

# 5 Redlands Road

*The Legal Landscape*



October 21, 2025

West Roxbury Neighborhood Council

Restoring Process - Upholding the Law - Respecting the Community

# Why Are We Here?

## ISD IMPROPERLY ISSUED A PERMIT

ISD has issued a “by-right” permit for 5 Redlands Road to be used as a “congregate living facility.”

## REALITY

The property will be used, occupied, and operated as a ***homeless shelter / transitional housing*** under the Commonwealth’s Emergency Assistance Shelter Program.

## PROBLEM

A ***homeless shelter / transitional housing*** use requires ZBA approval which never occurred in this case.

## SOLUTION

Direct abutter, Stephen Marsh, appealed the issuance of the permit to the ZBA asking the ZBA to ***vacate the permit***.

# Use Misclassification to Avoid Zoning

Actual USE = Homeless Shelter / Transitional Housing

**NOT**

Congregate Living

Not allowed = Must go through  
Zoning

## **Homeless Shelter – Art. 2-1**

A facility providing temporary housing for one or more individuals who are otherwise homeless.

## **Transitional Housing – Art. 2-1**

A building, or portion thereof, in which temporary residential accommodations are provided for persons or families who are not related to the owner, operator, or manager. Such residential accommodations shall be operated by a nonprofit organization, and shall include social services, on site or off site, to assist individuals or families living there. Transitional housing may contain a common kitchen and eating area and shared bathroom facilities.

Allowed = No Zoning

## **Congregate Living – Art. 2-1**

Undefined by Zoning Code

## **Congregate Living**

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Incorrect

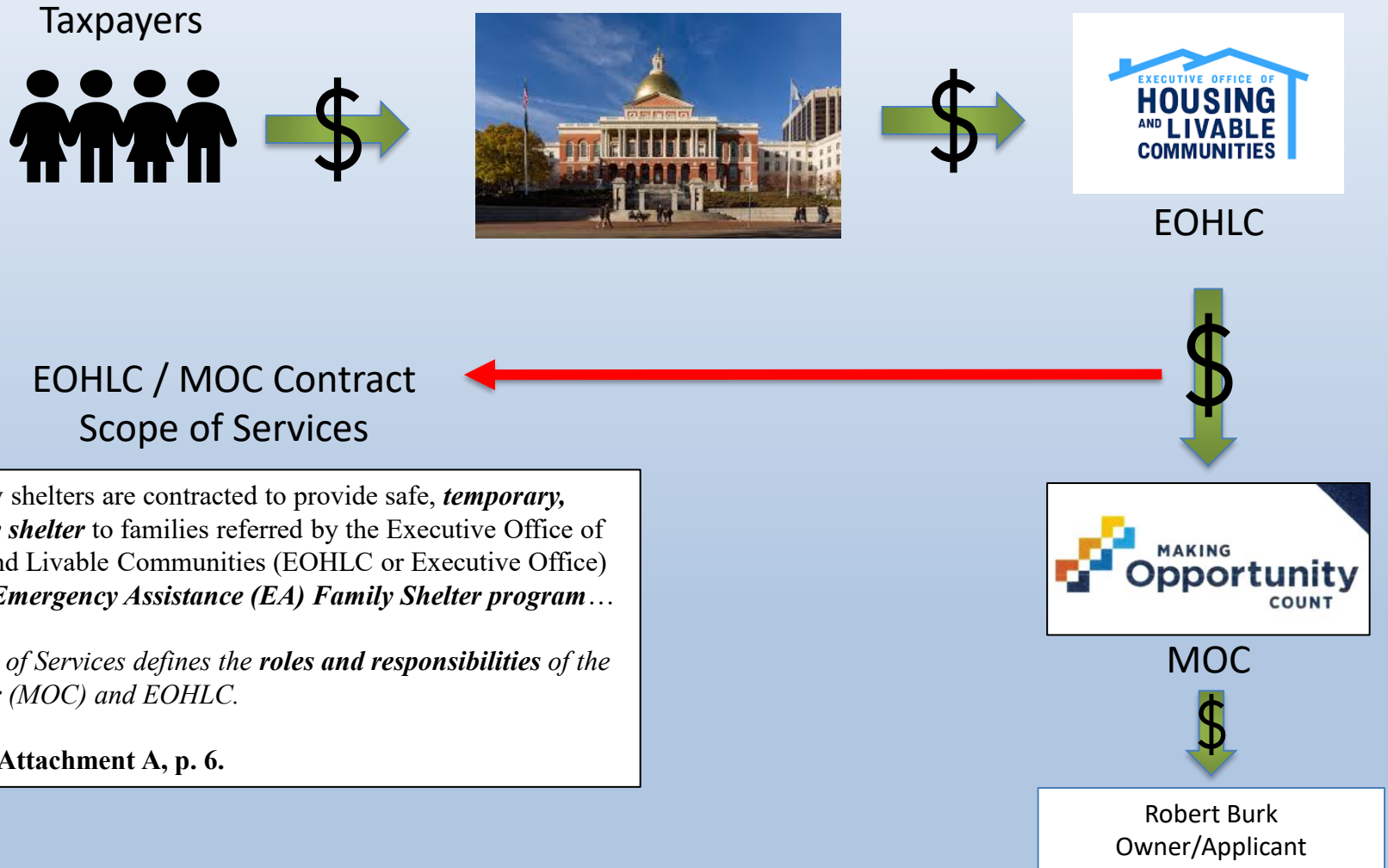
Misleading

Unconstitutionally Vague

Intentional to ***Avoid Zoning /  
Community scrutiny***

# How Do We Know What it is?

MOC's contract documents with the State tell us.



# Use Misclassification to Avoid Zoning

Actual USE = Homeless Shelter / Transitional Housing

**NOT**

Congregate Living

Not allowed = **Must go through Zoning**

## **Homeless Shelter – Art. 2-1**

A facility **providing temporary housing** for one or more individuals who are **otherwise homeless**.

## **Transitional Housing – Art. 2-1**

A building, or portion thereof, in which **temporary residential accommodations** are provided for persons or families who are not related to the owner, operator, or manager. Such residential accommodations **shall be operated by a nonprofit organization**, and shall include **social services**, on site or off site, to assist individuals or families living there. Transitional housing may contain a **common kitchen** and eating area and **shared bathroom facilities**.

What MOC/EOHLC/BURK said:

*“The site is part of the Commonwealth’s strategic shift to transition away from hotels and ensure **stable shelter options for families experiencing homelessness**.”*

*“Families stay for up to six months while we help them **transition to permanent housing**.”*

*“MOC is an EOHLC **nonprofit provider** for EA Shelter operations.”*

*“The site will have a **full kitchen and shared bathrooms**.”*

*“Shelter is a **temporary place for your family to stay as you search for your next place to live**”*

# How Do We Know What it is?

MOC/Burk told us.

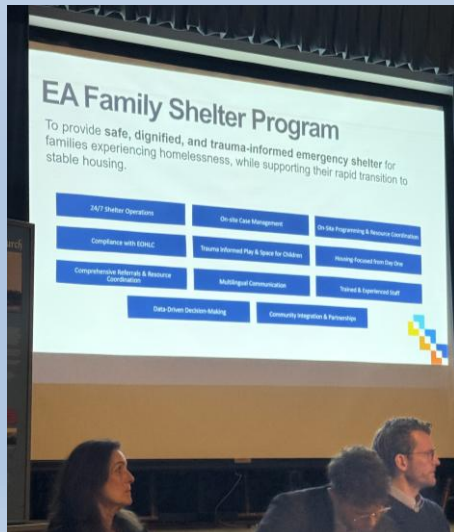


This site is not adding new capacity to the system but is part of the Commonwealth's strategic shift to transition away from hotels and ensure stable shelter options for families experiencing homelessness.

## Goal of the EA Family Shelter System

*"Shelter is a temporary place for your family to stay as you search for your next place to live"*

<https://www.mass.gov/info-details/what-is-emergency-assistance-ea-family-shelter>



*"To provide safe, dignified, and trauma-informed emergency shelter for families experiencing **homelessness**, while supporting their rapid **transition to stable housing**."*

=

Homeless Shelter  
Transitional Housing

||

**\*ZBA approval is REQUIRED\***



# Congregate Living = MOC/Burk's Gordian Knot

*"A problem incapable of solution"*

## Problem #1 – Not Defined by the Zoning Code

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## Unconstitutionally Vague

*"A vague zoning regulation, by permitting **untrammeled administrative discretion** allows arbitrary and capricious decisions in violation of the Due Process Clause."*

*Granel v. City of Rockford, 408 U.S. 104 (1972)*



## Problem #2 – Building Code Definition Not Applicable

MOC's use of the **Building Code** definition of Congregate Living is inapplicable.

HOWEVER

MOC's reliance on the building code definition would also trigger ZBA review because Congregate Living is an **INDUSTRIAL USE** in the Building Code and industrial use is **NOT ALLOWED** at 5 Redlands Road.

## Problem #3 – 1<sup>st</sup> Floor Living Space is Not Allowed

ZBA approval would still be required for first floor living space.

See next slide **Floor Reclassification** for how MOC attempts to avoid this problem.

## Problem #4 – Creates Insufficient Off-Street Parking Requirements

1.5 space per dwelling unit required

=

Insufficient Off-Street parking





# How did MOC/Burk Do It?

## Relabeled Floors

Basement, Floor 1, Floor 2 (not allowed)  
**TO**  
 Floor 1, Floor 2, Floor 3 (allowed)

### Application #1

GROSS FLOOR AREA				
NAME	AREA	OCC TYPE	OCC DENSITY	OCC CALC
<b>00 - LOWER LEVEL</b>				
ASSEMBLY	653 SF	B	1:100	7
INPATIENT TREATMENT	3321 SF	I-1	1:240	28
OFFICE	1354 SF	B	1:150	14
OFFICE	1466 SF	B	1:150	15
OFFICE	338 SF	B	1:150	4
	7131 SF			68
<b>01 - LEVEL 1</b>				
CONGREGATE LIVING	7131 SF	I-1	1:120	60
	7131 SF			60
<b>02 - LEVEL 2</b>				
CONGREGATE LIVING	7131 SF	I-1	1:120	60
	7131 SF			60
	21392 SF			188

### Application #2

GROSS FLOOR AREA				
NAME	AREA	OCC TYPE	OCC DENSITY	OCC CALC
<b>01 - LEVEL 1</b>				
ASSEMBLY	653 SF	B	1:100	7
OFFICE	6478 SF	B	1:100	65
	7131 SF			72
<b>02 - LEVEL 2</b>				
CONGREGATE LIVING	7131 SF	I-1	1:120	60
	7131 SF			60
<b>03 - LEVEL 3</b>				
CONGREGATE LIVING	7131 SF	I-1	1:120	60
	7131 SF			60
	21392 SF			192

***Changing the words but not the facts is not compliance, it's concealment.***

# How did MOC/Burk Do It?

## Relabeled Floors – Grade Calculation

TABLE			
WALL SECTION	LENGHT	EL.AVERAGE	
A	104.7	170.0	17,799.0
B	35.6	171.5	6,103.6
C	37.1	172.5	6,399.8
D	92.9	173.0	16,070.2
E	37.2	174.8	6,502.6
F	20.0	176.9	3,538.0
G	115.8	173.5	20,087.4
H	22.8	170.0	3,84.9
I	11.3	168.8	1,907.4
J	14.4	168.8	2,430.7
TOTAL	491.8		84,713.54
AVERAGE GRADE			172.25
FINISHED FLOOR			168.77
			3.48
% BELOW GRADE			34.82%
% ABOVE GRADE			65.18%

CENTRE STREET

Grade calculations presented for the first time in Application #2

Basement = **35%** below grade

MOC/Burk calculation = **34.82%** below grade

So, not a basement, per MOC/Burk and adopted by the City

MOC/Burk sidestepped ZBA review by .18% grade differential that only appeared in the plans after MOC/Burk learned that any grade 35% or higher would require ZBA relief.

# How did MOC/Burk Do It?

## Relabeled Floors – Altered Documents

5 Redlands Rd  
**PRESTIGE ALARM & SERVICE**


April 7, 2025

Boston Fire Department  
Fire Prevention  
1010 Mass Ave, 4<sup>th</sup> Floor  
Boston MA, 02118

Fire Alarm & Detection System Narrative: 5 Redlands Rd, Boston MA 02130

SECTION 1 - Building Description

- a) Building Occupancy Type: Residential R-2, S-2
- b) Building modification scope: **Ground, 1<sup>st</sup>, 2<sup>nd</sup> Floors**
- c) Building construction type: Most closely resembles that of Type IIIB
- d) Number of floors above grade: **Two (2)**
- e) Number of floors below grade: **One (1)**
- f) Hazardous Material usage and storage: None
- g) High storage of commodities within the building over 12 ft.: None
- h) Site accesses arrangements for Emergency Response Vehicles are through Fire Lanes on Redlands Rd



5 Redlands Rd  
**PRESTIGE ALARM & SERVICE**


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Fire Prevention  
1010 Mass Ave, 4<sup>th</sup> Floor  
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Fire Alarm & Detection System Narrative: 5 Redlands Rd, Boston MA 02130

SECTION 1 - Building Description

- a) Building Occupancy Type: Residential R-2, S-2
- b) Building modification scope: **1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> Floors**
- c) Building construction type: Most closely resembles that of Type IIIB
- d) Number of floors above grade: **Three (3)**
- e) Number of floors below grade: **None**
- f) Hazardous Material usage and storage: None
- g) High storage of commodities within the building over 12 ft.: None
- h) Site accesses arrangements for Emergency Response Vehicles are through Fire Lanes on Redlands Rd



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SECTION 2 - Applicable Laws, Regulations, and Standards:

- a) 780 CMR, the Massachusetts State Building Code, 9<sup>th</sup> Edition, which is an amended version of the International Building Code (IBC)
- b) 780 CMR, Chapter 34, the Massachusetts Existing Building Code, which is an amended version of the 2015 International Existing Building Code (IEBC)
- c) 527 CMR 1.00, Massachusetts Comprehensive Fire Safety Code, which is an amended version of the 2021 Edition of NFPA 1, Fire Code
- d) Boston Fire Prevention Order 11-1 (BFPO 11-1)
- e) Boston Fire Prevention Code (BFPC)
- f) 527 CMR 12.00, Massachusetts Electrical Code, which is an amended version of the NFPA 70, the National Electrical Code
- g) NFPA 72, National Fire Alarm and Signaling Code, 2013 Edition

SECTION 3 - Design Responsibility for Fire Protection Systems

- a) Design and installation to be accomplished by Prestige Alarm & Service in accordance with the applicable codes and standards.

Comments 36

Comment or use @ to invite others

Alexander Burk Jul 14 Floors 1-3 Reply

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Alexander Burk Jul 14 1st, 2nd, 3rd Floors Reply or use @ to invite others

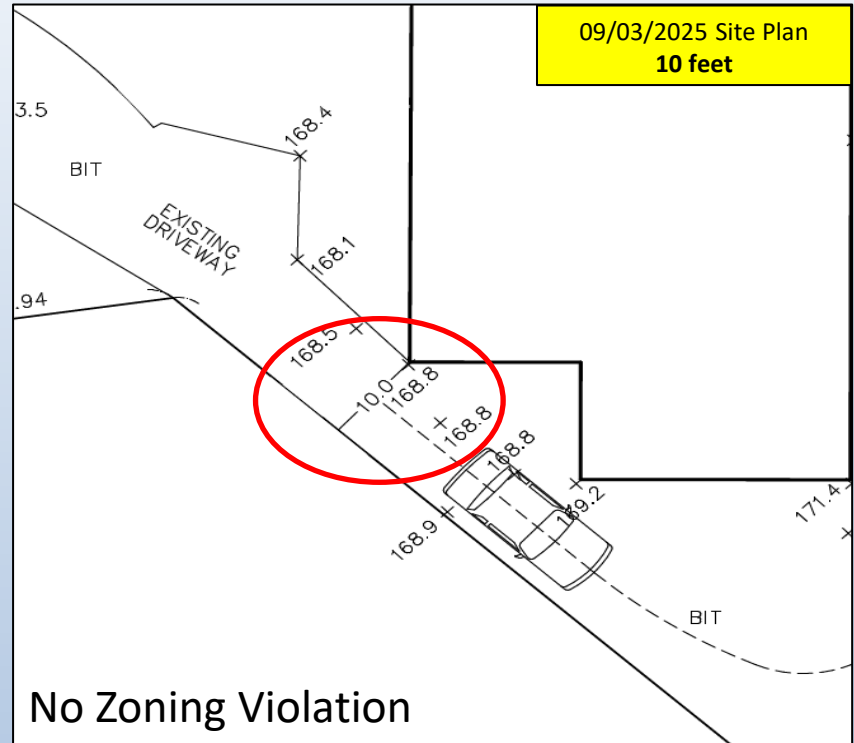
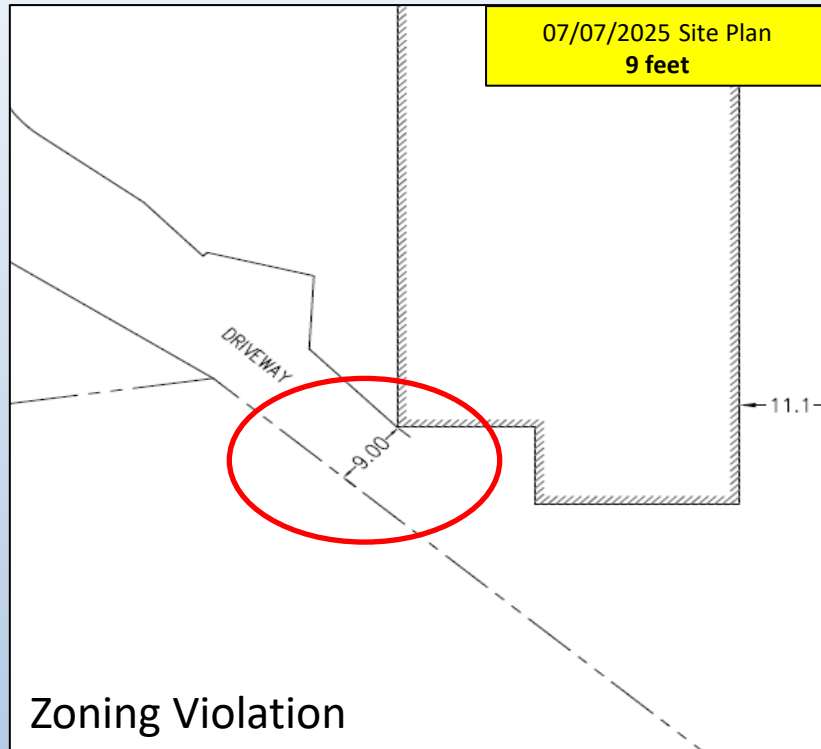
Alexander Burk Jul 14 Rectangle Reply

Alexander Burk Jul 14 Three (3) Reply

Alexander Burk Jul 14 Rectangle

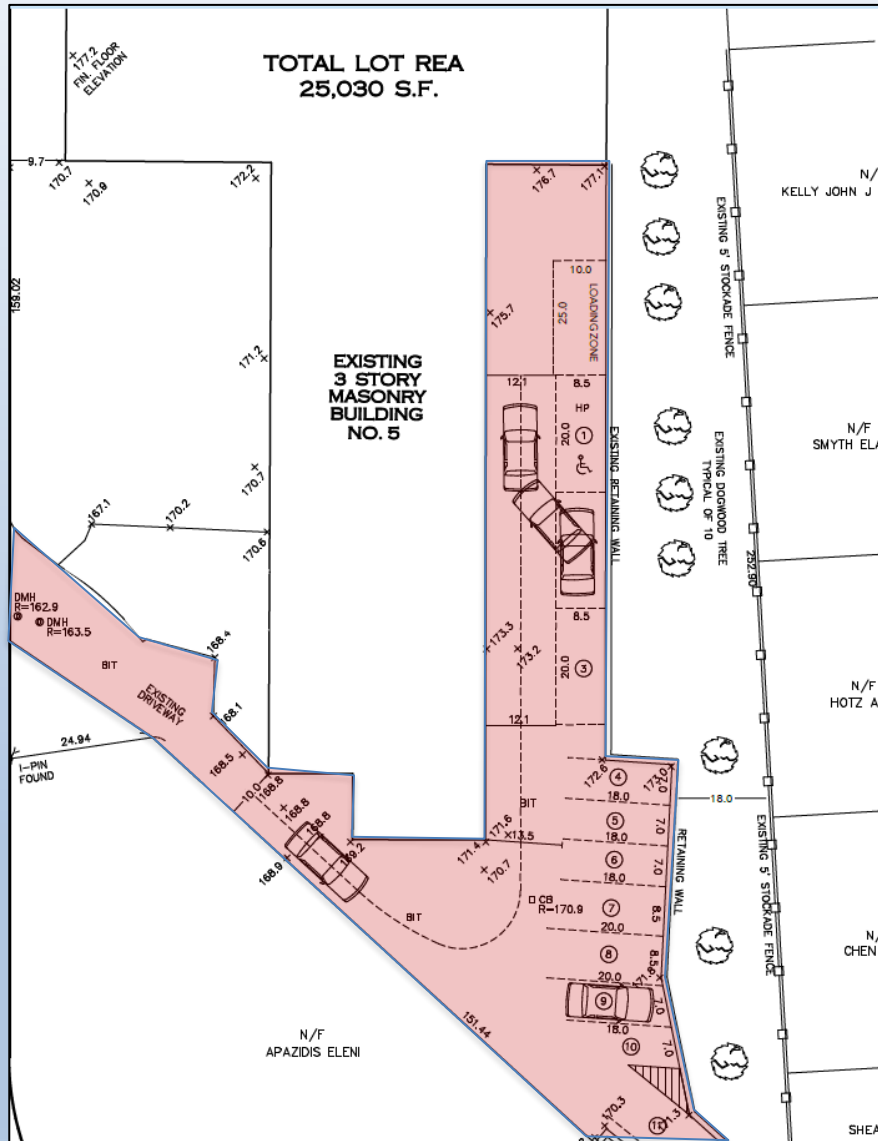
Burk, not the licensed contractor, altered the **STAMPED** Fire Alarm & Detection Systems Plan narrative. Same Plan, Same Date, **Different Floors**

# 5 Redlands Road – Insufficient Driveway



After receiving a Zoning Code violation for lack of a 10' wide-driveway, MOC/Burk just ***changed the width*** on the plans ***from 9' to 10'*** to avoid zoning.

## 5 Redlands Road – Insufficient Maneuverability



# Boston Transportation Department

## BTD Approval Required

## Site Plan Showing:

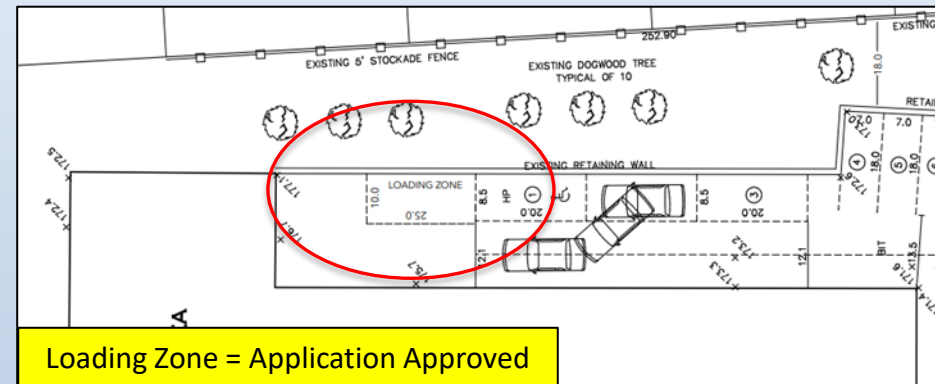
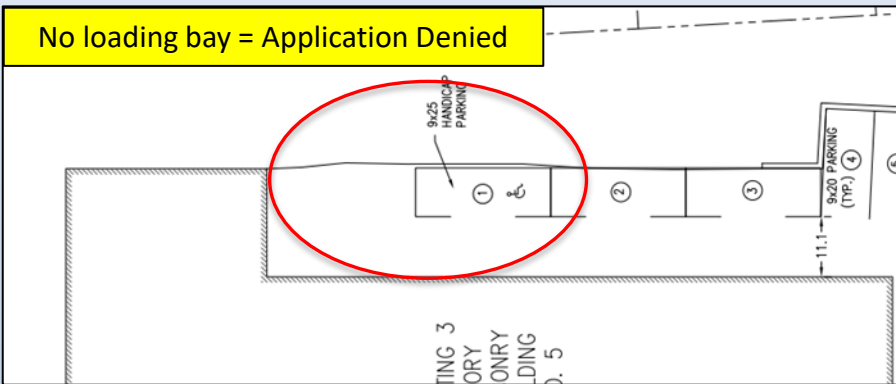
1. Truck Size
2. Truck Turning Radius
3. Angle of Approach
4. Loading Bay =  $14(w) \times 25 (l) \times 14(h)$



# 5 Redlands Road – No Loading Bay

1 x Loading Bay is required. 1<sup>st</sup> application – no loading bay. 2<sup>nd</sup> Application – “loading zone.”

No loading bay = Application Denied



Existing condition – not shown on plans. No room for loading bay.

## Boston Transportation Department Guidelines

1. Subject to BTD approval of a loading management plan
2. Facilities that have bays, maneuvering areas and appropriate means of vehicular access and egress to and from a street.
3. Bays no less than 14' width, 25' length, and 14' height

Loading Zone  $\neq$  Loading Bay

# 5 Redlands Road – Insufficient Parking

## 11 provided

### Residential Requirement

1.5 parking space per dwelling unit

4 x beds = 1 dwelling unit

130 people = 130 beds/4 (groups of beds) = 32.5 dwelling units

32.5 dwelling units x 1.5 parking spaces =

**49** Required Off-Street Parking Spaces

### Office Requirement (Mixed Use, Art. 23-7(b))

1 space per 500 sf

6,478 sf of office space / 500 sf =

**13** Required Off-Street Parking Spaces

**62**

Required Off-Street Parking Spaces

# 5 Redlands Road

## Our Request to WRNC

Submit a formal letter to the ZBA supporting Mr. Marsh's appeal.

## Why?

To help restore what this process lost – ***lawful review, factual accuracy, and public input.***

## ZBA

October 28, 2025

BOA 1775900