 2378 Berlin Tpke under the provisions of a change of nonconforming uses in the BT-2 zone. American Fiber – a contractor use that would not conform with the BT-2 zone – was replacing a prior unauthorized motor vehicle use. Similarly, this application is attempting to replace the prior nonconforming fiber contractor use with KMK Plumbing and Heating (KMK would also not comply with the BT-2 zone). Accordingly, the applicant is petitioning the board for a finding that their company would be of the same or less objectionable character as the fiber optics company, and therefore be permitted as a nonconforming use under the provisions of §IV.C.3.e

The property was improved as shown on the attached 1985 site plan titled “ISRAEL ROSSY FENCE CO, REVISED TO SHOW PROPOSED HOUSE – SEPT. 24, 1986”. This plan was distributed as part of the 2019 Fiber Optic application and is being re-distributed here for reference. The highlighted area shows the existing parking area to the north of the building. Staff added the approximate property line in red, per Land Records map # 2226 (enclosed) when 35,658 sf. was subdivided off in 1988 to create a separate lot 6G for the house on Toll Gate Road.

No changes to the current configuration of the property are proposed. The plan submitted by the applicant of the proposed use includes that employee parking and the plumbing van will park on the north side of the building. Outside storage, and enclosed trailer, plow truck, and equipment trailer are proposed to the south of the building in the area on the plan labelled ‘storage area’. Photos from Google Satellite (date unknown, but appears to be before the fiber optic company) and the town GIS satellite (2019) have been provided.

Staff Comments

Per §IV.C.3.e the ZBA is charged with determining if the proposed use is "... of the same or less objectionable character." A letter in support from C. Edge, Economic Development Director is also attached.

Staff recommends discussion of:

- Location/storage/parking of vehicles and materials including quantities and nature (cars vs work vans vs trucks, equipment laydown outside vs inside, etc.).
- Existing screening and maintenance of the property.
- Hours of operation and equipment uses on site (vans coming and going, truck deliveries of materials, any heavy equipment noise, etc.)

Zoning Requirements

§IV.C.3. *Nonconforming lots, nonconforming uses of land and nonconforming structures.*

e. No nonconforming use may be changed except to a conforming use, or, with the approval of the board of appeals to another nonconforming use of the same or less objectionable character. If the intended use is specifically provided for or described in these zoning regulations then the intended use shall comply with such specific regulations.

The Town of Berlin Plan of Conservation and Development, Section II, Strategic Outline for Implementation, Strategy I: Coordinate the Regulatory Structure to Support the Plan, 3) states: Any variance granted by the Zoning Board of Appeals should be consistent with the standards imposed by Connecticut General Statutes in which a hardship exists owing to conditions affecting a specific parcel of land, and the variance which is granted should be consistent with the goals and policies of this plan and the intent of the zoning regulations.



BZR IV.C.3.E

Town of Berlin

ZBA # 2021 - 10

Planning and Zoning Department
240 Kensington Road
Berlin, Connecticut 06037
www.town.berlin.ct.us

Town of Berlin
Received

APR 05 2021

Planning & Zoning Department
Berlin, Connecticut

ZONING BOARD OF APPEALS APPLICATION

- Special Permit
- Motor Vehicle Location
- Variance
- Alcohol Uses Location
- Appeal of ZEO
- Other / Determination

Property Owner(s): THOMAS Bukowski
 Project Address*: 2378 Berlin Turn Pike
 Map: 27-2 Block: 119 Lot: 6 Zon(e)s: BT-2 Lot Area: 1-1

Please select all relevant items below:

- Supplemental Information Is Required For:
ZBA Special Permit / Sale of Alcoholic Beverages Location / Motor Vehicle Uses Location
- Inland Wetlands and Water Course Commission review needed
- Planning and Zoning Commission review needed
- Property is within 500 feet of a Municipal Boundary of _____
- Previous Zoning Board of Appeals actions on this property:
Date(s) & Purpose(s): _____

~~OTHER~~

Applicant Information

Name: KEN WALLIN Firm Name: KMK Plumbing and Heating
 Street Address: 34 OLD INDIAN TR City: Middlefield ST: _____ Zip: 06455
 Email: _____ Phone: 203 631-8438
 Signature: KW-11 Date: 4-5-21

Property Owner(s) Information (If Not the Applicant)

Name: THOMAS Bukowski Principal: _____
 Street Address: 31 IRIS WAY City: Berlin ST: CT Zip: 06037
 Email: _____ Phone: _____

*Letter of Authorization Required

ZBA action is requested pursuant to Berlin Zoning Regulations Section(s): IV 3 E

*Any town official and/or employee who the town deems necessary may enter the property to verify information submitted with this application.

Brief description of the proposal: looking to Relocate Plumbing AND Heating Company to 2378 Berlin Tpk AS A Nonconforming use of the same or less objectionable character.

VARIANCE APPLICATIONS: For relief of: _____ requirement.
Requested requirement: _____
Reason/Description of Hardship (REQUIRED): _____

MOTOR VEHICLE USE LOCATION¹:
The first page of the State DMV application is required to be submitted with this application

	<u>Number of Service Bays</u>	<u>Parking Required</u>	<u>Parking Provided</u>
<input type="checkbox"/> New Car Dealer	_____	_____	_____
<input type="checkbox"/> Used Car Dealer	_____	_____	_____
<input type="checkbox"/> General Repairer	_____	_____	_____
<input type="checkbox"/> Limited Repairer	_____	_____	_____
<input type="checkbox"/> Gasoline Station	_____	_____	_____

SALE OF ALCOHOLIC BEVERAGES LOCATION¹
The first page of the State Liquor Permit application is required to be submitted with this application

Type of State Liquor Permit:

On-Premises Permit: Type _____
 Off-Premises: Type _____
 Other: Explain _____

To be completed by P&Z staff only:

Fee Paid \$ 210.00 (Refer to current Fee Schedule)

Received by: fms

Scheduled on ZBA Agenda of: 5/25/21

ZBA # 2021-10

ZONING BOARD OF APPEALS DECISION:

Plan Title & Date: _____

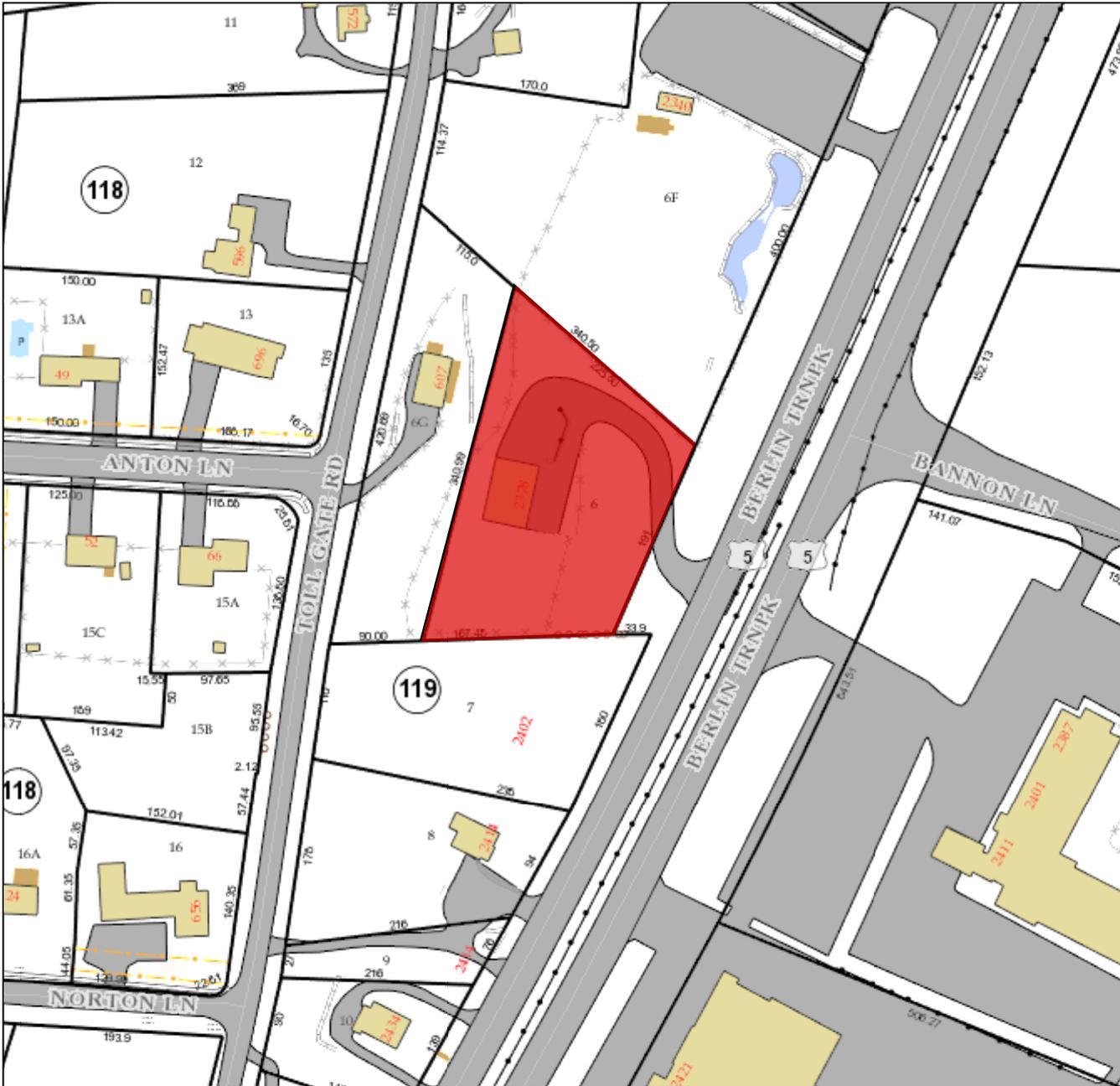
Town of Berlin
Received
APR 05 2021
Planning & Zoning Department
Berlin, Connecticut

Town of Berlin

Geographic Information System (GIS)



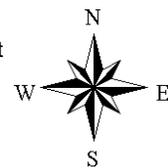
Date Printed: 5/20/2021



MAP DISCLAIMER - NOTICE OF LIABILITY

This map is for assessment purposes only. It is not for legal description or conveyances. All information is subject to verification by any user. The Town of Berlin and its mapping contractors assume no legal responsibility for the information contained herein.

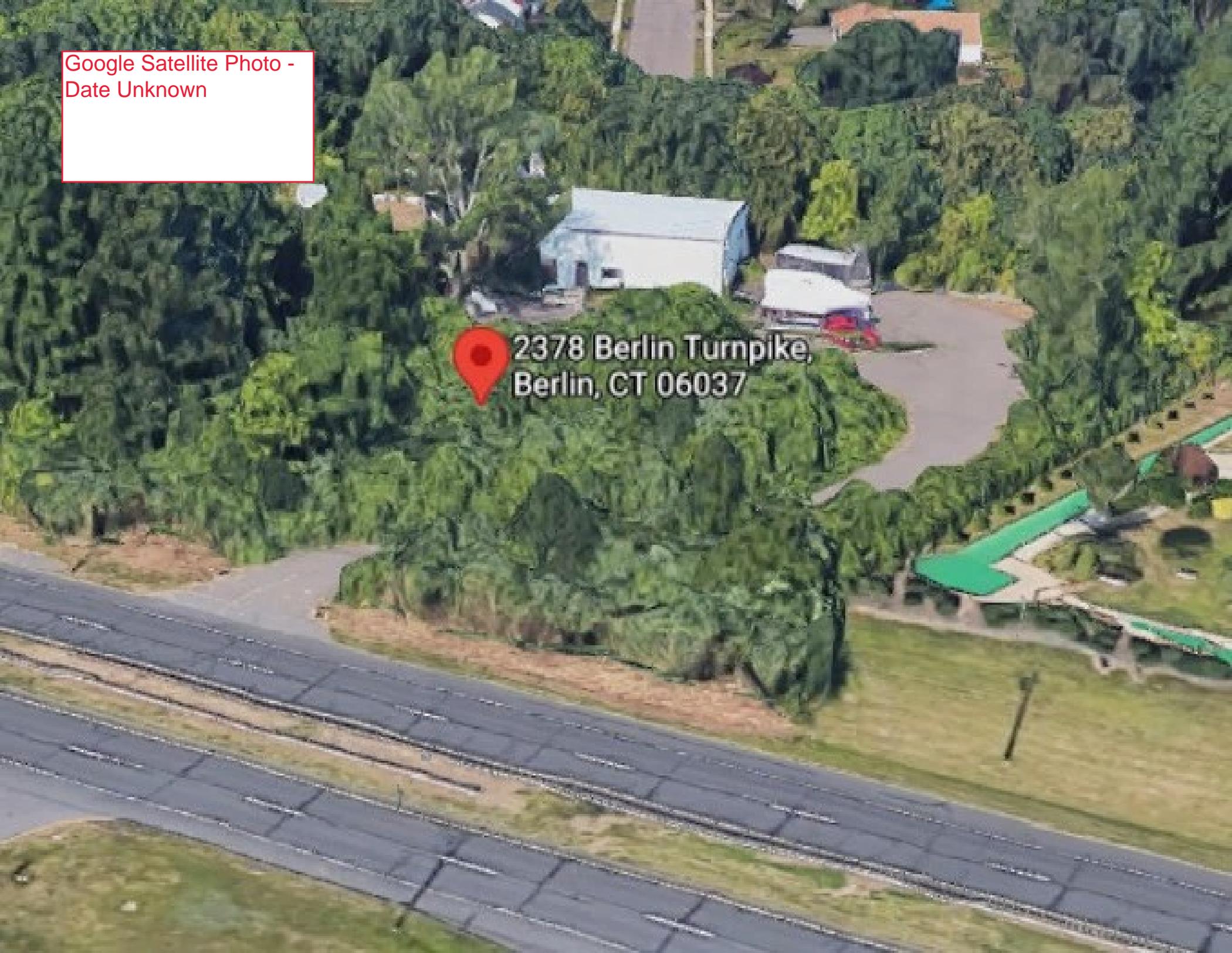
Approximate Scale: 1 inch = 150 feet



Google Satellite Photo -
Date Unknown



2378 Berlin Turnpike,
Berlin, CT 06037



Google Satellite Photo -
Date Unknown

Toll Gate Rd

Wilbur Cr

Berlin Turnpike

Ban

2378 Berlin Turnpike,
Berlin, CT 06037

5

15

Days

GIS Satellite Photo -
2019





Town of Berlin, CT

Property Listing Report

Map Block Lot

27-2-119-6

Building # 1

PID

7876

Account

1055460

Property Information

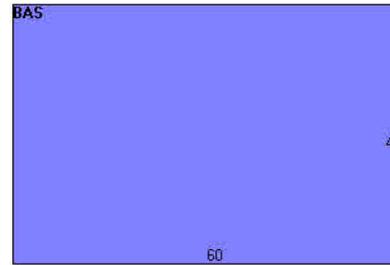
Property Location	2378 BERLIN TPKE
Owner	BUKOWSKI THOMAS S
Co-Owner	
Mailing Address	31 IRIS WAY BERLIN CT 06037
Land Use	3160 Whrse MDL-94
Land Class	C
Zoning Code	BT-2
Census Tract	4002

District	7
Acreage	1.1
Utilities	All Public
Book / Page	0370/0000

Photo



Sketch



Primary Construction Details

Year Built	1986
Building Desc.	Store/Shop
Building Style	Pre Eng Whrse
Stories	1
Occupancy	1.00
Exterior Walls	Pre-finshMetal
Exterior Walls 2	
Roof Style	Gable/Hip
Roof Cover	Enam Mtl Shing
Interior Walls	Minimum
Interior Walls 2	
Interior Floors 1	Concrete Slab
Interior Floors 2	

Heating Fuel	Gas/Oil
Heating Type	Hot Air-no Duc
AC Type	Central
Bedrooms	0
Full Bathrooms	0
Half Bathrooms	0
Extra Fixtures	0
Total Rooms	0
Bath Style	
Kitchen Style	
Fin BSMT Area	
Fin BSMT Quality	
Fin BSMT Area 2	
Fin BSMT Qual 2	

BSMT Garages	0
Fireplaces	0
Whirlpool Tub	0
Building Use	Ind/Comm
Building Condition	G
Industrial / Commercial Details (*Residential Not Applicable)	
Heat / AC	HEAT/AC PKGS
Frame Type	STEEL
Baths / Plumbing	LIGHT
Ceiling / Wall	CEILING ONLY
Rooms / Prtns	AVERAGE
Wall Height	14
First Floor Use	325I

Business Inquiry

Business Details

Business Name: **KMK PLUMBING AND HEATING LLC** Citizenship/State Inc: **Domestic/CT**
Business ID: **1201441** Last Report Filed Year: **2018**
Business Address: **34 OLD INDIAN TRAIL SUITE B, MIDDLEFIELD, CT, 06455** Business Type: **Domestic Limited Liability Company**
Mailing Address: **11 CHIPEWAY RD, MIDDLEFIELD, CT, 06455** Business Status: **Active**
Date Inc/Registration: **Mar 24, 2016**
Annual Report Due Date: **03/31/2019**
NAICS Code: **NONE** NAICS Sub Code: **NONE**

Principals Details

Name/Title	Business Address	Residence Address
KENNETH L WALLEN OWNER	34 OLD INDIAN TRAIL SUITE B, MIDDLEFIELD, CT, 06455	NONE

Agent Summary

Agent Name **KENNETH L WALLEN**
Agent Business Address **34 OLD INDIAN TR SUITE B, MIDDLEFIELD, CT, 06455**
Agent Residence Address **11 CHIPEWAY RD, MIDDLEFIELD, CT, 06455**
Agent Mailing Address **NONE**

March 10, 2021

Adam Levitus
Zoning Enforcement Officer
Town of Berlin
240 Kensington Road
Berlin, CT 06037

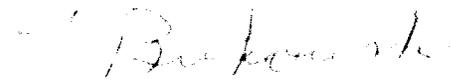
Dear Mr. Levitus:

I am writing today care of KMK Plumbing & Heating, who is looking to purchase the property I own at 2378 Berlin Turnpike and to locate their business there. Their firm, which is located in Middlefield, is growing and is family-owned.

This letter is the authorization for their application and efforts for approval for their use at 2378 Berlin Turnpike. I am also asking for your support of their application as their use is not that different from the fiber optic firm which your board approved in March of 2019.

Please let me know if you have any questions.

Sincerely,



Thomas Bukowski
Owner
2378 Berlin Turnpike

Town of Berlin
Received

APR 05 2021

Planning & Zoning Department
Berlin, Connecticut

Town of Berlin

Department of Economic Development

April 5, 2021

Tony Francalanga
Chairman
Zoning Board of Appeals
Town of Berlin
240 Kensington Road
Berlin, CT 06037

Dear Commission Members:

I am writing today in support of KMK Plumbing & Heating and KMK Property Management. This family-owned firm now calls an adjacent town home, but they are looking to purchase 2378 and 2402 Berlin Turnpike and call Berlin home.

The property is in the BT-2 zone, though the existing industrial building does not fit for any of the allowed uses. The properties, which are next to Safari Golf, are largely hidden from the road due to natural growth as well as the topography of the properties.

The Economic Development Commission voted unanimously to support this firm as the location on the Turnpike is a good one for an industrial use like KMK, but does not fit within the existing BT-2 regulations. This use is of a similar character as the last 2 tenants.

I would ask for your support of this application as it will bring a new firm to Berlin, as well as give this new business owner the ability to spruce up the property for his business.

Thank you very much for your time!

Sincerely,



Christopher Edge
Economic Development Director

Town of Berlin
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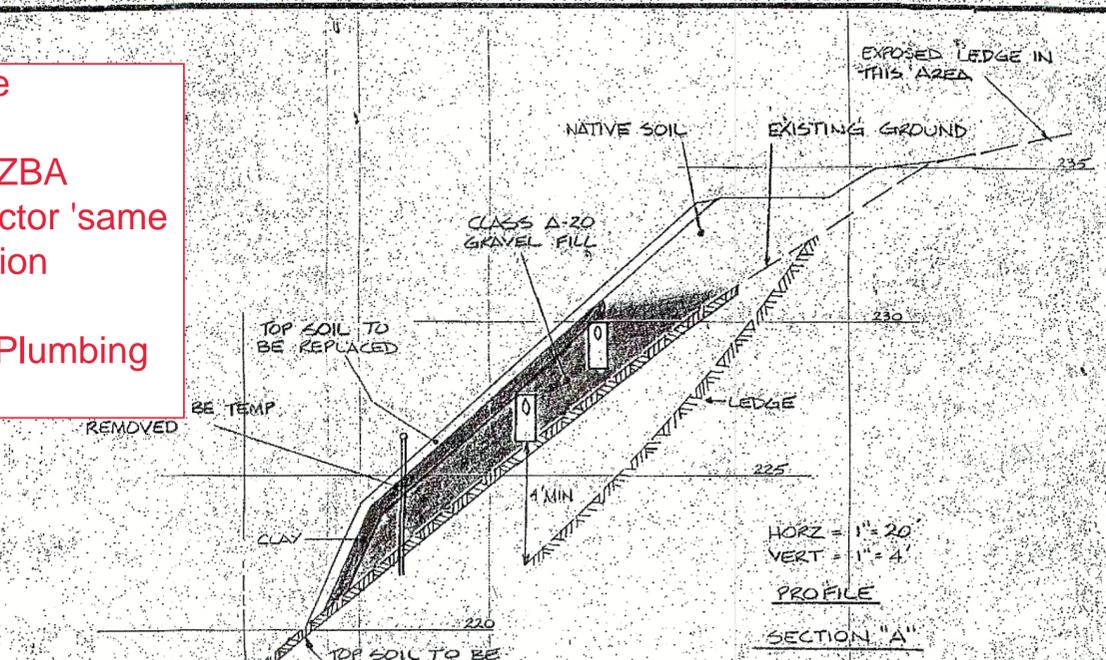
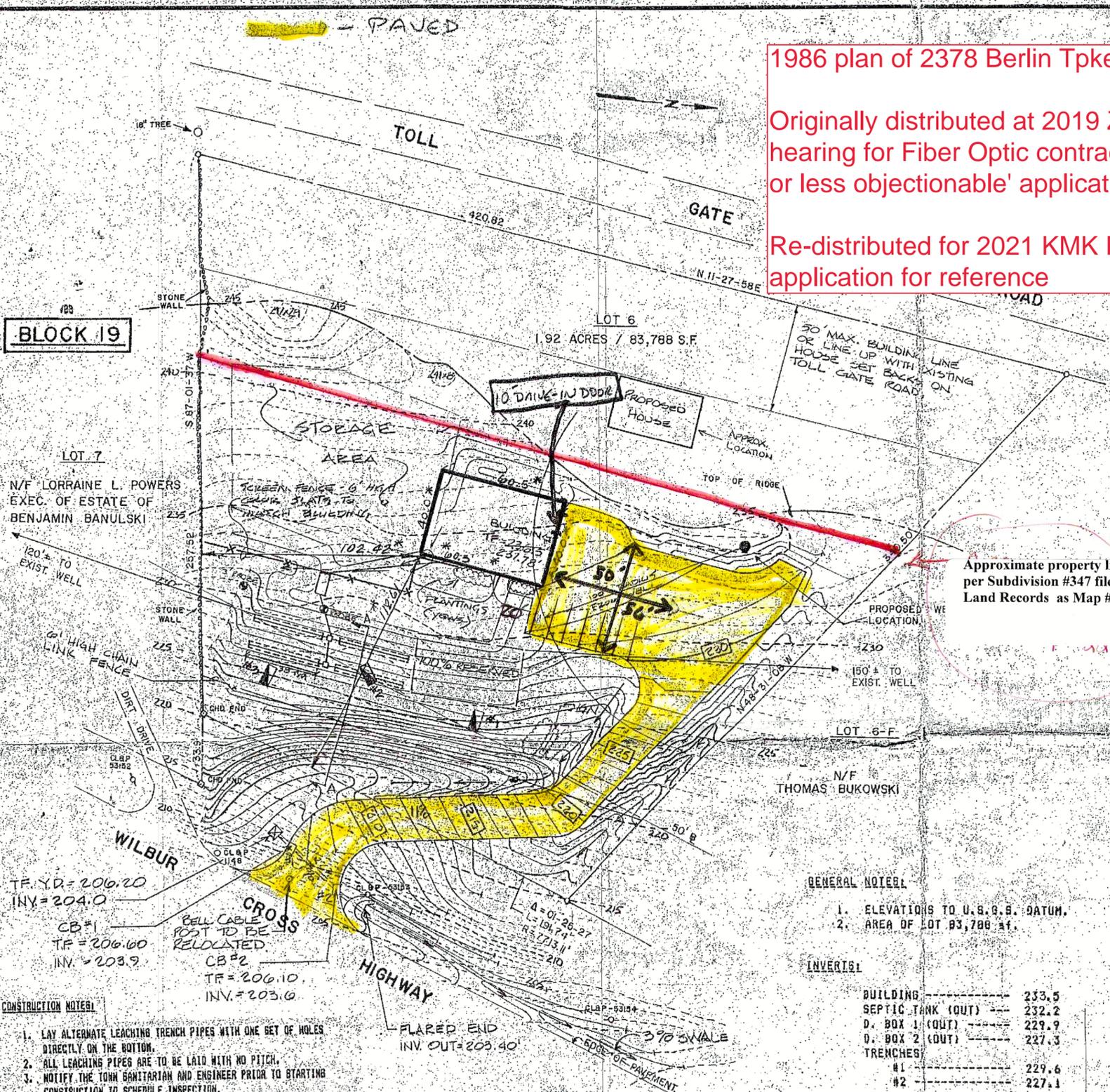
APR 05 2021

Planning & Zoning Department
Berlin, Connecticut

Visit our Web Site <http://www.town.berlin.ct.us>

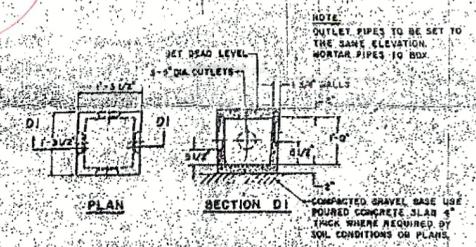
1986 plan of 2378 Berlin Tpke
 Originally distributed at 2019 ZBA hearing for Fiber Optic contractor 'same or less objectionable' application
 Re-distributed for 2021 KMK Plumbing application for reference

BLOCK 19

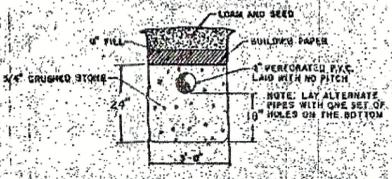


Approximate property line per Subdivision #347 filed on Land Records as Map #2226

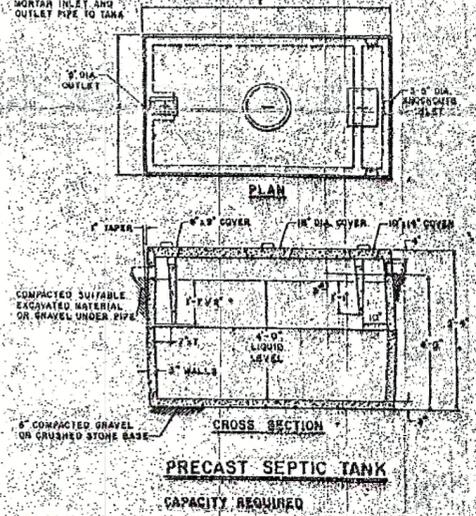
SEPTIC TANK CAPACITY		
GALLONS	X	Y
1000	8'-10"	8'-6"



TYPICAL 3 OUTLET DISTRIBUTION BOX
NOT TO SCALE



TYPICAL SEEPAGE TRENCH
NOT TO SCALE



PRECAST SEPTIC TANK
CAPACITY REQUIRED

- GENERAL NOTES:
- ELEVATIONS TO U.S.G.S. DATUM.
 - AREA OF LOT 83,788 sq. ft.

INVERTS:

BUILDING	233.5
SEPTIC TANK (OUT)	232.2
D. BOX 1 (OUT)	229.9
D. BOX 2 (OUT)	227.3
TRENCHES:	
#1	229.6
#2	227.1

PERC. TEST INFO:

#1	0.85 MIN/INCH
#2	10 MIN/INCH

- SANITARY DESIGN:
- 10 EMPLOYEES ASSUMED
 - 20 GAL./PERSON
 - 10 x 20 = 200 GAL/DAY
 - 220 SQ. FT. NEEDED
 - MIN. TOWN STANDARDS: 450 SQFT., 2 @ 75' TRENCHES

- CONSTRUCTION NOTES:
- LAY ALTERNATE LEACHING TRENCH PIPES WITH ONE SET OF HOLES DIRECTLY ON THE BOTTOM.
 - ALL LEACHING PIPES ARE TO BE LAID WITH NO PITCH.
 - NOTIFY THE TOWN BANITARIAN AND ENGINEER PRIOR TO STARTING CONSTRUCTION TO SCHEDULE INSPECTION.
 - NOTIFY ENGINEER WHEN SETTING "D" BOX INVERTS FOR CHECKS.
 - CLEAR EXISTING SOIL SURFACE OF LEAVES, ROOTS AND SURFACE TRASH LEAVE ROUGH SURFACE. DO NOT COMPACT WITH MACHINERY UNTILL 18" OF A-20 GRAVEL IS IN PLACE.
 - PLACE CLASS A-20 GRAVEL FILL (CLEAN, SILT FREE, LESS THAN 3% PASSING #200 SIEVE) IN 12"-16" LAYERS. COMPACT WITH DOZER. PLACE ALL FILL BEFORE EXCAVATION LEACHING TRENCHES. FILL TO BE TESTED IN PLACE TO A PERCOLATION RATE BETWEEN 1"/10 MIN. AND 1"/20 MIN.
 - OTHER FILL TO BE RANDOM BANK RUN FILL WITH A PERC RATE SLOWER THAN 1"/20 MIN.
 - TOPSOIL AND REED LEACHING FIELD SURFACE WITH 4" CLEAN CLAY TYPE TOPSOIL.
 - FILL TO BE INSPECTED AND TESTED BY ENGINEER BEFORE TRENCHES ARE INSTALLED.
 - BENCH MARK TO BE SET BY ENGINEER.
 - PLACE CAP ON ENDS OF LEACHING PIPES.
 - ENGINEER TO INSPECT SANITARY SYSTEM INSTALLATION.

TEST PIT INFORMATION:

#1	1' BASALT TO LEDGE
#2	4' OF ROOTS SILTY GRAVEL TO BASALT LEDGE
#3	4' OF ROOTS SILTY GRAVEL TO BASALT LEDGE

SANITARY DESIGN CRITERIA:
 DESIGN FOR MINIMUM TOWN OF BERLIN STANDARDS, APPROVED PERC. TEST (7/2/85) = 10 MIN/IN.; FOR ENGINEERED SYSTEM DESIGN WITH A-20 GRAVEL FILL FOR 20 MIN/IN PERC RATE, 450 SQ. FT. OF EFFECTIVE LEACHING AREA REQUIRED, 130 LF. OF TRENCH REQUIRED, USE 3" NIDEE SEEPAGE TRENCH, 12' BETWEEN TRENCH PIPES, USE 1000 GAL. SEPTIC TANK.

MAP REFERENCE:
 SUBDIVISION PLAN - PROPERTY OF GEORGE CLOSSON AND ELIZABETH T. WEBSTER - WILBUR CROSS HIGHWAY - BERLIN, CONNECTICUT HEWITT ENGINEERING P.C. - BERLIN, CONN., JAN. 17, 1984 SCALE 1"=40'

Town of Berlin
 Received
 MAR 11 2019
 Planning & Zoning Department
 Berlin, Connecticut

* AS BUILT
 Date 12/4/86
 HEWITT ENGINEERING P.C.
 CONSULTING ENGINEERS

REVISED TO SHOW PROPOSED HOUSE - SEPT. 24, 1986

DRAINAGE - PROPOSED

REVISIONS		ISRAEL ROSSY FENCE CO. WILBUR CROSS HWY. BERLIN, CONN.		HEWITT ENGINEERING P.C. Engineers and Surveyors Berlin, Connecticut	
9/24/86	YE	DATE	NOV. 8, 1984	SCALE	1" = 40'
4/22/86	H.M.M.	DRAWN BY	JCE	CHECKED BY	[Signature]
4/4/86	H.M.M.	PROJECT NO.	828-3200	SHEET NO.	84138
8/11/85	RND				
7/30/85	SCE				



Town of Berlin
Received

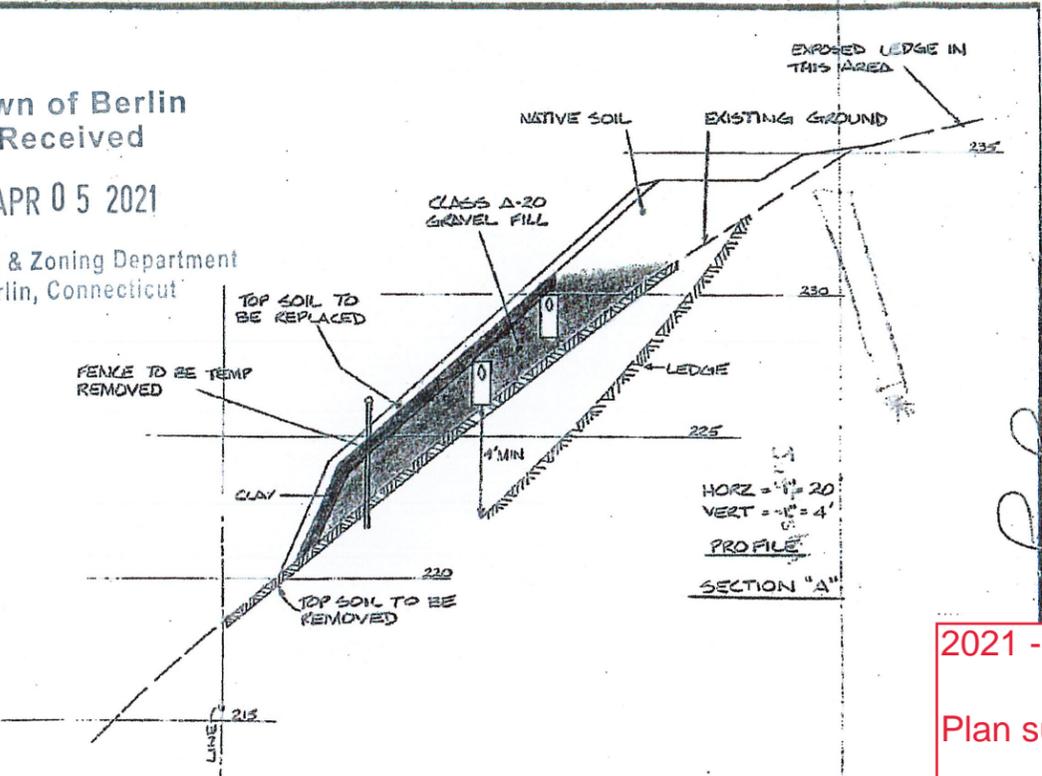
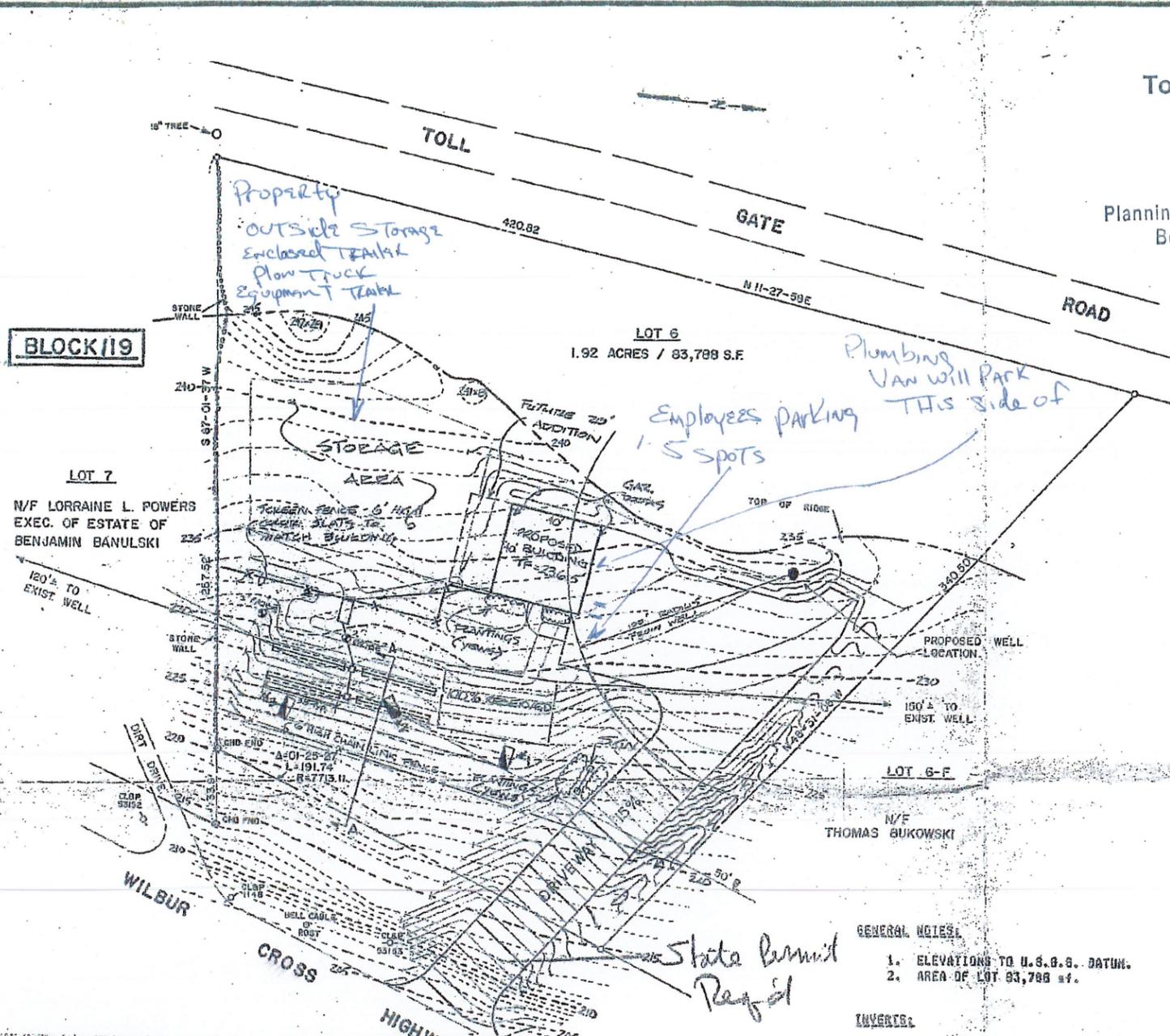
APR 05 2021

Planning & Zoning Department
Berlin, Connecticut

Town of Berlin
Received

APR 05 2021

Planning & Zoning Department
Berlin, Connecticut



2021 - KMK Plumbing ZBA Application
Plan submitted by Applicant

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TRENCHES:

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#2	227.1

PERC. TEST INFO:

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OK per 9/12/85
Plan reviewed by Mr. Health Dept. on Sept. for the Health Director file.
Fill must be in place + test if acceptable. Refer a permit will be issued.

SANITARY DESIGN:

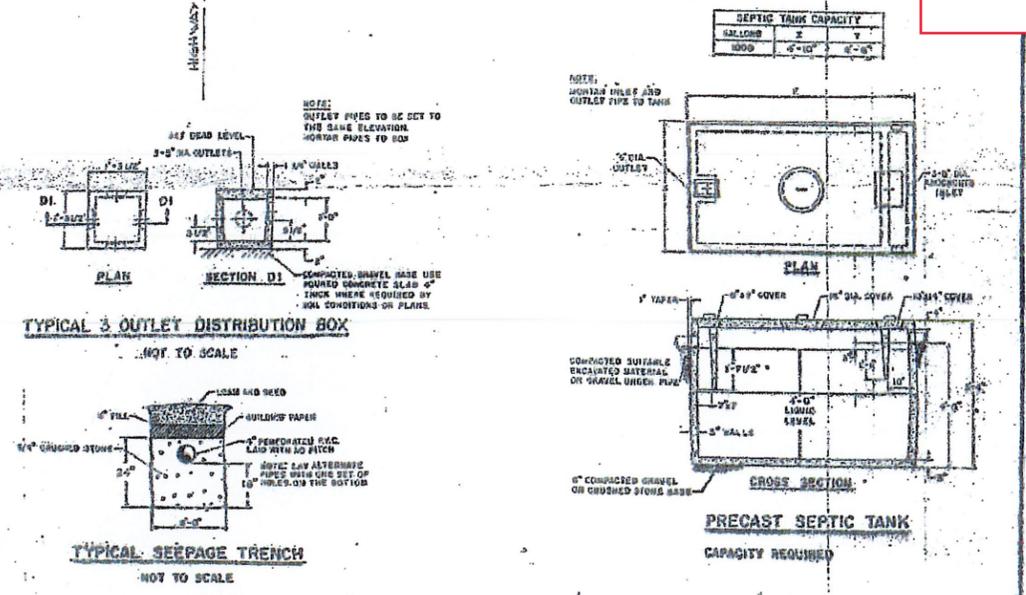
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*Soil Erosion & Sediment Control Plan
Needed prior to any excavation*

*OK as noted above
m. hodge 9/10/85*

MAP REFERENCES:

"SUBDIVISION PLAN - PROPERTY OF GEORGE CLOSSON AND ELIZABETH T. WEBSTER - WILBUR CROSS HIGHWAY - BERLIN, CONNECTICUT - HEWITT ENGINEERING P.C. - BERLIN, CONN., JAN. 19, 1984 SCALE 1"=40'."

PLOT PLAN & SANITARY DESIGN

REVISIONS	ISRAEL ROSSY FENCE CO. 2378 WILBUR CROSS HWY. BERLIN, CONN.
HEWITT ENGINEERING P.C. Engineers and Surveyors Berlin, Connecticut	PROJECT NO. 84138
DATE: 8/15/85 GAB 7/30/85 - SCE	SCALE: 1" = 40'
NOV. 8, 1984	DRAWN BY: JCE CHECKED BY: [Signature]
	SHEET NO. 1 OF 1

REGISTERED PROFESSIONAL ENGINEER
STATE OF CONNECTICUT
NO. 8432