



TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666
Tel: 508-349-7004 Fax: 508-349-5505

ZONING BOARD OF APPEALS

Agenda

DATE OF MEETING: Monday, January 25, 2021
TIME OF MEETING: 5:30 pm
LOCATION OF MEETING: Remote Meeting
www.truro-ma.gov

Open Meeting

This will be a remote meeting. Citizens can view the meeting on Channel 18 in Truro and on the web on the "Truro TV Channel 18" button under "Helpful Links" on the homepage of the Town of Truro website (www.truro-ma.gov). Click on the green "Watch" button in the upper right corner of the page. Please note that there may be a slight delay (approx. 15-30 seconds) between the meeting and the television broadcast/live stream.

Citizens can join the meeting to listen and provide public comment via the link below, which can also be found on the calendar of the Board's webpage along with the meeting Agenda and Packet, or by calling in toll free at [1-877-309-2073](tel:1-877-309-2073) and entering the following access code when prompted: [222-780-085](tel:222-780-085). Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing the Town Planner at planner1@truro-ma.gov.

Meeting link: <https://global.gotomeeting.com/join/222780085>

Public Hearing – Continued

2020-006/ZBA – Ebb Tide on the Bay Condo Trust for property located at 538 Shore Road (Atlas Map 7, Parcel 7, Registry of Deeds title reference: Book 30288, Page 288). Applicant seeks a Variance from Section 40.3.B.2 of the Truro Zoning Bylaw for a reduction of parking spaces due to relocation of buildings and a Special Permit under Section 30.7.A of the Truro Zoning Bylaw: for reconstruction of pre-existing, non-conforming structures; move closer to Shore Road; elevated to meet FEMA standards.

- Robert Eramian letter dated 1/4/2021
- Attorney Murphy letter dated 1/19/2021

[Request to withdraw without prejudice]

2020-007/ZBA – Katherine S. Cook and Christine Van Genderen for property located at 38 Cliff Road (Atlas Map 32, Parcel 19, Registry of Deeds title reference: Book 33307, Page 344). Applicants seek a Special Permit under Section 30.7 of the Truro Zoning Bylaw and G.L. c. 40A, s. 6 for alteration and extension of a non-conforming dwelling (s. 50.1(A) n.3, 8 (setback from road; lot area); s. 10.4 (frontage/"street")) in Seashore District.

- Lauren McKean, CCNS email dated 12/16/2020

Public Hearing

2020-008/ZBA – Thomas and Dianne Didio for property located at 13 Corn Hill Landing (Atlas Map 45, Parcel 23, Registry of Deeds title reference: Book 19120, Page 300). Applicant seeks a Variance under M.G.L. Ch. 40A, §10 and Section 50.1(A) of the Truro Zoning Bylaw for minimum side yard setback distance. Applicant seeks a variance due to the lot shape and topography to construct sustaining walls within the setback for a conforming pool and pool house.

- Sara Seiden email dated 1/20/2021

2020-009/ZBA – Anne Labouisse Peretz; William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr. for property located at 112 North Pamet Road (Atlas Map 48, Parcel 1, Certificate of Title Number 208468, Land Ct. Lot # 7, Plan # 15097-H). Applicant seeks a Special Permit under M.G.L. Ch. 40A, §6 and Section 30.3(8) of the Truro Zoning Bylaw for removal and replacement of non-confirming single-family dwelling (height) on a non-conforming lot (street frontage).

- Brian T. Carlstrom, CCNS letter dated 1/6/2021

2020-010/ZBA – Anne Labouisse Peretz; William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr. for property located at 112 North Pamet Road (Atlas Map 48, Parcel 1, Certificate of Title Number 208468, Land Ct. Lot # 7, Plan # 15097-H). Applicant seeks a Variance under M.G.L. Ch. 40A, §10 and Section 50.1(A) of the Truro Zoning Bylaw for removal and replacement of a single-family residential dwelling 5 ft. from southerly lot line where minimum setback distance is 25 ft.

- Brian T. Carlstrom, CCNS letter dated 1/6/2021

Board Action/Review

- Proposed correction to **2020-005/ZBA – M. Louise Briggs, TTE**, 8 Castle Road Decision
- Review of Cloverleaf Draft Comprehensive Permit and Draft Decision on Waivers
- Policy – late submissions to Board/Agenda
- Review and discuss clarification of lot coverage/square footage (reference Bylaw sections) regarding the ZBA Application and Procedure for Hearing – last modified July 2019
- Discussion of future meeting dates

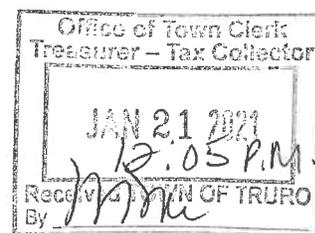
Approval of Minutes

November 5, 2020

Next Meeting

Monday, February 22, 2021 at 5:30 p.m.

Adjourn



STAFF MEMORANDUM

To: Truro Zoning Board of Appeals
From: Barbara Carboni, Interim Town Planner/Town Counsel, KP Law
Date: January 20, 2021
Re: Meeting January 25, 2021

2020-008/ZBA- 13 Corn Hill Landing (Map 45, Parcel 23). Application of Thomas and Dianne Didio for a variance under G.L. c. 40A, s. 10 and Section 50.1.A of the Zoning Bylaw to construct retaining wall associated with pool and pool house within sideyard [backyard] setback ,
Existing Conditions and Proposed Project

This property is located in a Residential District and is conforming as to lot area at 34,453 square feet, and as to frontage. The existing dwelling is conforming and is located in roughly the center of the property. An existing stone patio and stone wall are located to the northwest of the house.

The Applicant seek to construct a 20 x 15 inground pool, with associated patio and pool house, to the northeast of the dwelling. An existing shed will be removed or relocated. The pool and pool house will not encroach into the back yard setback, both being located 26 feet from the rear lot line. A two-tiered modular block retaining wall, associated with construction of the pool, patio, and pool house area, is proposed at three feet from the lot line. The variance of 22 feet is sought for this structure.

The Applicant identifies the “narrow lot shape, the location of the existing septic system, and the steep topography to the east” as the basis for selecting the proposed site for the pool. Applicant’s Narrative, p. 2. It is stated that “there is no space east or west of the house for a conforming swimming pool” and that “the other possible locations within the setback envelope either cannot be used or will also result in a side yard setback nonconformity.”

Sufficiency of Application

There is limited information regarding the retaining wall that is the subject of this application. The dimensions are not clearly indicated and design details unspecified (The Plan notes reference Allan Block design details and “best practices”).

Requirements for Grant of a Variance under General Laws Chapter 40A, s. 10:

The Board may grant a variance from a term of the Zoning Bylaw where the Board “specifically finds that:

[1] owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,

[2] a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and

[3] that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Board must find *all three* of the above to grant the requested variance requested.

[I] With respect to the first requirement, the Applicant states that “the narrowness of the lot, combined with the sloping topography along the northerly, easterly, and southerly sides, particularly affect the Applicant’s property these factors do not affect properties within the Residential zoning district generally.” Narrative at p. 3. The Applicant further states that such conditions are the result of the lot’s placement within the Corn Hill Landing subdivision, adjacent to the former railroad line. The Board may consider whether these factors are unique to this property.

[II] With respect to the second requirement, the Applicants state that a literal enforcement of the 25 foot setback would cause a substantial hardship, because it would be impossible to build a pool otherwise. The Applicants note that the proposed pool location is conforming, but cannot be supported without the nonconforming retaining wall. They further state that any other location for the pool would require relocation of the septic system or driveway, resulting in expense and inconvenience; and would not provide the privacy of the proposed location;. They further state that other locations would likely require a retaining wall as well due to steep topography.

[III] The Applicant suggests that the proposed location 5 feet from the lot line “minimizes erosion risk, retains the applicant’s view, and allows her to avoid building in hollows or having to relocate her water well,” and that due to these factors, “a literal interpretation of the 25’ sideline setback requirement would involve substantial hardship, financial or otherwise, to the applicant.” Memo at p. 3.

[III] The Applicants suggest that a variance may be granted without harm to public good, because the adjacent land is a steep wooded hill above the former railroad line, and it is unlikely that any structure would be located there in proximity to the property line. Therefore, they suggest, the concerns underlying setback requirements do not exist.

Draft Decision

A draft decision is circulated with this Staff Memo.

2020-009/ZBA – 112 North Pamet Road (Map 48, Parcel 1). Application of Anne Labouisee Peretz, William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom Tr. for a Special Permit under G.L. c. 40A, s. 6 and Section 30.7 and 30.8) of the Truro Zoning Bylaw for reconstruction of a nonconforming dwelling (height) on a nonconforming lot (street frontage) on property located in the Seashore District

2020-010/ZBA – 112 North Pamet Road (Map 48, Parcel 1). Application of Anne Labouisee Peretz, William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom Tr. for a variance under G.L. c. 40A, s. 10 and Section 50.1(A) of the Truro Zoning Bylaw for reconstruction of a dwelling 5 feet from lot line (25 feet required) on property located in the Seashore District.

Existing Conditions and Proposed Project.

This property is located in the Seashore District, containing 3.3 acres, conforming as to setbacks. The lot is surrounded by National Seashore property and has no residential abutters. The property has no frontage on North Pamet Road or any street; it is accessed by a dirt road. According to Assessor's records, the existing house was constructed in 1991. It is located close to the top of coastal bank and is proposed to be demolished due to threat from ongoing coastal erosion. A new residence will be constructed away from the bank and close to the property's southern boundary. As the proposed project is a reconstruction of a dwelling on a nonconforming lot, the nonconformity is increased and a special permit is required under G.L. c. 40A, s. 6. Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008).

The proposed setback from the southern lot line is five feet for a deck and twelve feet for the dwelling, both of which are nonconforming. A variance will be required for this new nonconformity. The height of the existing dwelling is reported as 30.4 feet (nonconforming); the proposed is 30.1 feet (nonconforming). The elevations submitted indicate a peak ridge height of 90.3 feet. The dwelling itself has a modest footprint, but a terrace, screened porch, deck and covered porch add significantly to it.

As reported in the Zoning Table, paved areas will remain at 1,500 square feet; walkways and terrace areas will increase from 0 to 322 square feet. Lot coverage will decrease from 4,441 to 3,870 square feet, or from 3.1% to 2.7%. A new paved drive and gravel parking area are proposed. Regrading in the area of the new house site, and re-landscaping of the abandoned house site will occur. The Zoning Table provides the Total Gross Floor area of the existing dwelling (3,167 sq ft), but does not provide the Total Gross Floor Area of the proposed dwelling ("X,XXX S.f."). See Sheet C2.1.1.

Floor plans indicate that there will be a "main level"; "lower level" and "basement" (partially finished) and that the house will have two bedrooms. The elevations suggest a half-story above the "main level" but no information is provided. Exterior material is indicated to be red cedar shingles.

Sufficiency of Application

Gross Floor Area for the new dwelling is not provided. The floor plans provided are not stamped and do not include square footage. The elevations provided are not stamped and provide little detail.

At 3.3 acres, the maximum Gross Floor Area as of right for the lot would be approximately 3660 square feet. (Seashore District Gross Floor Area). The Applicant must demonstrate compliance with this limit through stamped plans indicating dimensions.

Site Plan Review

The Applicant has filed for Residential Site Plan Review and the Planning Board opened public hearing on January 6, 2021 and hearing was continued to January 20, 2021. The Applicant has requested a continuance for certain redesigns.

- A letter dated January 6, 2021 from Superintendent of CCNS requests setback of no less than **ten** feet from property line (current proposal is **five** feet from the property line). Applicant working on relocation of proposed dwelling
- Concern was raised by a Board member re: broom crowberry. Applicant is retaining botanist for review.

Special Permit for Reconstruction of a Nonconforming Structure under G.L. c. 40A, s. 6 and Zoning Bylaw Section 30.7

The lot is nonconforming as to *frontage*, as it lacks frontage on a street. Alteration, extension, or reconstruction of a dwelling on a nonconforming lot increases the existing nonconformity and requires a special permit under G.L. c. 40A, s. 6. Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008)(nonconforming area). The Board may grant a special permit under G.L. c. 40A, s. 6 if it finds that the proposed reconstruction “shall not be substantially more detrimental than the existing nonconforming [structure and] use to the neighborhood.” Likewise, the Board may grant a special permit under Section 30.7.A if it finds that:

“the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure and that the alternation or extension will exist in harmony with the general purpose and intent of this bylaw.”¹

¹ The Applicant suggests that Section 30.3(B)(8) is relevant to the Board’s consideration of granting a special permit. See Memo at p. 4. This Bylaw section provides that “the Board may approve a lesser [than 25 foot] setback of side line requirements for improvements to existing dwellings or for the erection of accessory structures, provided they do not alter the residential character of the premises.” But this application involves neither an “improvement to an existing dwelling” –instead, an entirely new dwelling will be constructed – nor an accessory structure within the setback, so this Section is not applicable to the Board’s review. However, it is unnecessary, as the Board may grant the requested special permit under Section 30.7 (and G.L. c. 40A, s. 6). Regarding the proposed location of the new dwelling within the setback, the Board must consider this under the standard for a variance, which is more demanding than the standard in Section 30.3(B)(8).

The *height* of the existing dwelling is also nonconforming at 30.4 feet. The height of the proposed structure is 30.1 feet. There is no entitlement to build a new structure at a nonconforming height simply because the existing structure is nonconforming, but both G.L. c. 40A, s. 6 and the Zoning Bylaw provide opportunity for relief to the Applicant.

Under G.L. c. 40A, s. 6, the Board must determine whether the proposed structure would intensify the existing nonconformity in height. See Deadrick v. Zoning Board of Appeals of Chatham, 85 Mass. 539, 549 (2014). The Applicant suggests that there is “a reduction in intensity” because building height is reduced from 30.4 to 30.1 feet. See Memo at p. 5. But this does not necessarily follow. Whether this nonconformity is intensified depends upon topography and the siting of the respective houses. If the ZBA finds that the proposal *does* increase the intensity of this nonconformity, it would then consider whether a special permit may be granted under the “not substantially more detrimental” standard above from G.L.c . 40A, s. 6 and Bylaw Section 30.7. Likewise, a site visit might likewise be useful in making these determinations.

As the Applicant notes, the Board may grant a special permit under Section 50.1(B) for an exception to the height limit. The “not substantially more detrimental” and “in harmony with the general purpose and intent of th[e] Bylaw” standard would apply.

Variance

The existing house conforms to setbacks; the proposed house is located within five feet of the southern lot line. This creates a new nonconformity, as 25 feet are required. A variance under G.L. c. 40A, s. 10 is needed. A site visit might be useful in making the determinations necessary for a variance request.

Requirements for Grant of a Variance under General Laws Chapter 40A, s. 10:

The Board may grant a variance from a term of the Zoning Bylaw where the Board “specifically finds that:

[1] owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,

[2] a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and

[3] that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Board must find *all three* of the above to grant the requested variance requested.²

² The Applicant suggests that Section 30.3(B)(8) of the Bylaw is applicable, allowing the Board to approve the location of the dwelling within the setback. See Memo at p. 2. But the cited section of the Bylaw pertains to improvements of existing dwellings (which this project is not), and to accessory buildings (also not). In any event, the Applicant addresses the variance criteria.

[I] With respect to the first requirement, the Applicant cites the narrow lot shape (arising from a prior owner's grant of a portion of the former lot to the National Seashore); a limited area in which a conforming structure could be located; and the unsuitability of this and other areas for the placement of a house. This unsuitability is attributed to 1) ongoing erosion; 2) flooding, and 3) accumulation of windblown sand, all of which are "circumstances relating to the soil conditions, shape, or topography"; and 4) loss of existing water views, which is not.

The Applicant suggests that this lot shape and topography affect this property and not others within the Seashore District, where the existing house was located at a higher elevation on the lot to maximize views of the ocean, and the coastal bank has eroded significantly, reducing the non "hollow" areas of the property. Memo at p. 3. The Board may consider whether these factors are unique to this property.

[II] The Applicant suggests that the proposed location 5 feet from the lot line "minimizes erosion risk, retains the applicant's view, and allows her to avoid building in hollows or having to relocate her water well," and that due to these factors, "a literal interpretation of the 25' sideline setback requirement would involve substantial hardship, financial or otherwise, to the applicant." Memo at p. 3.

The house itself is proposed at 12 feet from the lot line; the deck extends an additional seven feet into the setback. A view of the property would allow the Board to determine whether the house could be located in manner conforming more closely to the Bylaw, without imposing substantial financial and/or other hardship.

[III] The Applicant suggests that a variance may be granted without harm to public good because the adjacent land is Seashore property and there are no residential abutters to be impacted by a dwelling within the side yard setback. Memo at p. 3. The Applicant further suggests that a variance may be granted without derogation of the Bylaw because the purpose of setback requirements is to ensure sufficient distance between buildings; in this case, there are no such concerns.

The Applicant's argument is a fair one. But setback requirements are not irrelevant simply because the abutting use is not residential. The 25 foot setback protects the abutting "natural, undeveloped" National Seashore land, and its associated landscape preservation and conservation values. Zoning safeguards these concerns as well as public safety. In considering whether a variance may be granted without derogating from the intent of the Bylaw, the Board may consider all of these concerns.

Draft Decision

A draft decision is circulated with this Staff Memo.

2020-005/ZBA – M. Louise Briggs, 8 Castle Road: Review of Proposed correction to Decision

On November 23, 2020, the Board heard this application for a special permit to expand a nonconforming structure under G.L. c. 40A, s. 6 and Section 30.7 and 30.8 of the Zoning Bylaw. The draft decision reviewed by the Board at that time contained the following condition, among others:

“2. The Gross Floor Area of the expanded structure is limited to 2,352 square feet and the height of the addition is limited to 23 feet in height from median grade.”

The special permit and draft decision were approved by the Board, and the Decision was filed with the Town Clerk on January 5, 2021. That day, the Applicant emailed the Town Clerk:

“Unfortunately, there is an error in the ZBA decision. The architect’s plan shows the building height to be 23’10” above median grade. The decision states 23’ above median grade as the maximum height. 23’10” is below what is permitted. I hope that this can be easily corrected and certified.”

Clerical or “scrivener’s” errors may be cured by the issuance of a corrected decision without further public hearing (more on this below). I did not believe I have the authority to decide, on the Board’s behalf, that the reference in the decision to 23’ feet, rather than 23’10” feet, was a clerical error. For this reason, I requested that the Board review this question administratively at its next meeting.

Information in materials submitted

Sheet A21, North Elevation, contains a note “Match Existing Roof Height.” The measurement from “Median Grade” to that roof height appears at first glance to be 23’ 0” (which is presumably what I was referring to in drafting Condition 2 above). However, there is a dot to the left of a line between the 23’ and the 0” which might indicate a “1” superimposed over the horizontal line; that is, that the dimension on this plan is in fact 23’ 10.”

Sheet A23, South Elevation, shows a measurement of 23’10” for the distance between median grade and the roof height.

A “Project Summary” submitted as part of the application states:

Height from median grade (existing) 23.2’
Height from median grade (proposed) 23.2’

Plans are of course more definitive (although the plans submitted are not stamped), but the above may add some uncertainty.

There is a developed legal standard addressing when a board may amend a decision administratively, without further public hearing:

“The law is clear that the board has the inherent power, without holding a further public hearing, to correct an inadvertent or clerical error in its decision so that the record reflects its true intention. *Dion v. Board of Appeals of Waltham*, 344 Mass. 547, 552-553 (1962); *Burwick v. Zoning Bd. of Appeals of Worcester*, 1 Mass.App. 739, 742 (1974), so long as the correction does not constitute a “reversal of a conscious decision” *Cassani v. Planning Bd. of Hull*, 1 Mass.App. 451, 456, (1973), does not grant relief different from that originally sought, and does not change the result of the original decision, see *Potter v. Board of Appeals of Mansfield*, 1 Mass.App. 89, 95 (1973), and so long as no one relying on the original decision has been prejudiced by the correction. *Shuman v. Board of Aldermen of Newton*, 361 Mass. 758, 765 (1972).”

Board of Appeals of Stockbridge v. Monument Inn, Mass.App.Ct. 8 Mass.App. Ct. 158 (1979)

The Board may find that it was sufficiently clear that the proposed height of the dwelling is 23’10””; that the Board understood it as such at the time of its vote; and that the Board intended to approve a height of 23’ 10.” If so, the Board may vote to issue a corrected decision with the dimension 23’10” substituted for 23.’

If the Board finds that it was not sufficiently clear that the proposed height of the building was 23’ 10””; that the Board did not understand it as such at the time of its vote; and that the Board did not intend to approve a height of 23’ 10,” then it must hold public hearing regarding the change.

LESTER J. MURPHY, JR.
ATTORNEY AT LAW

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P.O. BOX 1388
E. DENNIS, MA 02641
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OFFICE LOCATION:
1380 ROUTE 134
EAST DENNIS, MA 02641
TELEPHONE (508) 385-8313
FAX (508) 385-7033

January 19, 2021

Truro Zoning Board of Appeals
c/o Arthur F. Hultin Jr., Chair
24 Town Hall Road, P.O. Box 2030
Truro, MA 02666

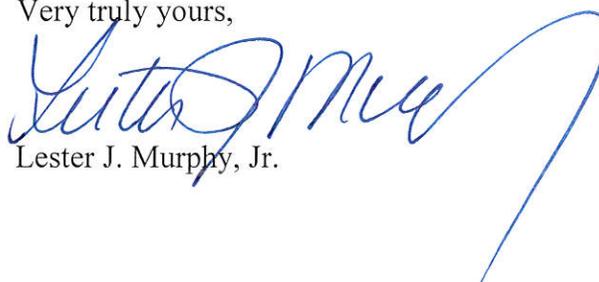
Re: 538 Shore Road – ZBA 2020-006

Dear Mr. Hultin and Members of the Board:

Please be advised that I am writing to you on behalf of my Clients, the Trustees of the Ebb Tide on the Bay Condominium, in connection with the above-referenced matter.

We are requesting that the Board allow this Application to be withdrawn without prejudice as we have been advised by the Town Planner, Ms. Carboni, that this matter will need to be heard by the Board of Health and the Conservation Commission before we can proceed with a Zoning filing. Thank you very much for your consideration in this matter.

Very truly yours,



Lester J. Murphy, Jr.

LJM/kj
cc: Ebb Tide on the Bay Trustees and William Rogers

Truro Zoning Board of Appeals
24 Town Hall Road
Box 2030
Truro, MA 02666

Robert Eramian
553 Shore Road, PO Box 369
North Truro, MA 02652

January 4, 2021

Dear ZBA,

Re: EbbTide 2020-006/ZBA

I have been a life-long property owner in the vicinity of this project. This area is the transition area of Beach Point where most of the properties to the south have sea walls and none of the properties to the north have the same protection.

Clearly the stretch of beachfront from Sutton Place to Shoreline condominiums is in the most serious danger from erosion and unprotected. To the best of my knowledge all the properties were constructed prior to August 10 1978 and appear to me to qualify for engineered structures similar to the Blasch house In Wellfleet.

In my opinion the concept of free migration of sand is flawed in this instance due to the presence of all the sea walls to the south which prevent sand migration. It is not just the homes in this 600 feet of beachfront, but all of the public utilities along Shore Road that are at risk. It is those homeowners that need to band together with government now before it's too late. I would not rule out that the existing groins along Beach Point be expanded to further retain the sand to the south but that is a public works project that is beyond this forum. That being said I would not object to any homeowner doing what is necessary to protect their existing home.

I am, however, concerned where additional cars might park with the loss of three off street spots, hopefully they would use the lot at Noons Landing rather than along the roadside of Shore Road where they may block sight lines for vehicles traveling Shore Road. If that were the only issue I would 100% support the application.

It is my understanding this project is NOT a relocation and repair but a complete and total removal of existing structures and totally new construction. If that is indeed the case a site plan is necessary to determine lot size and number of bedrooms to determine septic and density requirements. It may be necessary to reduce the number of units or bedrooms to bring this project into compliance with all other zoning requirements. All setbacks including sidelines should be subject to the same conditions as any other new construction. More clarity is required as to the number of stories and building height. To allow this project as written is unacceptable without proper setbacks and some provision for an engineered structure to prevent further beach erosion.

Regards,

Robert Eramian

CC: Conservation Commission
Town Manager/Select Board

Elizabeth Sturdy

From: McKean, Lauren <Lauren_McKean@nps.gov>
Sent: Wednesday, December 16, 2020 3:50 PM
To: Benjamin E. Zehnder; Elizabeth Sturdy; Barbara Huggins Carboni
Cc: Charles B. Zehnder; Ted Smith (tedsmitharchitect@gmail.com); Kaye McFadden (capetip1967@icloud.com); Carlstrom, Brian; Poole, Don (dpoole@outermostlandsurvey.com)
Subject: Re: [EXTERNAL] RE: Truro PB Site Plan Review application / 38 Cliff Road (Assessor's Parcel ID 32-19)

Barbara, Elizabeth, and Ben,

Our concerns are for the scale and massing in prominent viewpoint locations, such as High Head. We ask that the Truro boards give this issue due consideration in plan review. Additionally, our files yield:

This property has been found to be ineligible for a Certificate of Suspension from Condemnation as it was built after the Sept. 1, 1959 cutoff date established by the park's legislation.

The NPS can acquire the property without the owner's consent, and acquisition by the federal government would be at fair market value determined by a contracted appraisal.

In a quick review of our records, the house was expanded in 1977 and 1983. In 1983 a 240 square foot barn was constructed. A 80 square foot shed was constructed in 1985. And, another house expansion occurred in 1989.

As there is no Certificate of Suspension from Condemnation for this property because it is ineligible, we prefer to see adherence to the town zoning to the maximum extent.

Thank you,
Lauren

Lauren McKean, AICP
Park Planner
Cape Cod National Seashore
508-957-0731

From: Benjamin E. Zehnder <BZehnder@latanzi.com>
Sent: Tuesday, December 8, 2020 5:35 PM
To: Elizabeth Sturdy <ESturdy@truro-ma.gov>
Cc: Barbara Huggins Carboni <BHugginsCarboni@k-plaw.com>; Charles B. Zehnder <CZehnder@latanzi.com>; Ted Smith (tedsmitharchitect@gmail.com) <tedsmitharchitect@gmail.com>; Kaye McFadden (capetip1967@icloud.com) <capetip1967@icloud.com>; McKean, Lauren <Lauren_McKean@nps.gov>; Carlstrom, Brian <Brian_Carlstrom@nps.gov>; Poole, Don (dpoole@outermostlandsurvey.com) <dpoole@outermostlandsurvey.com>
Subject: [EXTERNAL] RE: Truro PB Site Plan Review application / 38 Cliff Road (Assessor's Parcel ID 32-19)

I hereby certify that the structures shown hereon are located as they exist on the ground.

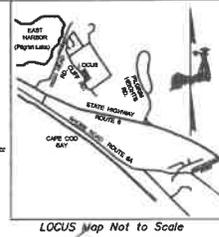
Donald T. Poole PLS #32662

Cape Cod National Seashore
USA Dept. of the Interior



PLAN NOTES:

- 1) Property is located within the Seashore Zoning District
- 2) Bearings are based on MA Coordinate System NAD83
- 3) Elevations are based on NAVD88
- 4) Existing Grade = $61.8+60.5+63.0+63.3+63.5+64.1+63.0 = 439.2/7 = 62.7'$ NAVD88
- 5) Existing Ridge Height = $84.8' - 62.7' = 22.1'$
- 6) Proposed Ridge Height = Fin Fir (65.9') + 22.9' (Proposed Ridge) = $88.8' - 62.7' = 26.1'$

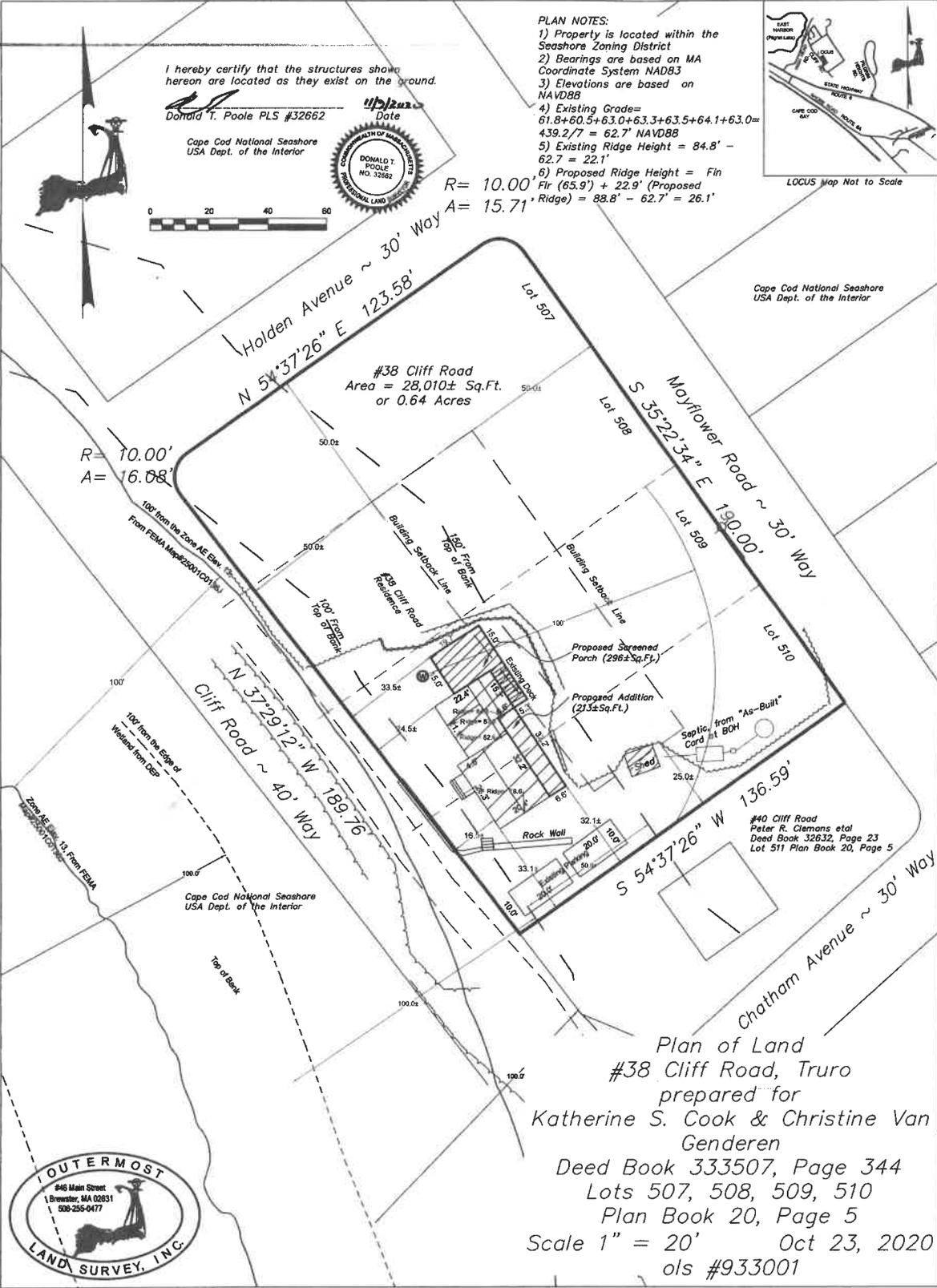


LOCUS map Not to Scale

$R = 10.00'$
 $A = 15.71'$

Cape Cod National Seashore
USA Dept. of the Interior

$R = 10.00'$
 $A = 16.08'$



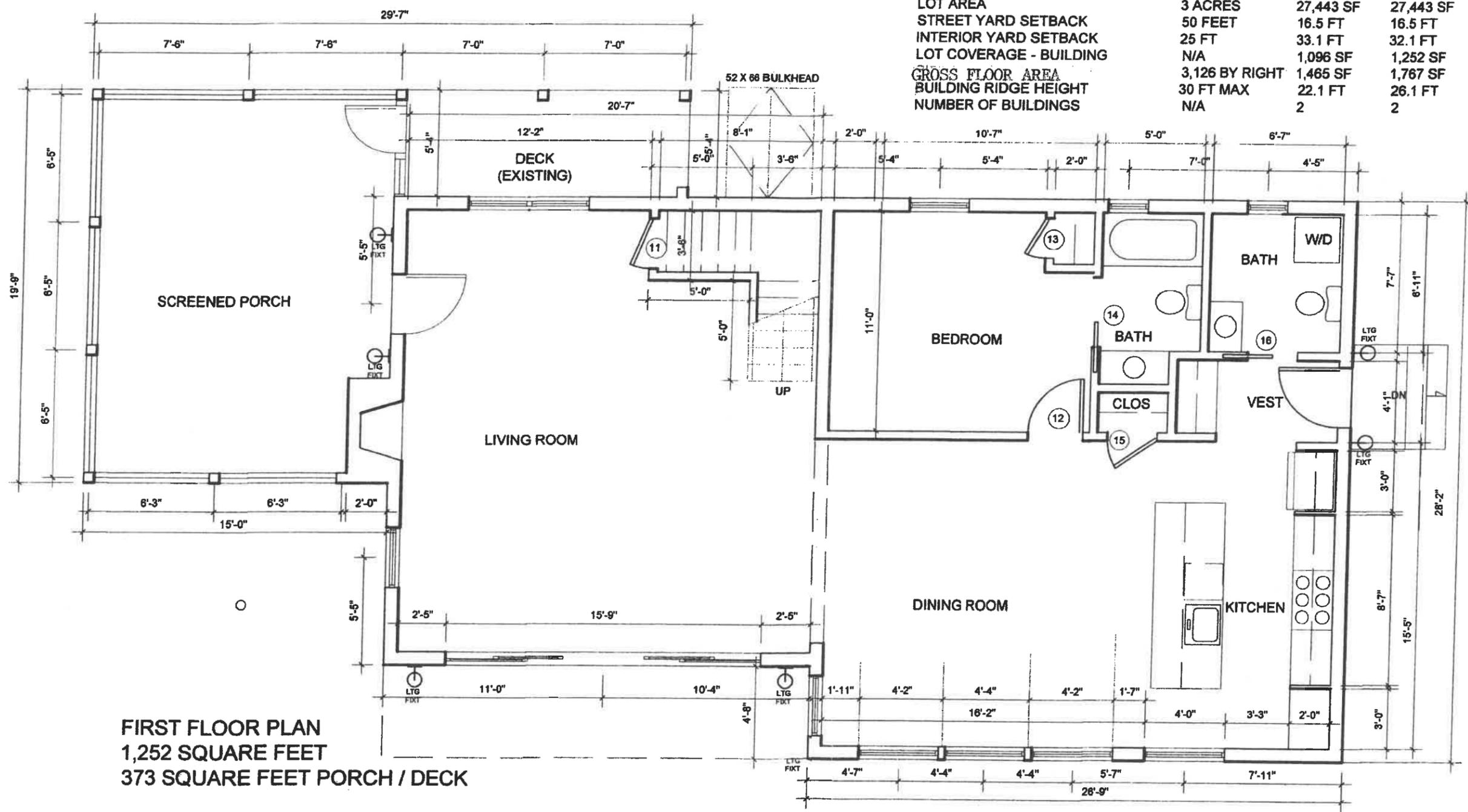
Plan of Land
#38 Cliff Road, Truro
prepared for
Katherine S. Cook & Christine Van Genderen
Deed Book 333507, Page 344
Lots 507, 508, 509, 510
Plan Book 20, Page 5
Scale 1" = 20' Oct 23, 2020
ols #933001



Office of Town Clerk
Treasurer - Tax Collector
2020-007126
DEC 15 2020
Supplemental
Received TOWN OF TRURO
By [Signature]

ZONING TABLE

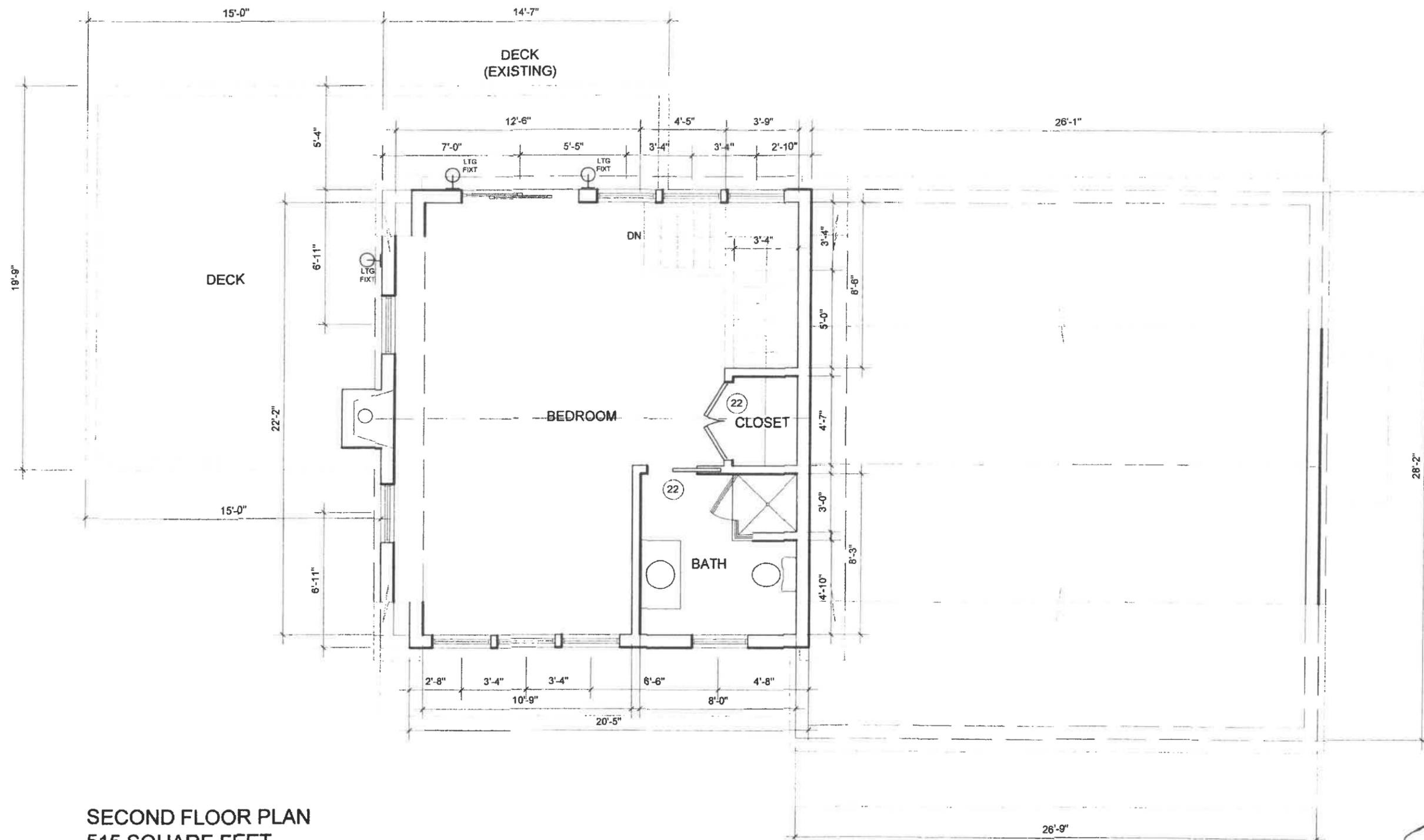
	REQUIRED	EXISTING	PROPOSED
LOT AREA	3 ACRES	27,443 SF	27,443 SF
STREET YARD SETBACK	50 FEET	16.5 FT	16.5 FT
INTERIOR YARD SETBACK	25 FT	33.1 FT	32.1 FT
LOT COVERAGE - BUILDING	N/A	1,096 SF	1,252 SF
GROSS FLOOR AREA	3,126 BY RIGHT	1,465 SF	1,767 SF
BUILDING RIDGE HEIGHT	30 FT MAX	22.1 FT	26.1 FT
NUMBER OF BUILDINGS	N/A	2	2



FIRST FLOOR PLAN
1,252 SQUARE FEET
373 SQUARE FEET PORCH / DECK



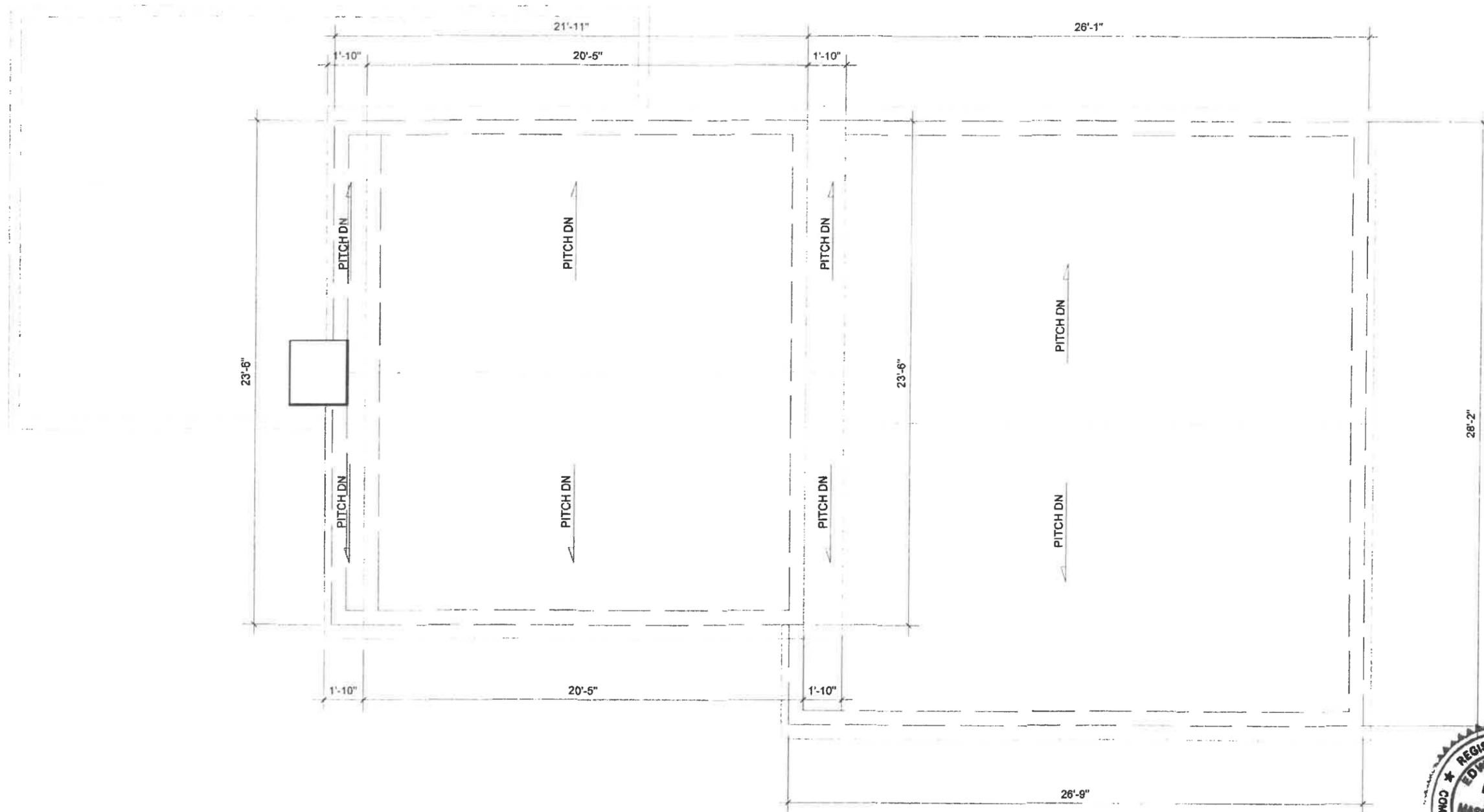
TED SMITH Architect, LLC 12 Dartmouth Place . Boston 422 Commercial Street . Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM	PROJECT TITLE	DRAWING TITLE	SCALE	SHEET NO.
	38 CLIFF ROAD Truro, Massachusetts	PROPOSED FIRST FLOOR PLAN	3/16" = 1'-0" DATE 26 OCTOBER 2020 8 JANUARY 2021	A1.1



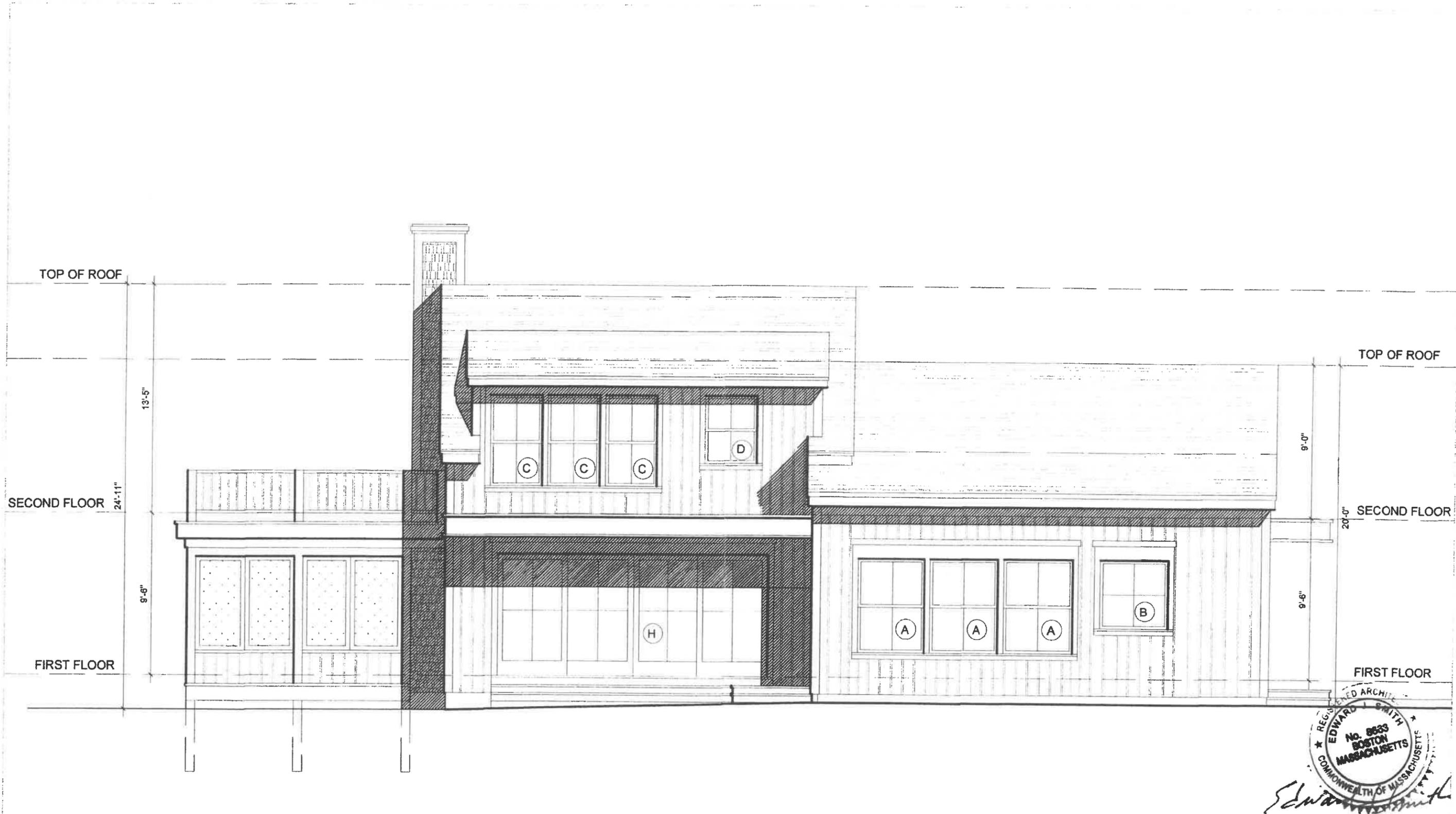
SECOND FLOOR PLAN
515 SQUARE FEET



<p>TED SMITH Architect, LLC 12 Dartmouth Place, Boston 422 Commercial Street, Provincetown 617.247.0023 TEDSMITHARCHITECT@GMAIL.COM</p>	<p>PROJECT TITLE 38 CLIFF ROAD Truro, Massachusetts</p>	<p>DRAWING TITLE PROPOSED SECOND FLOOR PLAN</p>	<p>SCALE 3/16" = 1'-0"</p> <p>DATE 26 OCTOBER 2020 8 JANUARY 2021</p>	<p>SHEET NO A1.2</p>
-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------	-------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------	----------------------------------



<p>TED SMITH Architect, LLC 12 Dartmouth Place . Boston 422 Commercial Street . Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM</p>	<p>PROJECT TITLE</p> <p>38 CLIFF ROAD Truro, Massachusetts</p>	<p>DRAWING TITLE</p> <p>ROOF PLAN</p>	<p>SCALE</p> <p>3/16" = 1'-0"</p> <p>DATE</p> <p>26 OCTOBER 2020 8 JANUARY 2021</p>	<p>SHEET NO.</p> <p>A1.3</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------	----------------------------------------------	--------------------------------------------------------------------------------------------------	-------------------------------------



REGISTERED ARCHITECT
 EDWARD J. SMITH
 No. 8633
 BOSTON
 MASSACHUSETTS
 COMMONWEALTH OF MASSACHUSETTS
Edward J. Smith

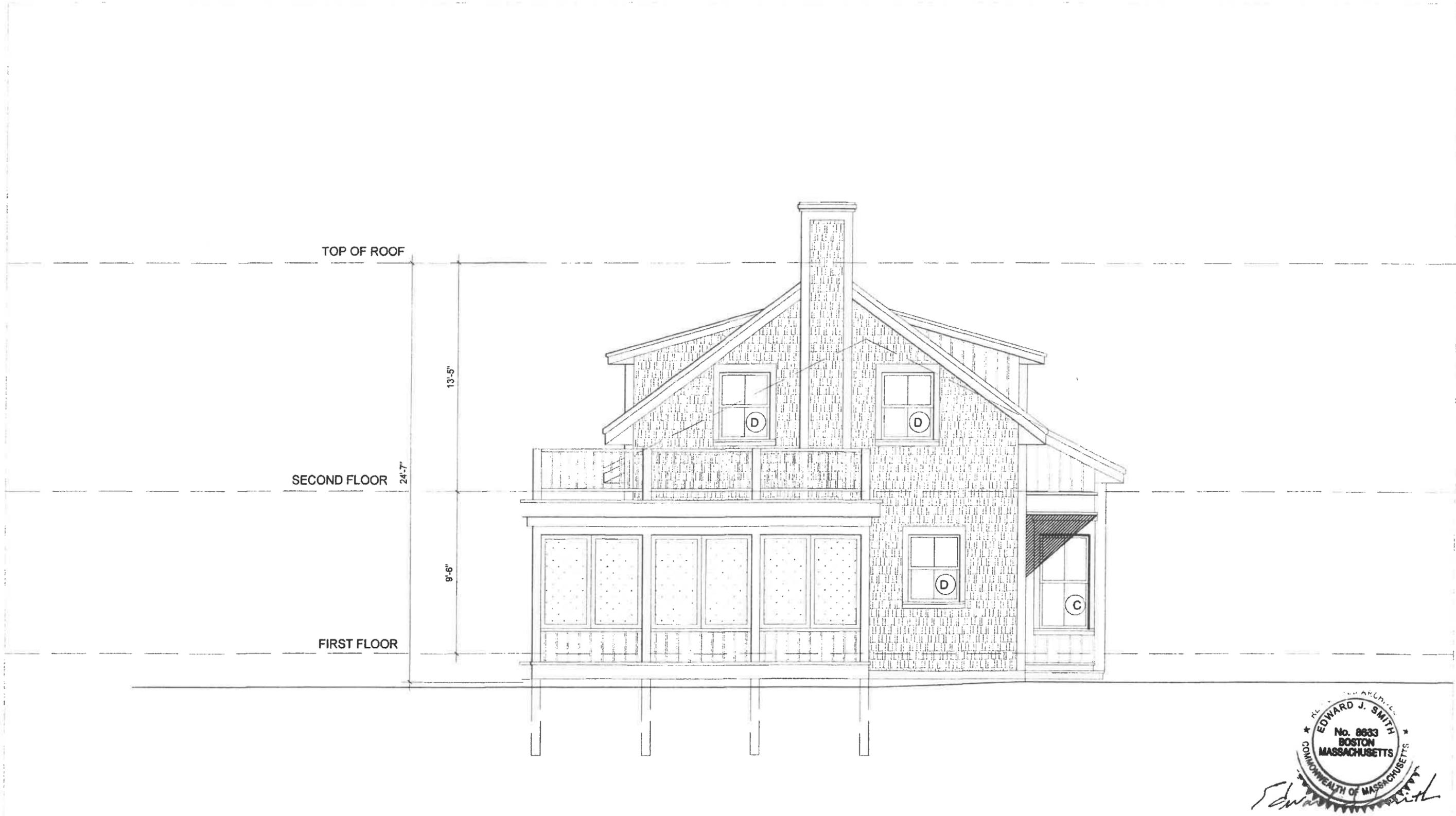
<p> TED SMITH Architect, LLC 12 Dartmouth Place . Boston 422 Commercial Street . Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM </p>	<p> PROJECT TITLE 38 CLIFF ROAD Truro, Massachusetts </p>	<p> DRAWING TITLE PROPOSED WEST ELEVATION </p>	<p> SCALE 3/16" = 1'-0" DATE 20 OCTOBER 2020 8 JANUARY 2021 </p>	<p> SHEET NO. A2.1 </p>
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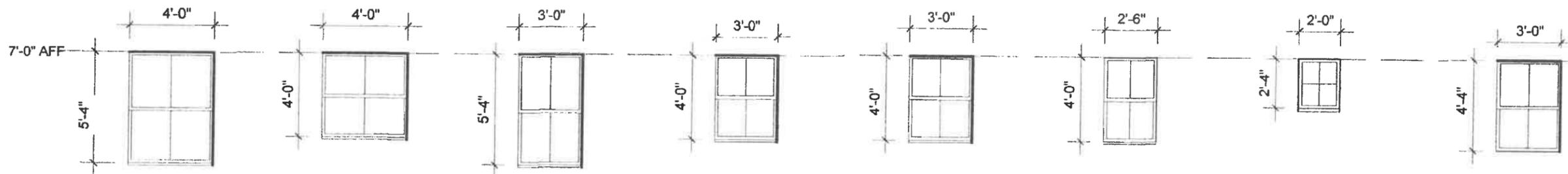
<p>TED SMITH Architect, LLC 12 Dartmouth Place . Boston 422 Commercial Street . Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM</p>	<p>PROJECT TITLE</p> <p>38 CLIFF ROAD Truro, Massachusetts</p>	<p>DRAWING TITLE</p> <p>PROPOSED SOUTH ELEVATION</p>	<p>SCALE</p> <p>3/16" = 1'-0"</p> <p>DATE</p> <p>26 OCTOBER 2020 8 JANUARY 2021</p>	<p>SHEET NO.</p> <p>A2.2</p>
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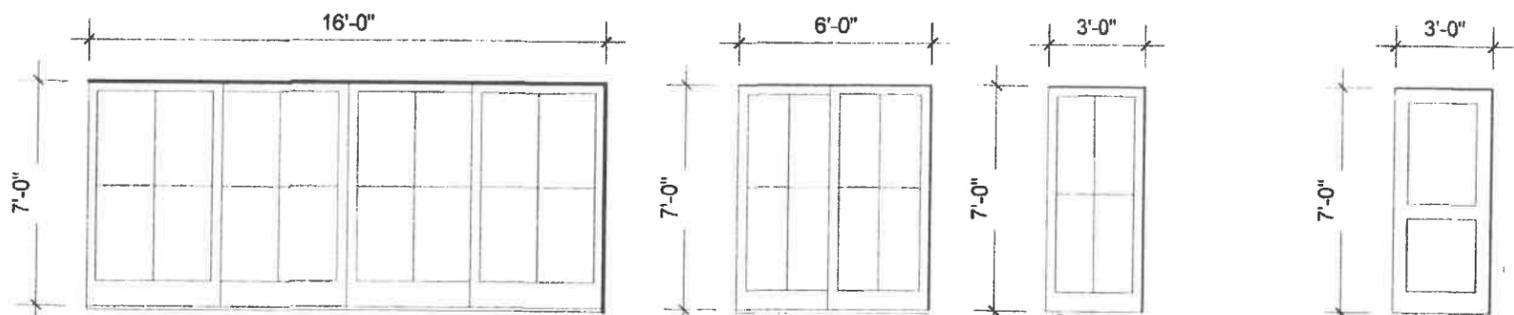
<p>TED SMITH Architect, LLC 12 Dartmouth Place . Boston 422 Commercial Street . Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM</p>	<p>PROJECT TITLE</p> <p>38 CLIFF ROAD Truro, Massachusetts</p>	<p>DRAWING TITLE</p> <p>PROPOSED EAST ELEVATION</p>	<p>SCALE</p> <p>3/16" = 1'-0"</p> <p>DATE</p> <p>26 OCTOBER 2020 8 JANUARY 2021</p>	<p>SHEET NO.</p> <p>A2.3</p>
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<p>TED SMITH Architect, LLC 12 Dartmouth Place, Boston 422 Commercial Street, Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM</p>	<p>PROJECT TITLE</p> <p>38 CLIFF ROAD Truro, Massachusetts</p>	<p>DRAWING TITLE</p> <p>PROPOSED NORTH ELEVATION</p>	<p>SCALE</p> <p>3/16" = 1'-0"</p> <p>DATE</p> <p>26 OCTOBER 2020 8 JANUARY 2021</p>	<p>SHEET NO.</p> <p>A2.5</p>
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- (A) WOOD CLAD
2 OVER 2 DOUBLE HUNG
SIMULATED DIVIDED LIGHTS
- (B) WOOD CLAD
2 OVER 2 DOUBLE HUNG
SIMULATED DIVIDED LIGHTS
- (C) WOOD CLAD
2 OVER 2 DOUBLE HUNG
SIMULATED DIVIDED LIGHTS
- (D) WOOD CLAD
2 OVER 2 DOUBLE HUNG
SIMULATED DIVIDED LIGHTS
- (D1) WOOD CLAD
4 LITE FIXED
SIMULATED DIVIDED LIGHTS
- (E) WOOD CLAD
2 OVER 2 DOUBLE HUNG
SIMULATED DIVIDED LIGHTS
- (F) WOOD CLAD
4 LIGHT AWNING
SIMULATED DIVIDED LIGHTS
- (G) WOOD CLAD
2 OVER 2 DOUBLE HUNG
SIMULATED DIVIDED LIGHTS



- (H) WOOD CLAD
GLIDING PATIO DOOR
SIMULATED DIVIDED LIGHTS
- (I) WOOD CLAD
GLIDING PATIO DOOR
SIMULATED DIVIDED LIGHTS
- (J) WOOD CLAD
IN-SWINGING PATIO DOOR
SIMULATED DIVIDED LIGHTS
- (K) SOLID CORE / FIBERGLASS
IN-SWINGING PATIO DOOR
2 PANEL



Edward J. Smith

<p>TED SMITH Architect, LLC 12 Dartmouth Place . Boston 422 Commercial Street . Provincetown 617 . 247 . 0023 TEDSMITHARCHITECT@GMAIL.COM</p>	<p>PROJECT TITLE</p> <p style="text-align: center;">38 CLIFF ROAD Truro, Massachusetts</p>	<p>DRAWING TITLE</p> <p style="text-align: center;">WINDOW AND DOOR TYPES</p>	<p>SCALE</p> <p style="text-align: center;">3/16" = 1'-0"</p>	<p>SHEET NO.</p>
			<p>DATE</p> <p style="text-align: center;">26 OCTOBER 2020 8 JANUARY 2021</p>	<p>A2.6</p>

DECISION OF THE ZONING BOARD OF APPEALS

Special Permit

Atlas Map 32 Parcel 19

Address: 38 Cliff Road

Case Reference No.: 2020-007/ZBA

Applicant: Katherine S. Cook and
Christine Van Genderen

Hearing Dates: December 14, 2020

Decision Date:

Vote: X-X

Sitting: Arthur F. Hultin, Jr., Chair; Fred Todd, Vice Chair; John Dundas; John Thornley; Chris Lucy, Darrell Shedd, Heidi Townsend

Motion (M. ; M. second). In the matter of 2020-007/ZBA, Katherine S. Cook and Christine Van Genderen to grant a Special Permit to expand a nonconforming structure in the Seashore District under G.L. c. 40A, s. 6 and Sections 30.7 and 30.8 of the Zoning Bylaw on property located at 38 Cliff Road (Atlas Map 32, Parcel 19) based upon the following materials filed with this Board:

- Cover Letter dated November 4, 2020
- Application for Hearing
- Certified Abutters List
- Owner's Authorization
- Quitclaim Deed
- Title 5 Official Inspection Form
- "Plan of Land, #38 Cliff Road, Truro," prepared for Katherine S. Cook and Christine Van Genderen by Donald T. Poole, Outermost Land Survey, Scale 1" = 20' dated October 23, 2020 [*may need revisions*]
- Plan Set (Existing), "38 Cliff Road, Truro, Massachusetts" prepared by Ted Smith, Architect, Scale 3/16" = 1'-0", dated October 26, 2020 **Sheets E1.1-E1.2; E2.1-E2.4** [*needs clarification*]
- Plan Set (Proposed), "38 Cliff Road, Truro, Massachusetts" prepared by Ted Smith, Architect, Scale 3/16" = 1'-0", dated October 26, 2020 **Sheets A1.1-A1.2; A2.1-A2.5** [*needs clarification*]

The Board also received:

- Email dated December 2, 2020 from Peter Clemons and Marianne Benson, 40 Cliff Road

This Special Permit is based on the following findings of fact:

1. This property is located in the Seashore District, nonconforming as to lot area (.64 acres where 3 acres required) and as to setback of the existing house from Cliff Road (16.5 feet where 50 feet required). A shed encroaches into the side yard setback from the property boundary with 40 Cliff Road.
2. The existing two-story house was constructed in 1950. The first floor contains 1,020 square feet (plus a 76 square foot covered deck), and the second floor contains 369 square feet, for a total of 1,389 square feet plus the 76 square ft deck.
3. The proposed project consists of alterations that include a 213 square foot addition constructed on the east side (rear) of the house, and a screened porch of 296 square feet on the north side of the house. The proposed first floor will contain 1,252 square feet, plus 373 square feet porch/deck, and the proposed second floor will contain 515 square feet. The total proposed area is 1,767 square feet, plus the 373 sq ft porch/deck.
4. Based on the existing and proposed elevations provided, the structure will increase in height from *X to X peak roof height*.
5. Other alterations to the dwelling include: [*describe*]

Findings under Zoning Bylaw Section 30.7 and Section 30.8 and G.L. c. 40A, s. 6

1. The Board finds that the existing lot and structure is nonconforming, and that the proposed reconstruction increases existing nonconformities. A special permit is required under Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008).
2. The Board finds that the proposed project is a reasonably-scaled addition to the existing nonconforming dwelling that modestly expands and updates living space in keeping with the existing configuration of the structure.
3. The Board finds that the proposed expansion is consistent with single-family structures on Cliff Road and neighboring roads.
4. Based on the above, the Board finds under Section 30.7 of the Zoning Bylaw that as conditioned herein, the proposed expansion of the existing nonconforming dwelling will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board further finds that the expansion will exist in harmony with the general purpose and intent of the Bylaw.
5. The Board further finds pursuant to Section 30.8 that the proposed use is in harmony with the general public good and intent of the Zoning Bylaw.

6. The Board likewise finds under G.L. c 40A, s. 6 that the proposed expansion will not be substantially more detrimental than the existing nonconforming dwelling to the neighborhood.

Conditions

This Special Permit is granted subject to the following conditions:

1. Construction shall conform to the plans referenced in this decision.
2. The height of the expanded structure is limited to *[X feet in height from median grade or other]*
3. Prior to issuance of an occupancy permit, the Applicant shall submit a stamped, As-Built Plan of the residence confirming that the residence conforms to the above limits.
4. The use of the Property shall be in strict conformance with the Town of Truro Bylaw;
5. Construction shall conform to all conditions imposed by the Planning Board under Residential Site Plan Review.

6. Other conditions

This Special Permit shall lapse after one year if substantial use is not commenced with that time. See Zoning Bylaw Section 30.8.

Art Hultin, Chair

Date

Received, Office of the Town Clerk:

Signature

Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

- No Appeal has been filed.
- An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.



La Tanzi
Spaulding
& Landreth

8 Cardinal Lane
Orleans

14 Center Street, Suite 4
Provincetown

3010 Main Street, Suite 2E
Barnstable

Benjamin E. Zehnder
ext. 128
bzehnder@latanzi.com

December 21, 2020

Susan Joseph, Acting Town Clerk
Truro Town Hall
24 Town Hall Road
Truro, MA 02666

Via hand delivery

Re: New Zoning Board of Appeals Variance Application /
13 Corn Hill Landing (Assessor's Parcel ID 45-23)

Dear Ms. Joseph:

Please find enclosed for filing a new application to the Zoning Board of Appeals for a variance for the property at 13 Corn Hill Landing. I have included an additional nine packet copies, as well as check no. 13166 in the amount of \$50.00 for the filing fee. My office will email a scan of the entire application to planner1@truro-ma.gov today.

Thank you for your assistance.

Very truly yours,

Benjamin E. Zehnder

Enc.
cc via email only w attachments:
client
Bradford Malo
Sean M. O'Leary

A Legal Beacon since 1969

Jeffrey Ribeiro

From: Sara Seiden <sarajseiden@gmail.com>
Sent: Wednesday, January 20, 2021 1:32 PM
To: Town Planner; Jeffrey Ribeiro
Subject: 2020-008/ZBA - Thomas and Dianne Didio

Re: 2020-008/ZBA — Thomas and Dianne Didio for property located at 13 Corn Hill Landing.

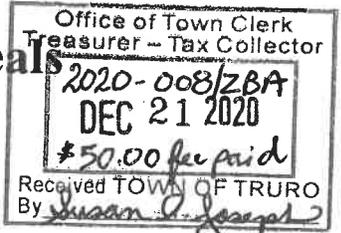
We received a notice from the Truro Zoning Board of Appeals that Thomas and Dianne Didio are requesting a variance in order to construct a sustaining wall for a pool on their property at 13 Corn Hill Landing. Our property at 11 Corn Hill Landing abuts the Didio property and we would like the Board to know that we have no objection to their request since the construction of the pool will not have any impact on our property.

Very truly yours,
Sara Seiden
for the Henry and Sara Seiden Joint Trust
11 Corn Hill Landing (Parcel ID# 45-027)
917-301-5945



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666



APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date December 21, 2020

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section 50.1(A) of the Truro Zoning Bylaw concerning *(describe)* minimum side yard setback distance. Applicant seeks a variance due to the lot shape and topography to construct sustaining walls within the setback for a conforming pool and pool house.

APPLICATION FOR SPECIAL PERMIT

- Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____.
- Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section _____ of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____.

Property Address 13 Corn Hill Landing Map(s) and Parcel(s) 45-23

Registry of Deeds title reference: Book 19120, Page 300, or Certificate of Title Number N/A and Land Ct. Lot # N/A and Plan # N/A

Applicant's Name Thomas and Dianne Didio

Applicant's Legal Mailing Address 416 Oradell Avenue, Oradell, NJ 07649

Applicant's Phone(s), Fax and Email (201) 248-4796; N/A; thedidios@aol.com

Applicant is one of the following: *(please check appropriate box)*

*Written Permission of the owner is required for submittal of this application.

- Owner Prospective Buyer* Other*

Owner's Name and Address (same)

Representative's Name and Address Benjamin E. Zehnder P.O. Box 2300 Orleans, MA 02653

Representative's Phone(s), Fax and Email (508) 255-2133; (508) 255-3786; bzehnder@latanzi.com

2. The completed application **shall also** be submitted **electronically** to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

- The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

Signature(s)

Benjamin E. Zehnder
 Applicant(s)/Representative Printed Name(s)
[Signature]
 Applicant(s)/Representative Signature

Thomas Didio and Dianne Didio by their attorney
 Owner(s) Printed Name(s) or written permission
[Signature]
 Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

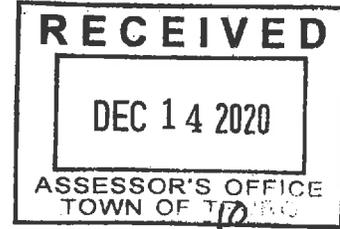


TOWN OF TRURO

Assessors Office

Certified Abutters List

Request Form



DATE: Dec. 7, 2020

NAME OF APPLICANT: Thomas & Dianne Didio

NAME OF AGENT (if any): i/c/o Benjamin E. Zehnder

MAILING ADDRESS: La Tanzi, Spaulding & Landreth P.O. Box 2300 Orleans, MA 02653

CONTACT: HOME/CELL (508) 255-2133 EMAIL bzehnder@latanzi.com

PROPERTY LOCATION: 13 Corn Hill Landing
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 45 PARCEL 23 EXT. _____
(if condominium)

ABUTTERS LIST NEEDED FOR:
(please check all applicable)

FEE: \$15.00 per checked item

(Fee must accompany the application unless other arrangements are made)

- | | | |
|---------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------|
| <input type="checkbox"/> Board of Health ⁵ | <input type="checkbox"/> Planning Board (PB) | <input type="checkbox"/> Zoning Board of Appeals (ZBA) |
| <input type="checkbox"/> Cape Cod Commission | <input type="checkbox"/> Special Permit ¹ | <input type="checkbox"/> Special Permit ¹ |
| <input type="checkbox"/> Conservation Commission ⁴ | <input type="checkbox"/> Site Plan ² | <input checked="" type="checkbox"/> Variance ¹ |
| <input type="checkbox"/> Licensing | <input type="checkbox"/> Preliminary Subdivision ³ | |
| Type: _____ | <input type="checkbox"/> Definitive Subdivision ³ | |
| | <input type="checkbox"/> Accessory Dwelling Unit (ADU) ² | |
| <input type="checkbox"/> Other _____ | | |

(Fee: Inquire with Assessors)

(Please Specify)

Note: Per M.G.L., processing may take up to 10 calendar days. Please plan accordingly.

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 12/14/2020 Date completed: 12/15/2020
 List completed by: [Signature] Date paid: _____ Cash/Check #13164

¹Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line.
²Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property.
³Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. **Note:** For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required.
⁴All abutters within 300 feet of parcel, except Beach Point between Knowles Heights Road and Provincetown border, in which case it is all abutters within 100 feet. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.
⁵Abutters sharing any boundary or corner in any direction – including land across a street, river or stream. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.



TRURO ASSESSORS OFFICE

PO Box 2012 Truro, MA 02666

Telephone: (508) 214-0921

Fax: (508) 349-5506

Date: December 15, 2020

To: Benjamin E. Zehnder for Thomas & Dianne Didio

From: Assessors Department

Certified Abutters List: 13 Corn Hill Lndg (Map 45, Parcel 23)

Zoning Board of Appeals/ Variance

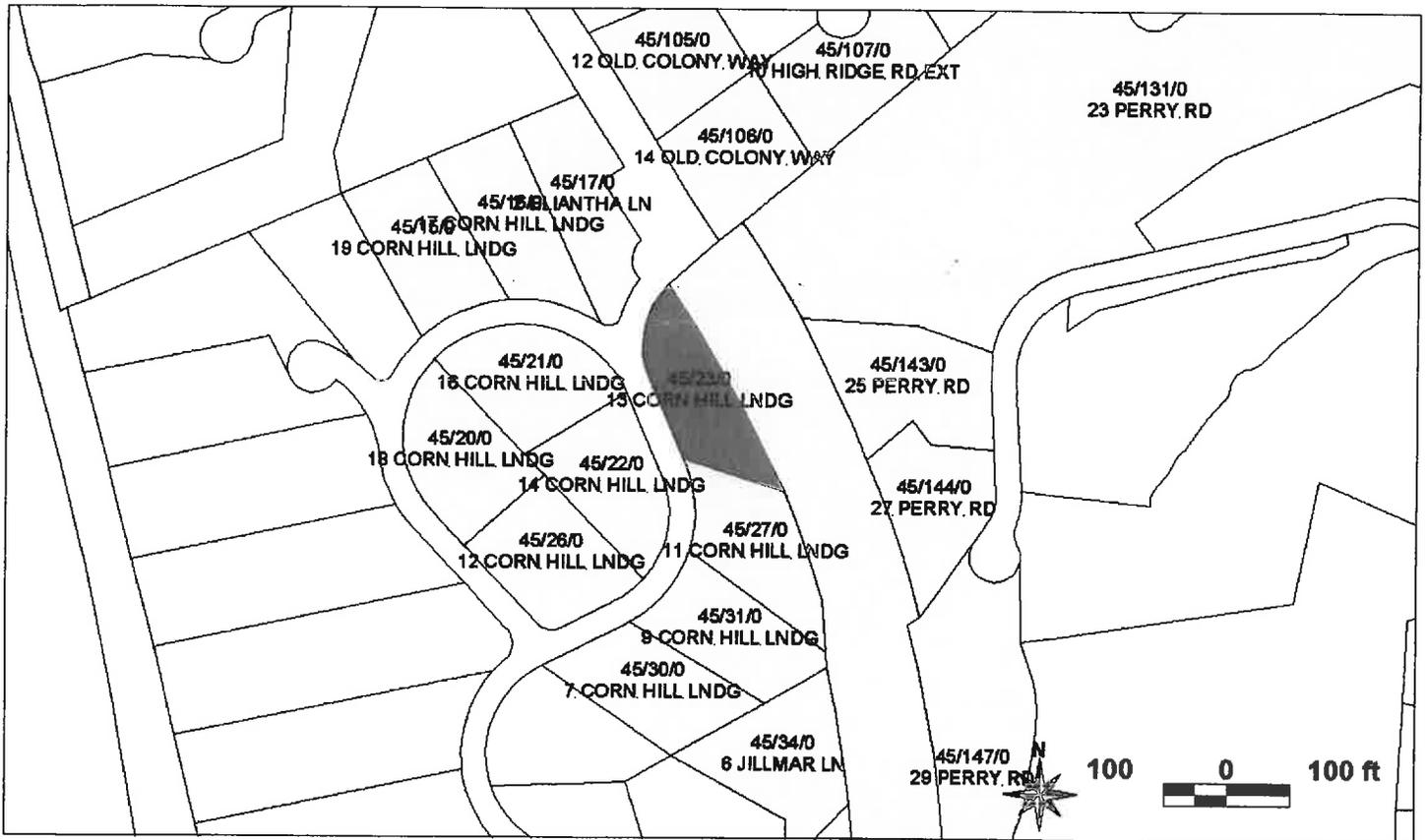
Attached is a combined list of abutters for the property located at 13 Corn Hill Landing. The current owners are Thomas R. and Dianne C. Didio.

The names and addresses of the abutters are as of December 4, 2020 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by:

Olga Farrell
Assessing Clerk

Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
2101	45-15-0-R	AMIDON JACK & MCDONALD ELIZ. A	19 CORN HILL LNDG	3465 SACRAMENTO ST, UNIT 8	SAN FRANCISCO	CA	94118
2102	45-16-0-R	ELAINE DAGLIO LIVING TRUST TRS: DAGLIO ELAINE	17 CORN HILL LNDG	39 WARREN AVE #1	BOSTON	MA	02116
2103	45-17-0-R	ELIANTHA LANE 2 REALTY TRUST TRS: MANICKAS ALEXA P	2 ELIANTHA LN	5 GERARD TERRACE	LEXINGTON	MA	02421
2106	45-20-0-R	18 CORN HILL LANDING TRUST TRS: SILBERT LARRY & AJL LESLIE	18 CORN HILL LNDG	310 HAMMOND POND PARKWAY UNIT 203	BROOKLINE	MA	02467
2107	45-21-0-R	B M W NOMINEE TRUST TRS: MONDANO FRANK & WALLER ALL	16 CORN HILL LNDG	23650 VIA VENETO BLVD # 1402	ESTERO	FL	34134
2108	45-22-0-R	DONENFELD LUKE	14 CORN HILL LNDG	58 LUCILLE DRIVE	SAYVILLE	NY	11782
2112	45-26-0-R	12 CORN HILL LANDING LLC MGR: JENNIFER C COAN	12 CORN HILL LNDG	PO BOX 823 95 BRIDGE ROAD	ROSS	CA	94957
2113	45-27-0-R	HENRY & SARA SEIDEN JOINT TRST TRS: SARA J S SEIDEN ET AL	11 CORN HILL LNDG	1619 3RD AVENUE APT 18F	NEW YORK	NY	10128
2116	45-30-0-R	AUFIERO PHILIP	7 CORN HILL LNDG	10 EVAN PL	ARMONK	NY	10504
2117	45-31-0-R	MCMILLAN JAMES ROBIN & MCMILLAN GAIL D HEIMANN	9 CORN HILL LNDG	15 WILLIAM ST APT 29A	NEW YORK	NY	10005
2120	45-34-0-R	WALLER ALLEN D	6 JILLMAR LN	159 ATLANTIC AVE	MARBLEHEAD	MA	01945
2121	45-35-0-R	ROSE INVESTMENT TRUST TRS: ROSE AUSTIN L JR & MARY L	0 CORN HILL RD	PO BOX 925	TRURO	MA	02666
2208	45-105-0-R	12CW LLC MGR: RENA FEINMAN-SIEGEL	12 OLD COLONY WAY	18 OAK BEND ROAD	WEST ORANGE	NJ	07052
2209	45-106-0-R	RAJGOPAL RAJ & MEENA	14 OLD COLONY WAY	1830 SOUTH OCEAN DR, UNIT 2602	HALLANDALE BEACH	FL	33009
2210	45-107-0-R	ARMSTRONG JAMES J TR 12-23-05 TRS: ARMSTRONG JAMES & LINDA	10 HIGH RIDGE RD EXT	19 DOUGLAS DR	MANSFIELD	MA	02048-1056

Handwritten signature/initials
 12/15/2020

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
5949	45-131-0-R	HILLSIDE FARM LLC & PERRY FAMILY LTD PARTNERSHIP	23 PERRY RD	PO BOX 1016	TRURO	MA	02666-1016
6575	45-143-0-R	PERRY SCOTT W	25 PERRY RD	PO BOX 414	TRURO	MA	02666
6576	45-144-0-R	PERRY CLAIRE A LIVING TRUST TRS: PERRY CLAIRE A	27 PERRY RD	PO BOX 1016	TRURO	MA	02666-1016
7249	45-147-0-R	PERRY CLAIRE A LIVING TRUST TRS: PERRY CLAIRE A	29 PERRY RD	c/o SAMANTHA PERRY PO BOX 228	TRURO	MA	02666

OW 12/15/2020

<p>45-15-0-R</p> <p>AMIDON JACK & MCDONALD ELIZ. A 3465 SACRAMENTO ST, UNIT 8 SAN FRANCISCO, CA 94118</p>	<p>45-16-0-R</p> <p>ELAINE DAGLIO LIVING TRUST TRS: DAGLIO ELAINE 39 WARREN AVE #1 BOSTON, MA 02116</p>	<p>45-17-0-R</p> <p>ELIANTHA LANE 2 REALTY TRUST TRS: MANICKAS ALEXA P 5 GERARD TERRACE LEXINGTON, MA 02421</p>
<p>45-20-0-R</p> <p>18 CORN HILL LANDING TRUST TRS: SILBERT LARRY & AJL LESLIE 310 HAMMOND POND PARKWAY UNIT 203 BROOKLINE, MA 02467</p>	<p>45-21-0-R</p> <p>B M W NOMINEE TRUST TRS: MONDANO FRANK & WALLER ALL 23650 VIA VENETO BLVD # 1402 ESTERO, FL 34134</p>	<p>45-22-0-R</p> <p>DONENFELD LUKE 58 LUCILLE DRIVE SAYVILLE, NY 11782</p>
<p>45-26-0-R</p> <p>12 CORN HILL LANDING LLC MGR: JENNIFER C COAN PO BOX 823 95 BRIDGE ROAD ROSS, CA 94957</p>	<p>45-27-0-R</p> <p>HENRY & SARA SEIDEN JOINT TRST TRS: SARA J S SEIDEN ET AL 1619 3RD AVENUE APT 18F NEW YORK, NY 10128</p>	<p>45-30-0-R</p> <p>AUFIERO PHILIP 10 EVAN PL ARMONK, NY 10504</p>
<p>45-31-0-R</p> <p>MCMILLAN JAMES ROBIN & MCMILLAN GAIL D HEIMANN 15 WILLIAM ST APT 29A NEW YORK, NY 10005</p>	<p>45-34-0-R</p> <p>WALLER ALLEN D 159 ATLANTIC AVE MARBLEHEAD, MA 01945</p>	<p>45-35-0-R</p> <p>ROSE INVESTMENT TRUST TRS: ROSE AUSTIN L JR & MARY L PO BOX 925 TRURO, MA 02666</p>
<p>45-105-0-R</p> <p>12CW LLC MGR: RENA FEINMAN-SIEGEL 18 OAK BEND ROAD WEST ORANGE, NJ 07052</p>	<p>45-106-0-R</p> <p>RAJGOPAL RAJ & MEENA 1830 SOUTH OCEAN DR, UNIT 2602 HALLANDALE BEACH, FL 33009</p>	<p>45-107-0-R</p> <p>ARMSTRONG JAMES J TR 12-23-05 TRS: ARMSTRONG JAMES & LINDA 19 DOUGLAS DR MANSFIELD, MA 02048-1056</p>
<p>45-131-0-R</p> <p>HILLSIDE FARM LLC & PERRY FAMILY LTD PARTNERSHIP PO BOX 1016 TRURO, MA 02666-1016</p>	<p>45-143-0-R</p> <p>PERRY SCOTT W PO BOX 414 TRURO, MA 02666</p>	<p>45-144-0-R</p> <p>PERRY CLAIRE A LIVING TRUST TRS: PERRY CLAIRE A PO BOX 1016 TRURO, MA 02666-1016</p>
<p>45-147-0-R</p> <p>PERRY CLAIRE A LIVING TRUST TRS: PERRY CLAIRE A c/o SAMANTHA PERRY PO BOX 228 TRURO, MA 02666</p>		



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date December 21, 2020

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section 50.1(A) of the Truro Zoning Bylaw concerning *(describe)* minimum side yard setback distance. Applicant seeks a variance due to the lot shape and topography to construct sustaining walls within the setback for a conforming pool and pool house.

APPLICATION FOR SPECIAL PERMIT

- Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____
- Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section _____ of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____

Property Address 13 Corn Hill Landing Map(s) and Parcel(s) 45-23

Registry of Deeds title reference: Book 19120, Page 300, or Certificate of Title Number N/A and Land Ct. Lot # N/A and Plan # N/A

Applicant's Name Thomas and Dianne Didio

Applicant's Legal Mailing Address 416 Oradell Avenue, Oradell, NJ 07649

Applicant's Phone(s), Fax and Email (201) 248-4796; N/A; thedidios@aol.com

Applicant is one of the following: *(please check appropriate box)* Owner Prospective Buyer* Other*
 *Written Permission of the owner is required for submittal of this application.

Owner's Name and Address (same)

Representative's Name and Address Benjamin E. Zehnder P.O. Box 2300 Orleans, MA 02653

Representative's Phone(s), Fax and Email (508) 255-2133; (508) 255-3786; bzehnder@latanzi.com

2. The completed application **shall also** be submitted **electronically** to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

• The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

Signature(s)

Benjamin E. Zehnder
Applicant(s)/Representative Printed Name(s)
[Signature]
Applicant(s)/Representative Signature

Thomas Didio and Dianne Didio by their attorney
Owner(s) Printed Name(s) or written permission
[Signature]
Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

Project Narrative

13 Corn Hill Landing
Assessor's Map 45, Parcel 23
Thomas & Dianne Didio

December 21, 2020

Prepared by B. Zehnder / La Tanzi, Spaulding & Landreth

1. Introduction:

Applicants Thomas and Dianne Didio seek zoning relief for their developed property at 13 Corn Hill Landing, Assessor's Parcel ID 45-23 in connection with construction of a proposed swimming pool. They request a variance from Truro Zoning Bylaw §50.1(A) (Table; 25' minimum side yard setback requirement) pursuant to M.G.L. c. 40A § 10 in order to construct a two-tiered sustaining wall. The proposed wall is physically necessary to build a conforming pool on the applicants' hilly property. This necessity is a direct result of the lot's narrow shape and steep topography, and the fact that the septic system and driveway are located in the only other feasible location for a pool. The applicants submit that variance relief may be granted under these circumstances without harm to the public good and without degrading the purposes or intents of the setback requirements.

2. Property History:

Locus is in the town's Residential zoning district and contains 34,453 sq. ft. of lot area. It was created by the 1978 Corn Hill Landing subdivision plan recorded in Plan Book 321, Page 27, and is shown as Lot 6 on plan. The lot has approximately 310' of frontage along Corn Hill Road, a private paved 40' wide way, and Eliantha Lane. The property is improved with a 2,597 sq. ft. two story wood framed single family residential dwelling structure built in 1980 and renovated in 2016. The lot and dwelling are conforming under current zoning in the district.

The Corn Hill Landing subdivision is bounded along its entire easterly line by the former Old Colony Railroad layout. The subdivision topography falls off steeply towards the former railroad layout, which was located in a hollow between Corn Hill and the hills to the east (at the end of Perry Road) to maintain a constant grade for trains traveling the line. The subdivision was laid out with eight waterfront house lots to the west fronting on Corn Hill Road, a set of four lots encircled by Corn Hill Road, four interior lots along the northerly subdivision line, and six interior lots located along the southerly and easterly lines of the subdivision. The last of these interior lots is locus, which is situated at the curve where Corn Hill Road turns into Eliantha Lane at the far east side of the subdivision.

Because of this location, the lot is sandwiched between the former railroad layout on the east, Corn Hill Road on the west, and Eliantha Lane on the north, making it narrow east to west and long north to south. When the existing dwelling structure

was built in 1980, the owners centered it between the westerly and easterly lot lines, outside of the setback envelope, and installed a septic system to the north of the house. As a result, there is very little usable area of the property where a conforming pool can be built.

3. Proposed Construction:

The applicants propose removal or relocation of an existing storage shed and construction of a new in-ground swimming pool and pool house, as well as new hardscaping and landscaping for the surrounding yard. The proposed pool and pool house will be conforming as to yard setbacks; the pool decking tiles will extend into the (east) side yard setback, which is allowable under zoning, because they do not constitute a structure.

A pool will allow the applicants to exercise at home, recreate and enjoy the outside with their family, and improve their use and enjoyment of their house while also contributing to the attractiveness and value of the property.

In order to locate a conforming pool and pool house, it is physically necessary to build a two-tiered sustaining wall adjacent to the property's easterly boundary line. The proposed wall is approximately three feet from that line, at its closest point, and requires a 22' variance from § 50.1(A) to be built.

4. Request for Variance:

Under M.G.L. c. 40A § 10 variances may be granted where the Board of Appeals finds specific circumstances relating to the soil conditions, shape, or topography of land or structures, especially affecting the land or structures being considered, but not affecting the zoning district generally, which result in substantial hardship if the zoning bylaw at issue is enforced literally. The board must also find that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the bylaw.

The applicants submit that a variance is appropriate relief here. Firstly, there are specific circumstances at locus which will result in a substantial hardship to the applicants if the § 50.1(A) minimum side yard setback requirement is enforced literally. These are the narrow lot shape, the location of the existing septic system, and the steep topography to the east. As shown on the site plan, there is a 25' setback envelope within which the existing house is located (i.e., it is conforming). Physically, there is no space east or west of the house for a conforming swimming pool other than at the proposed location. This location was chosen because the other possible locations within the setback envelope either cannot be used or will also result in a side yard setback non-conformity regardless. For example, the area within the envelope to the northwest of the house is where the septic system is located. To place a pool there would require engineering a new system for a different area of the lot, disconnecting and removing the existing system, and installing a new system, which would involve a

substantial hardship in terms of cost and disruption to the use of the property. Similarly, the area within the envelope to the southeast of the house is improved with the applicants' driveway, which provides access to the basement level garage. Placing a pool there would require removal of the driveway and prevent use of the garage for vehicle parking, would involve significant expense and engineering, and would result in an awkwardly located swimming pool lower than the kitchen and living areas on the second floor, and which could not be easily accessed from those areas.

In either location, a pool would still require a sustaining wall to the downhill side. To the southeast the setback envelope forms an acute angle and a wall in that location would have to be placed in the setback to compensate for the steep drop in ground elevation, requiring the same zoning relief request here. To the northeast a pool would have to be located north of the existing septic system, where the land again falls off steeply and the setback lines form an acute angle. Here too, even if a conforming pool could be located, a substantial sustaining wall would need to be placed in the setback, once more requiring a variance.

The narrowness of the lot, combined with the sloping topography along the northerly, easterly, and southerly sides, particularly affect the applicants' property, but these factors do not affect properties within the Residential zoning district, generally. These conditions are the result of the lot's placement within the Corn Hill Landing subdivision, the layout of the two ways forming the lot's westerly and northwesterly borders, and the fact that the subdivision (and the applicants' property) ends next to the former railroad line, where a small valley or land depression occurs.

The applicants will experience a substantial hardship if the 25' setback requirement is enforced literally. In that case it will, realistically, be impossible to build a swimming pool. The proposed pool location is conforming, yet it cannot be supported without the proposed non-conforming sustaining wall, which allows a level ground plane for the pool and its surround. The only other possible locations, to the southeast and northwest, cannot be used without significant expense to redesign and relocate the septic system or remove the driveway, and neither location offers the backyard privacy of the easterly side of the property away from the street. Furthermore, the applicants would lose the use of their garage for parking if a pool were placed to the southeast, and either alternate location would nonetheless likely require a sustaining wall in the setback due to the steep topography at each location. As such, under a literal enforcement of the setback provisions, the applicants will either incur large expense and inconvenience to build a pool, or, more likely, not build at all, foregoing the health, recreation, and other benefits of having a pool at home.

Desirable relief can be granted without detriment to the public good and without nullifying or substantially derogating from the intent and purpose of the bylaw. The practical effect of setback requirements is to provide separation between structures and abutting properties and between structures and streets. The purpose of the requirements is increasing safety in a zoning district by mandating sufficient space for natural light, air flow, vegetation, and access. Without such provisions an owner could build right to

the common property line, which would make it difficult to access all sides of a structure by, e.g., police, fire or rescue personnel, increasing the risk of fire spreading, reducing privacy, and reducing natural airflow, light, and vegetation.

Here, the northeasterly side of the property where the sustaining walls are proposed is a steep, wooded hill above the former railroad line. There is no access to or from the abutting property where the railroad line was, and due to the topography, it would be impossible for a vehicle to access the house at locus from that direction. Furthermore, because of that topography and the railroad right of way, it is unlikely that any structure would be located on that abutting property in proximity to the common boundary line and that privacy, light, airflow, or vegetation would be reduced. As such, the proposed sustaining walls would not nullify or derogate from the intent of § 50.1(A).

As detailed above, the applicants will not be able to construct a conforming sustaining wall due to the unique circumstances at their property, which are the narrow lot shape, steep topography, and the existing improvements. Because of these circumstances the only feasible location for a conforming swimming pool is adjacent and to the east of their house, however, that location require a two-tiered sustaining wall in the side yard setback for support. The other options – locating the pool to the northwest or southeast, or not building a pool at all – would result in hardships to the applicants, in the form of significant expense, and/or the loss of the full use and enjoyment of their property. The sought relief can be granted without harming the public good or the purposes of the zoning setback requirements, which are not applicable to the hillside where the sustaining walls are proposed. For these reasons the applicants respectfully ask for a variance from the 25' minimum side yard setback requirement for the construction shown on plan, pursuant to M.G.L. c. 40A § 10.

- END -

Key: 2109

Town of TRURO - Fiscal Year 2021

10/9/2020 9:05 am SEQ #: 2,130

LEGALS LAND

CURRENT OWNER				PARCEL ID				LOCATION			
DIDIO THOMAS R & DIANNE C 416 ORADELL AVE ORADELL, NJ 07649-1712				45-23-0				13 CORN HILL LNDG			
TRANSFER HISTORY				DOS	T	SALE PRICE	BK-PG (Cert)				
DIDIO THOMAS R & DIANNE C				10/08/2004	QS	825,000	19120-300				
NASH GEORGE J JR & MARY J				05/10/1982	99		3478-063				

CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD	
1010	100	SINGLE FAMILY				1	1 of 1	
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
16-009	01/11/2016	4	REHAB	300,000	05/01/2017	LG	100	100
98-213	12/01/1998	6	SHED	3,000	04/01/1999		100	100

CD	T	AC/SF/UN	Nbhd	Inf1	Inf2	ADJ BASE	SAF	Inf3	Lpi	VC	CREDIT AMT	ADJ VALUE
100	A	0.775	13	1.00	1	1.00	1	1.00	V8	2.30		481,100
300	A	0.015	13	1.00	1	1.00	1	1.00	V8	2.30		710

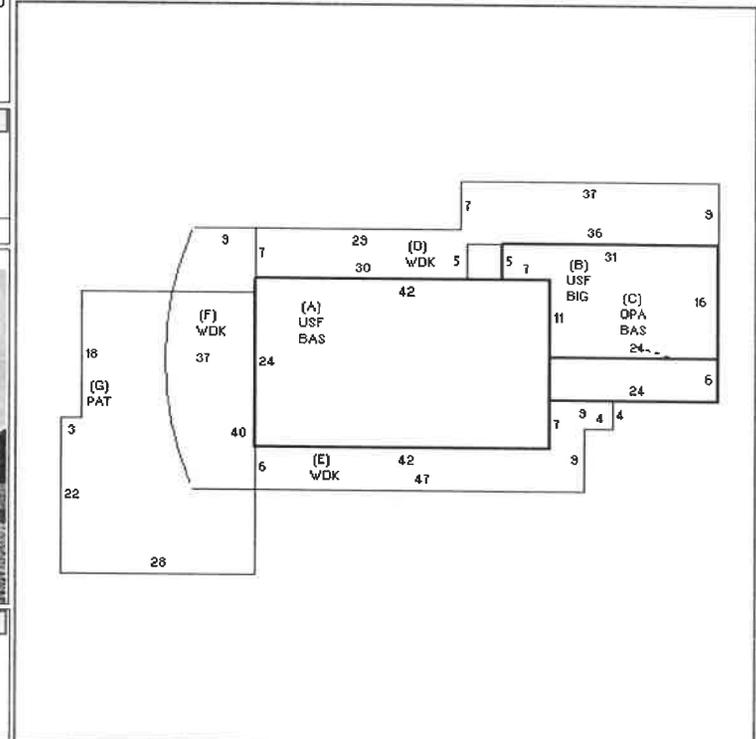
TOTAL	34,413 SF	ZONING	RES	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	CORN HILL	NOTE				LAND	481,800	477,000
Inf1	NO ADJ		BUILDING	559,400	559,800			
Inf2	NO ADJ		DETACHED	1,500	1,500			
			OTHER	0	0	TOTAL	1,042,700	1,038,300

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD
SHF	A	1.00	A 0.75 10*14	1998	140	14.35	1,500



BUILDING	CD	ADJ	DESC	MEASURE	5/1/2017	LG
MODEL	1		RESIDENTIAL	LIST	7/10/2017	LG
STYLE	5	1.00	COLONIAL [100%]	REVIEW	12/3/2010	MR
QUALITY	G	1.30	GOOD [100%]			
FRAME	1	1.00	WOOD FRAME [100%]			

YEAR BLT	1980	SIZE ADJ	1.000	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN
NET AREA	2,579	DETAIL ADJ	1.000	FOUNDATION	5	OTHER	1.00	A	BAS	L	BAS AREA	1,008	1980	227.90	229,723	601,548
\$NLA(RCN)	\$233	OVERALL	1.020	EXT. COVER	1	WOOD SHINGLES	1.00	A	USF	L	UP-STRY FIN	1,008	1980	168.45	169,800	
				ROOF SHAPE	1	GABLE	1.00	B	BIG	N	BUILT-IN GARAGE	419		59.33	24,860	
				ROOF COVER	1	ASPHALT SHINGLE	1.00	B	USF	L	UP-STRY FIN	419	2016	168.45	70,582	
				FLOOR COVER	2	SOFTWOOD	1.00	C	BAS	L	BAS AREA	144	2016	227.90	32,817	
				INT. FINISH	1.00	DRYWALL	1.00	C	OPA	N	OPEN PORCH	144		58.47	8,420	
				HEATING/COOLING	2	HOT WATER	1.02	+ WDK	N	ATT WOOD DECK	1,307		33.81	44,194		
				FUEL SOURCE	1	OIL	1.00	G	PAT	N	PATIO	1,066		9.85	10,495	
								GFP	O	GAS FIREPLACE			0.00	0.00		
								MST	O	MASONRY STACK	1		2,256.90	2,257		
								ODS	O	OUT DOOR SHOWER			0.00	0.00		



DETACHED BUILDING

CONDITION ELEM	CD
COND	07 07 %
FUNC	0
ECON	0
DEPR	7 % GD 93
RCNLD	\$559,400



104

0.910 Ac

2.070 Ac

8

108
0.8 Ac

2

125

1.720 Ac

12

105

0.780 Ac

10

107

0.930 Ac

2

17

0.843 Ac

14

106

0.770 Ac

19

15

0.844 Ac

17

16

0.839 Ac

23

131

9.7 Ac

16

21

0.838 Ac

13

23

0.79 Ac

25

143

1.018 Ac

18

20

0.797 Ac

14

22

0.780 Ac

27

144

0.79 Ac

12

26

0.815 Ac

11

27

0.798 Ac

9

31

0.794 Ac

7

30

0.794 Ac

5

29

0.794 Ac

6

34

0.954 Ac

29

147

2.082 Ac

2

33

0.797 Ac

4

93

0.941 Ac



QUITCLAIM DEED

WE, GEORGE J. NASH, JR. and MARY JANE NASH, with a mailing address of P.O. Box 426, Truro, Massachusetts 02666

in consideration of **EIGHT HUNDRED TWENTY-FIVE THOUSAND AND 00/100 (\$825,000.00) DOLLARS**

Grant to **THOMAS R. DIDIO and DIANNE C. DIDIO**, husband and wife as tenants by the entirety, of 416 Oradell Avenue, Oradell, New Jersey 07649-1712

WITH QUITCLAIM COVENANTS, the land together with the buildings thereon, situated in Truro, Barnstable County, Massachusetts, described as follows:

Being **LOT 6**, containing 34,453 square feet, more or less, and as shown on a plan of land entitled, "Corn Hill Landing,' Subdivision Plan of Land in Truro, Mass., made for Nicholas L. Brown, Scale: 1 in. = 50 ft., Jan. 1978, Slade Associates, Registered Land Surveyors, East Main Street at Route 6, Wellfleet, Massachusetts," which said plan is recorded at the Barnstable County Registry of Deeds in Plan Book 321, Page 27.

Subject to and with the benefits of Covenants, Restrictions and Obligations recorded at the Barnstable County Registry of Deed sin Book 2772, Page 24 to the extent they are applicable.

Subject to and with the benefit of the terms, provisions and obligations set forth in the Declaration of Trust of Corn Hill Landing Homeowners Trust, recorded at said Registry in Book 2772, Page 28.

Said premises is conveyed together with the benefit of and subject to all other rights, privileges, easements, reservations of record insofar as the same are now in force and applicable.

For title see deeds recorded with said deeds in Book 3478, Page 63.

Property Address: 13 Corn Hill Landing, Truro, Massachusetts 02666

Locus: 13 Corn Hill Landing, Truro, MA

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 10-08-2004 @ 02:43pm
Ct1#: 1544 Doc#: 79144
Fee: \$2,821.50 Cons: \$825,000.00

WITNESS our hands and seals this 8th day of October, 2004

George J. Nash Jr.
GEORGE J. NASH, JR.

Mary Jane Nash
MARY JANE NASH

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 10-08-2004 @ 02:43pm
Ct1#: 1544 Doc#: 79144
Fee: \$1,881.00 Cons: \$825,000.00

COMMONWEALTH OF MASSACHUSETTS

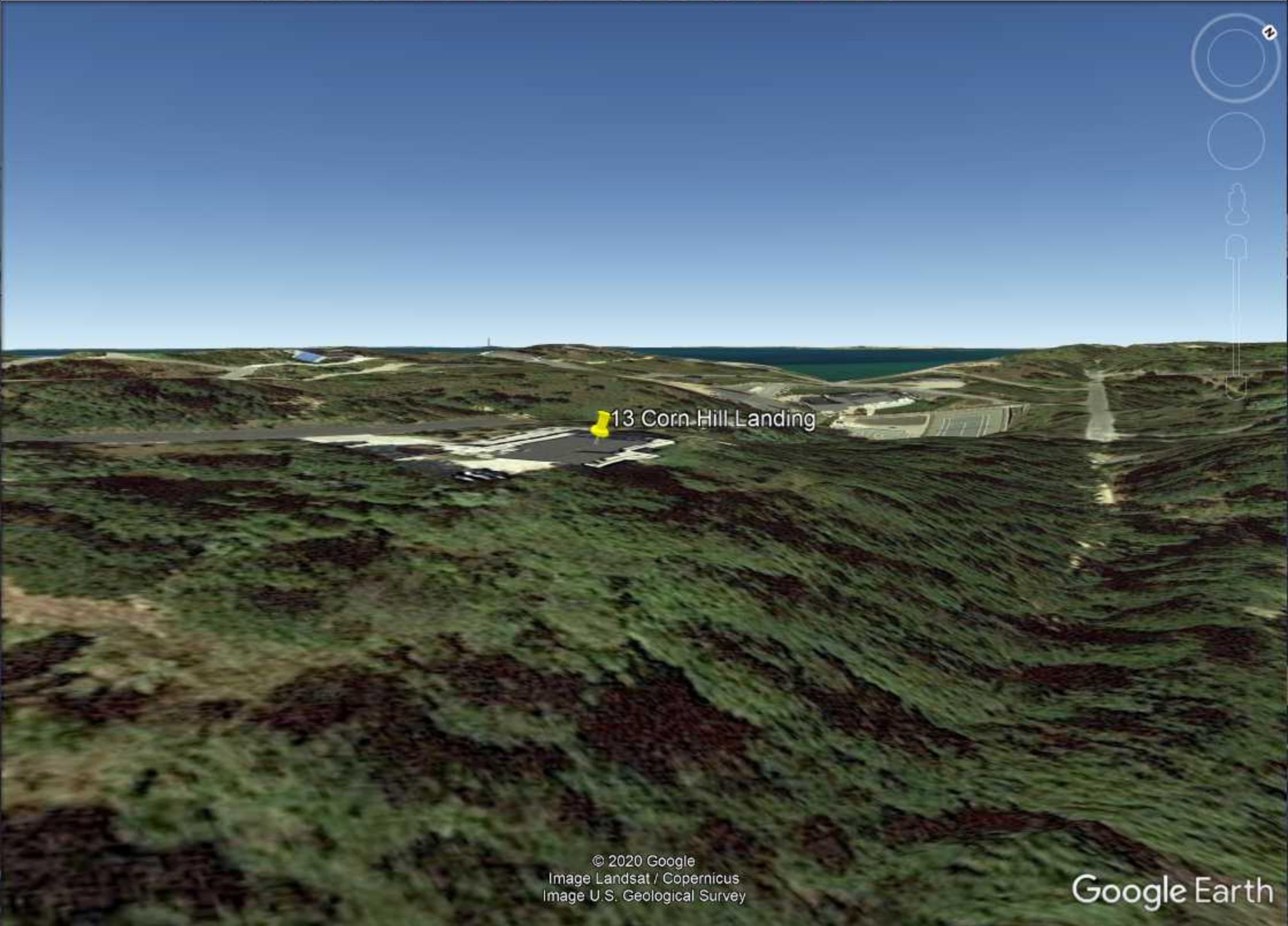
Barnstable, ss

October 8, 2004

On this 8th day of October, 2004, before me, the undersigned Notary Public, personally appeared **GEORGE J. NASH, JR. and MARY JANE NASH**, who proved to me through satisfactory evidence of identification, which was divers licenses to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose.

 **GEORGE B. CAVANAUGH**
NOTARY PUBLIC
COMMONWEALTH OF MASSACHUSETTS
MY COMMISSION EXPIRES 10/8/2010

[Signature]
Notary Public
My commission expires:



13 Corn Hill Landing

© 2020 Google
Image Landsat / Copernicus
Image U.S. Geological Survey

Google Earth



13 Corn Hill Landing

© 2020 Google
Data LDEO-Columbia, NSF, NOAA
Data SIO, NOAA, U.S. Navy, NGA, GEBCO

Google Earth

2003

eye alt 86 ft

PLAN AND TITLE REFERENCES:

ASSESSORS MAP 45, PARCEL 23

PLAN BOOK 321 PAGE 27, LOT 6

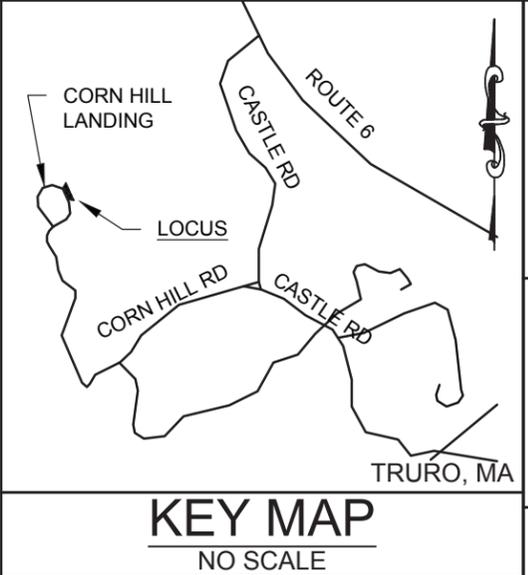
DEED BOOK 19120 PAGE 300

OWNERS: THOMAS R. DIDIO AND DIANNE C. DIDIO

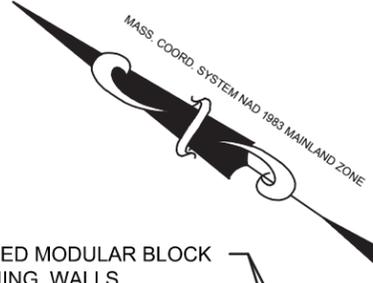
DATUM:

ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)

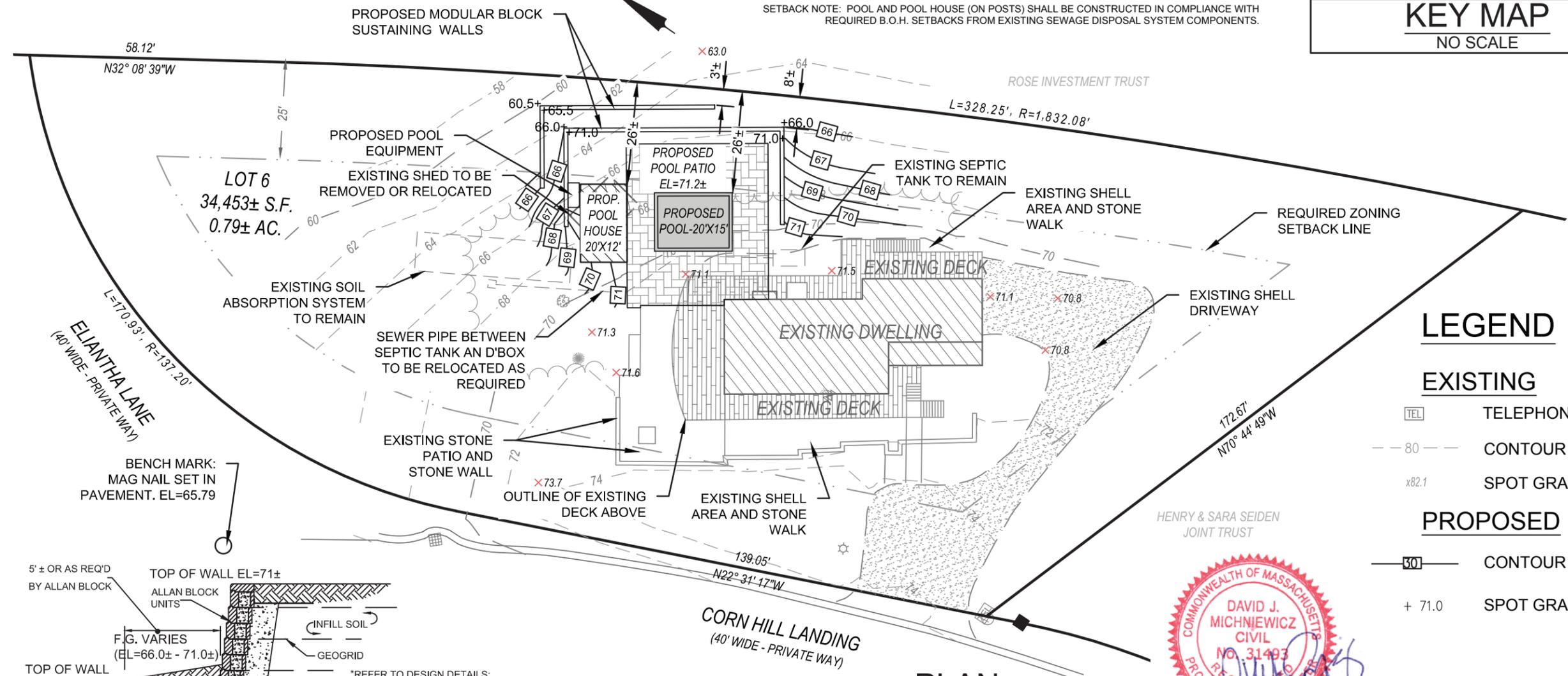
ZONING TABLE			
ZONING DISTRICT: RESIDENTIAL DISTRICT			
SUBJECT	REQUIRED	EXISTING	PROPOSED
LOT AREA	33,750 S.F.	34,453 ± S.F.	34,453 ± S.F.
FRONTAGE	150 FT.	309.98 FT.	309.98 FT.
FRONT SETBACK (DWELLING)	25 FT.	34.3± FT	NO CHANGE
SIDE SETBACK (DWELLING/SHED)	25 FT.	33.9 ± FT./ 24.5± FT	NO CHANGE/ SHED TO BE MOVED,REMOVED
FRONT SETBACK (PROP. POOL/POOL HOUSE)	25 FT.	N/A	75 ± FT./ 68 ± FT.
SIDE SETBACK (PROP. POOL/POOL HOUSE)	25 FT.	N/A	26 ± FT./ 26 ± FT.
FRONT SETBACK (PROPOSED WALLS)	25 FT.	N/A	76' ± FT.
SIDE SETBACK (PROPOSED WALLS)	25 FT.	N/A	3 ± FT.



PROJECT NO.	C19275.00
SCALE	AS NOTED
DATE	12-18-2020
SHEET NO.	C2.1.1

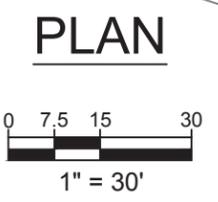


SETBACK NOTE: POOL AND POOL HOUSE (ON POSTS) SHALL BE CONSTRUCTED IN COMPLIANCE WITH REQUIRED B.O.H. SETBACKS FROM EXISTING SEWAGE DISPOSAL SYSTEM COMPONENTS.



LEGEND

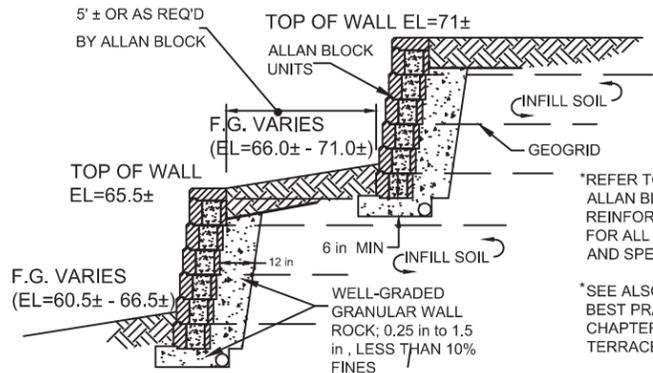
- EXISTING**
- TEL TELEPHONE BOX
 - - 80 - - CONTOUR
 - x82.1 SPOT GRADE
- PROPOSED**
- 30 - CONTOUR
 - + 71.0 SPOT GRADE



PLAN

NOTE: WALL DESIGN AND INSTALLATION SHALL BE AS SPECIFIED BY ALLAN BLOCK.

*REFER TO DESIGN DETAILS: ALLAN BLOCK TYPICAL REINFORCED WALL APPLICATION FOR ALL OTHER NOTES, DETAILS AND SPECIFICATIONS.
*SEE ALSO THE ALLAN BLOCK BEST PRACTICES DOCUMENT CHAPTER 10.0 FOR MORE TERRACE WALL INFORMATION.



TYPICAL SUSTAINING WALL SECTION

NO SCALE

THOMAS AND DIANNE DIDIO
 PLAN SHOWING PROPOSED
 POOL AND POOL HOUSE IMPROVEMENTS
 TRURO, MA



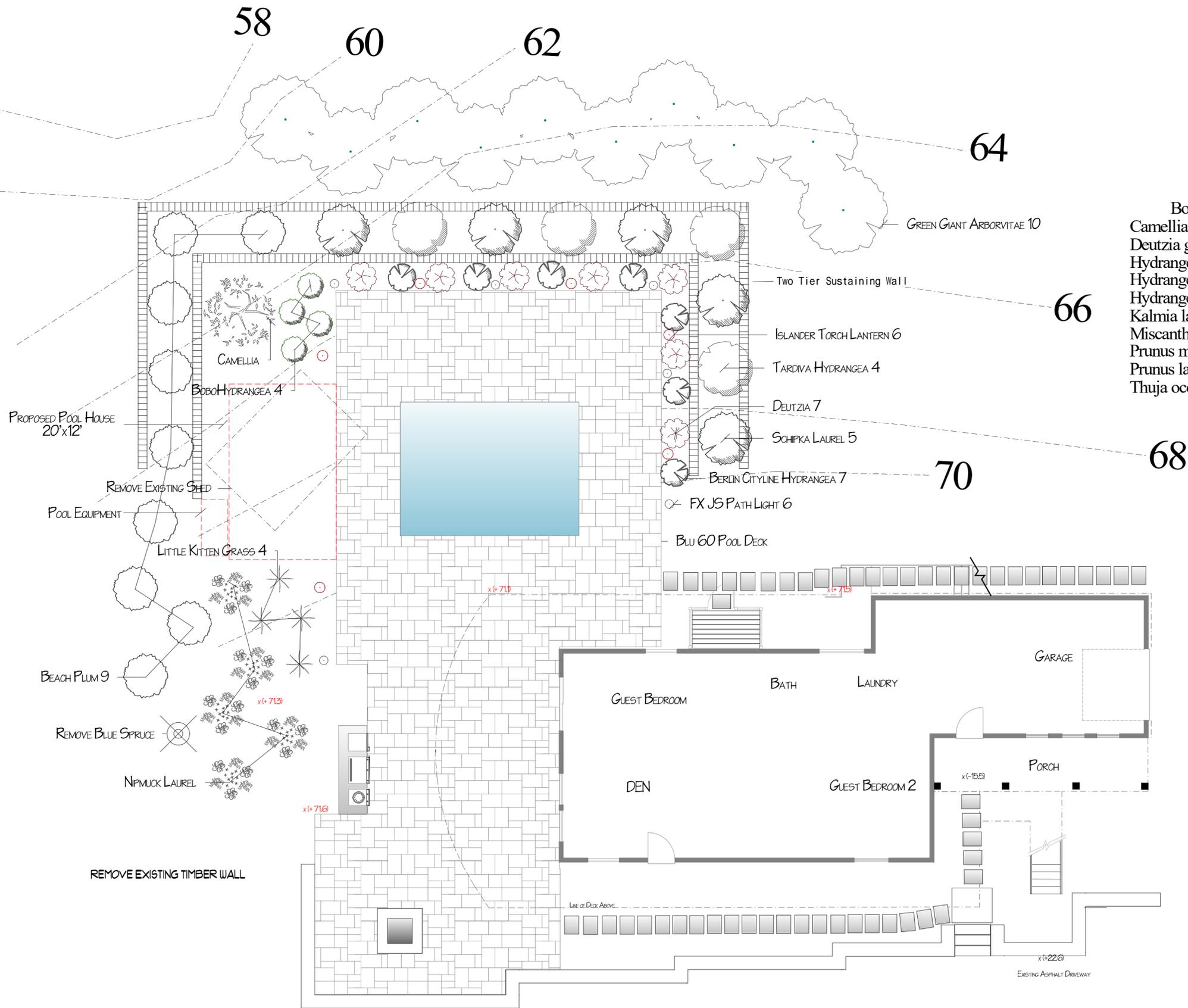
ISSUED FOR ZBA REVIEW
 12/18/2020

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 DRAWN BY: BPM
 Coastal Engineering Co., Inc. © 2020

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Legend

Botanical Name	Common Name	Qty	Size
Camellia x 'Winter's Snowman'	Camellia-white	1	5 Gal.
Deutzia gracilis 'Nikko'	Nikko Deutzia-dwarf white	7	3 Gal.
Hydrangea macro. Cityline Berlin	Cityline Berlin Hydrangea	7	5 Gal.
Hydrangea paniculata Bobo	Bobo Panicle Hydrangea	4	5 Gal.
Hydrangea paniculata Tardiva	Tardiva Panicle Hydrangea	4	7 Gal.
Kalmia latifolia 'Nipmuck'	Nipmuck Mountain Laurel	4	7 Gal.
Miscanthus sinensis 'Adagio'	Adagio Maiden Grass	4	3 Gal.
Prunus maritima	Beach Plum	9	7 Gal.
Prunus laurocerasus 'Schipkaensis'	Schipka Cherry Laurel	5	5 Gal.
Thuja occidentalis 'Green Giant'	Green Giant Arborvitae	10	8-10'



The Didio Residence
13 Corn Hill Landing
By: Sean M. O'Leary MCLP
Scale: 1/8" = 1'

DECISION OF THE ZONING BOARD OF APPEALS

Variance

Atlas Map 45 Parcel 23

Address: 13 Corn Hill Landing

Case Reference No.: 2020-008/ZBA

Applicant: Thomas and Dianne Didio

Hearing Dates: January 25, 2021

Decision Date:

Vote: X-X

Sitting: *Arthur F. Hultin, Jr., Chair; Fred Todd, Vice Chair; John Dundas; John Thornley; Chris Lucy, Heidi Townsend*

Motion (M. ; M. second). In the matter of 2020-008/ZBA, Application of Thomas and Dianne Didio to [**grant**] [**deny**] a variance under G.L. c. 40A, s. 10 and Zoning Bylaw Section 50.1 to construct a retaining wall within three (3) feet of a lot line (25 feet required), relating to a new pool, pool house, and patio on property at 13 Corn Hill Landing (Map 45, Parcel 23), based upon the following materials filed with this Board:

- Cover letter dated December 21, 2020
- Application for Hearing
- Project Narrative
- Certified Abutters List
- Assessor's Records
- Quitclaim deed
- "Corn Hill Landing, Subdivision Plan of Land in Truro, MA," prepared by Slade Associates, Registered Land Surveyors, January 29, 1978
- "Plan Showing Proposed Pool and Pool House Improvements, 13 Corn Hill Landing, Truro, MA," prepared by Coastal Engineering, dated December 18, 2020
- "The Didio Residence, 13 Corn Hill Landing" (landscape plan), prepared by Sean M. O'Leary MCLP, UNDATED, Scale 1/8" = 1'
- Google images

This Variance Decision is based on the following findings of fact:

1. This property is located in the Residential District, containing 34,453 square feet, conforming as to area and frontage.
2. The existing dwelling is conforming and is located in roughly the center of the property. An existing stone patio and stone wall are located to the northwest of the house. A driveway serving the house is located to the south and west
3. The Applicant seek to construct a 20 x 15 inground pool, with associated patio and pool house, to the northeast of the dwelling. An existing shed will be removed or relocated.

4. The pool and pool house will not encroach into the back yard setback, both being located 26 feet from the rear lot line. A two-tiered modular block retaining wall, associated with construction of the pool, patio, and pool house area, is proposed at three feet from the lot line. The variance of 22 feet is sought for this structure.

Requirements for a Variance under General Laws Chapter 40A, s. 10:

Under G.L. c. 40A, s. 10, a variance may be granted where a Board “specifically finds that:

[1] owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,

[2] a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and

[3] that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Board must find all three of the above to grant the requested variance requested. In this case, the Applicant requests a variance of the Bylaw’s 25-foot setback requirement to allow the retaining wall to be constructed within three feet of the lot line.

Findings of the Board under Massachusetts General Laws Chapter 40A, Section 10

5. The Board [finds that due to the lot’s narrow shape, relating to the adjacent former railroad layout, and steep topography of portions of the lot, there is a limited area in which conforming structures may be located. These are “circumstances relating to the soil conditions, shape, or topography.”] **OR** [finds no unusual shape, soil conditions or topography associated with this lot. The lot has sufficient buildable area for the existing dwelling and desired improvements without need for construction of a retaining wall within the setback.]
6. The Board further [**finds**] [**does not find**] that these circumstances affect this property and not others within the Residential District [and Corn Hill Landing subdivision].
7. The Board further [**finds**] [**does not find**] that a literal interpretation of the setback requirement would involve substantial financial and other hardship to the Applicants. [Any alternative location for the pool and pool house would require expensive removal and relocation of the dwelling’s septic system or driveway] **OR** [Alternative locations for the pool are available and while adding some expense, do not constitute *substantial* financial or other hardship]

8. The Board further finds that a variance **[may]** **[may not]** be granted without substantial detriment to the public good, and without substantially derogating from the intent of the Bylaw.

Where the Board **[can]** **[cannot]** make the three necessary findings under G.L. c. 40A, s. 10, the variance **[may]****[may not]** be granted.

Conditions [if a grant]

This Variance is granted subject to the following conditions:

1. Construction shall conform to the plans referenced in this decision, including referenced building materials.
2. No part of the retaining wall may be located closer than three feet from the rear lot line.
3. Prior to issuance of an occupancy permit for the pool house, the Applicant shall submit a stamped, As-Built Plan of all improvements confirming that the pool, pool house and retaining wall conform to the above limits and dimensions indicated on the Plans.
4. The use of the Property shall be in strict conformance with the Town of Truro Bylaw;

5. *Other conditions*

This Variance shall lapse after one year if substantial use is not commenced with that time. See G.L. c. 40A, s. 10.

Art Hultin, Chair

Date



La Tanzi
Spaulding
& Landreth

8 Cardinal Lane
Orleans

14 Center Street, Suite 4
Provincetown

3010 Main Street, Suite 2E
Barnstable

Benjamin E. Zehnder
ext. 128
bzehnder@latanzi.com

December 21, 2020

Susan Joseph, Acting Town Clerk
Truro Town Hall
24 Town Hall Road
Truro, MA 02666

Via hand delivery

Re: Two new Zoning Board of Appeals Applications (Special Permit; Variance)
112 North Pamet Road (Assessor's Parcel ID 48-1)

Dear Ms. Joseph:

Please find enclosed for filing two new applications to the Zoning Board of Appeals, one for a special permit and the other for a variance, for the property at 112 North Pamet Road. I have included an additional nine copies of each application, as well nine copy packets of the common materials (the supporting materials are the same for both applications). Please also find enclosed check no. 13113 in the amount of \$50.00 for the special permit application filing fee, and check no. 13181 for the variance application filing fee. My office will email scans of both applications, with supporting materials, to planner1@truro-ma.gov today.

Thank you for your assistance.

Very truly yours,

Benjamin E. Zehnder

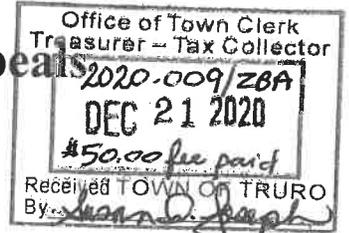
Enc.
cc via email only w attachments:
client
Daniel Costa
Bradford Malo
David Michniewicz

A Legal Beacon since 1969



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666



APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date December 21, 2020

The undersigned hereby files with specific grounds for this application: (check all that apply)

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on (date) _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on (date) _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section _____ of the Truro Zoning Bylaw concerning (describe) _____

APPLICATION FOR SPECIAL PERMIT

Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning (describe) _____

Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section 30.3(8) of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning (describe) removal and replacement of non-conforming single family dwelling (height) on a non-conforming lot (street frontage).

Property Address 112 North Pamet Road Map(s) and Parcel(s) 48-1

Registry of Deeds title reference: Book N/A, Page N/A, or Certificate of Title Number 208468 and Land Ct. Lot # 7 and Plan # 15097-H

Applicant's Name Anne Peretz

Applicant's Legal Mailing Address 39 Fayerweather Street, Cambridge, MA 02138

Applicant's Phone(s), Fax and Email (617) 460-2818; alperetz@aol.com

Applicant is one of the following: (please check appropriate box) Owner Prospective Buyer* Other* *Written Permission of the owner is required for submittal of this application.

Owner's Name and Address William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr.***

Representative's Name and Address Benjamin E. Zehnder / La Tanzi, Spaulding & Landreth P.O. Box 2300

Representative's Phone(s), Fax and Email Orleans, MA 02653 (508) 255-2133; (508) 255-3786; bzehnder@latanzi.com

2. The completed application shall also be submitted electronically to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

- The applicant is *advised* to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

*** The Clark Estates, Inc. 1 Rockefeller Plaza, 31st Floor, New York, NY 10020

Signature(s)

Anne Peretz by Benjamin E. Zehnder
Applicant(s)/Representative Printed Name(s)
[Signature] 12/21/20
Applicant(s)/Representative Signature

William T. Burdick & Richard C. Vanison, Trustees
Owner(s) Printed Name(s) or written permission
(see attached owners' authorization)
[Signature]
Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date December 21, 2020

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____

APPLICATION FOR SPECIAL PERMIT

- Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____
- Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section 30.3(8) of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____
removal and replacement of non-conforming single family dwelling (height) on a non-conforming lot (street frontage).

Property Address 112 North Pamet Road Map(s) and Parcel(s) 48-1

Registry of Deeds title reference: Book N/A, Page N/A, or Certificate of Title Number 208468 and Land Ct. Lot # 7 and Plan # 15097-H

Applicant's Name Anne Peretz

Applicant's Legal Mailing Address 39 Fayerweather Street, Cambridge, MA 02138

Applicant's Phone(s), Fax and Email (617) 460-2818; alperetz@aol.com

Applicant is one of the following: *(please check appropriate box)*

*Written Permission of the owner is required for submittal of this application.

- Owner Prospective Buyer* Other*

Owner's Name and Address William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr.***

Representative's Name and Address Benjamin E. Zehnder / La Tanzi, Spaulding & Landreth P.O. Box 2300

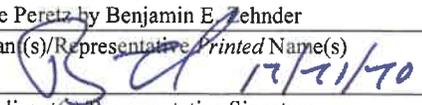
Representative's Phone(s), Fax and Email Orleans, MA 02653 (508) 255-2133; (508) 255-3786; bzehnder@latanzi.com

2. The completed application **shall also** be submitted **electronically** to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

- The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

*** The Clark Estates, Inc. 1 Rockefeller Plaza, 31st Floor, New York, NY 10020

Signature(s)

Anne Peretz by Benjamin E. Zehnder
 Applicant(s)/Representative Printed Name(s)

 Applicant(s)/Representative Signature

William T. Burdick & Richard C. Vanison, Trustees
 Owner(s) Printed Name(s) or written permission
 (see attached owners' authorization)
 Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

Project Narrative – Common Narrative for Special Permit and Variance Applications

112 North Pamet Road
Assessor's Map 48, Parcel 1
Anne Peretz

December 21, 2020

Prepared by B. Zehnder / La Tanzi, Spaulding & Landreth

Applicant Anne Peretz seeks zoning relief for developed property at 112 North Pamet Road, Assessor's Parcel ID 48-A, which is held in trust by William T. Burdick and Richard C. Vanison as Trustees of the Dune House Nominee Trust under a declaration of trust dated February 27, 2015.

Due to the ongoing coastal bank erosion the applicant intends to demolish the existing residential dwelling near the crest of the bank and construct a smaller replacement dwelling further inland. However, due to the lot topography the most suitable location for the house is in the side yard (south) setback and therefore requires a M.G.L. c. 40A § 10 variance from the Bylaw § 50.1(A) 25' minimum side yard setback requirement. The proposal also requires a special permit under § 30.8 for the demolition and reconstruction pursuant to § 30.3(8) and § 30.7, due to the lot's pre-existing frontage non-conformity and the dwelling's pre-existing height non-conformity under § 50.1(A).

1. Lot Description and History:

The applicant's property is an ocean front 3.30 acre parcel of registered land in the Cape Cod National Seashore and the town's Seashore zoning district. It is accessed via an unnamed dirt way off North Pamet Road and is north of Ballston Beach and the Pamet River.

The parcel was originally created in 1944 as Lot 1B on Land Court Plan 15097-D. At that time it was improved with a dwelling, as shown on the 1944 Land Court plan, and the lot extended to the mean high water mark. In 1971 the United States of America acquired title to a portion of Lot 1B, excepting the house and 3.30 acres of land. This resulted in the current lot configuration, shown as Lot 7 on Land Court Plan 150970-H (Tract 17-T-8597 on the Seashore's Tract Maps). All of the lands abutting the property are owned by the United States and there are no private abutters

In 1988-89 the owners installed a foundation and relocated the existing dwelling, incorporating it into a new wooden frame. This work was done pursuant to a building permit and a Conservation Commission Order of Conditions. At that time, the Building Inspector did not require the property owners to obtain zoning relief for the alterations but permitted them to be done as a matter of right.

The coastal bank has eroded significantly since 1989. As of this October the foundation of the existing dwelling was approximately 20' from the top of the coastal

bank at its closest point. The top of bank line is currently approximately 30' closer to the house than it was when measured in October 2015. As demonstrated by the storm damage to the beach and properties to the south at 116 North Pamet Road and 133 South Pamet Road, the coastal bank in this area does not erode at a predictable rate but instead is susceptible to sudden significant erosion during storms.

2. *Lot and Structure Non-Conformities:*

Locus is pre-existing and non-conforming as to frontage, having no frontage on a 'street' as defined under the current zoning bylaw. Additionally, the existing dwelling has a building ridge height of 30.4' as measured from the existing average grade and is protected for the purposes of special permit relief under G.L. c. 40A, s. 7. The property is conforming as to minimum lot size and front, rear, and side yard setback distances.

3. *Proposed Removal of Existing Dwelling & Construction of New Dwelling:*

The applicant proposes demolishing the existing dwelling and building a smaller dwelling at a different location. The proposed demolition would occur within the marked work limit and staging areas shown on the site plan, and would include the complete removal of the existing structure and paved section of driveway leading to it, followed by re-vegetation of the house site with native grasses and wood shrubs. The existing septic tank and pipe would be abandoned, with a new pipe to connect the existing d-box proposed.

The new replacement dwelling is proposed for a section of the lot southeasterly from the current dwelling, adjacent to the property's southerly boundary. This location will result in the new structure being approximately 165' distant from the current top of bank,

The proposed dwelling is smaller than the existing house and will result in a total impervious lot coverage of 3,870 s.f. (2.7%), which is a decrease of 571 sq. ft. from the current 4,441 sq. ft. coverage. The new structure will have a building height of 30.1', reducing the existing height non-conformity by 0.3' and making the property more conforming under zoning.

4. *Petition for Variance:*

The applicant requests a variance from Bylaws §50.1(A) (requiring a minimum side yard setback distance of 25' in the zoning district). She proposes a 5' setback distance from that same property line to the proposed deck, as shown on the site plan.

Under Bylaws § 30.3(B)(8), the Board of Appeals is authorized to approve lesser side yard setback distances, provided doing so does not alter the residential character of the premises. The applicant submits that a variance is appropriate relief

under the circumstances at locus, including the lot shape and topography, and the ongoing erosion. The property is roughly bow-tie shaped, with an elongated southwest-northeast axis and a proportionally narrower southeast-northwest axis. This shape resulted from a prior owner's grant of a large portion of the former lot configuration to the United States of America in 1971. Before then, the lot extended over 590' from its southerly to northerly property lines and had a much larger area to relocate a dwelling, had it been necessary. Because of the narrow lot shape, there is only a small area of the property where a conforming structure may be built within the 25' side setback envelope (there is no 'street,' as defined, connecting to or abutting locus, which would require a 50' yard setback distance and would reduce the envelope further).

However, the land within the envelope is not suitable for placing a house. The easterly side of the property is close to the top of the coastal bank and thus subject to the same ongoing coastal erosion as the current dwelling. Locating a dwelling there would only provide a few additional years of use before erosion threatened that structure as well.

The westerly side of the property, and the area to the north of the proposed location, are the lowest areas of the lot's topography (the ground elevations rise towards the property lines on both sides) and form hollows. As a result, water during severe rain storms would always flow towards a house built in either place. Furthermore, wind-blown sand on the ocean side tends to accumulate in hollows and it would be necessary to shovel sand out of the lower levels of a house there on a regular basis. Finally, a replacement dwelling in these areas would lose the existing beautiful water views, which are integral to the use and enjoyment of the property, because it would be located behind the much higher topography to the east.

The lot shape and topography factors affect this particular property, but do not generally affect properties within the Seashore Zoning District. The existing house was located away from the hollows at a higher elevation on the lot to maximize the scenic views of the Atlantic Ocean. The Land Court plans depict the original house at approximately 140' away from the coastal bank. The current house location was moved further back on the lot during the 1989 / 90 alterations. Since that time the bank has eroded significantly, and is beginning to cut into the lot, resulting in the increasingly narrow lot shape and reduction in the non 'hollow' areas of the property.

The applicant proposes a new house location adjacent to the southerly property boundary of the lot. The structure would be setback 12' ± from the sideline, with an outdoor deck setback 5' ±, requiring a variance from the 25' side yard setback requirement. This proposal minimizes future erosion risk, retains the applicant's view, and allows her to avoid building in hollows or having to relocate her water well. Due to these factors, a literal interpretation of the 25' sideline setback requirement would involve substantial hardship, financial and otherwise, to the applicant.

Desirable relief may be granted without harm to the public good. Locus is surrounded by land owned by the United States in its natural, undeveloped condition.

As part of the Cape Cod National Seashore, the surrounding land will never be developed. There are no abutting developed properties which would be negatively impacted by the location of a dwelling in the side yard setback (for example, by reducing light or natural space between structures). Insofar as impact on the public good, generally, there is no substantive difference between a structure 12 feet away from an invisible line of ownership versus one set back 25 feet; there will continue to be an extremely large area of natural land between the dwelling and any other dwelling, and the public use of the land in the United States' ownership will not change at all.

The applicant submits that a variance may be granted without nullifying or substantially derogating from the intent or purpose of the Bylaws' setback requirements. The requirements result in separation between structures on abutting properties and between structures and streets. Their purpose is to increase safety in a zoning district by requiring sufficient building separation to allow for natural light, air, vegetation, and access. Without such requirements an owner could build up to his or her common property line, which would make it impossible to access all sides of a structure by, e.g., police, fire or rescue personnel.

These considerations are simply not applicable at locus. As noted above, the surrounding property is undeveloped federal land and will remain so forever. There is thus no possibility that another structure will be built in proximity to the lot line and reducing the possible means of access. Similarly, there are no other houses for the proposed replacement dwelling to impinge upon, in terms of light, natural space, or airflow. Based on these facts, a variance would not harm the purposes of the Bylaws' minimum setback distance requirements.

5. *Application for Special Permit:*

Because locus is pre-existing and non-conforming with regard to frontage on a 'Street' and is protected under G.L. c. 40A, s. 7 as to building height, special permit relief is available under § 30.3(B)(8), § 30.7(A), and § 50.1(B).

Residential uses are allowed in the Seashore District. Under § 30.3(B)(8), the moving, alteration, enlargement, maintenance, or repair of existing one family residential dwellings is allowed, provided there is a 50' minimum setback from any streets and a 25' minimum setback from abutters' property lines, and provided that the Building Commissioner determines that the changes do not alter the essential character of the structure as a residential dwelling. Under that same section, the Board of Appeals is authorized to approve lesser sideline setback distances, provided doing so does not alter the residential character of the premises.

Under Section 30.7(A), lawful pre-existing non-conforming uses and structures may, when a variance would otherwise be required, be altered or extended by special permit if the Board finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure, and

that the alteration or extension will exist in harmony with the general purpose and intent of the Bylaw.

The proposed dwelling will be a traditional, gable roofed shingle style single family dwelling. This structure will be smaller than the existing dwelling and will be set at a lower elevation, such that it is less visible from the beach and surrounding lands. These alterations at locus will not be more detrimental to the neighborhood than the existing building, nor will they affect or change the frontage non-conformity. As such, the applicant submits that the proposed alteration will exist in harmony with the purpose and intent of the Bylaws.

The existing dwelling is non-conforming under § 50.1(A) as to building height, having a ridge height of 30.4'. The applicant is seeking to continue this non-conformity at the proposed location for the new dwelling, with a proposed building height of 30.1', which is a reduction in intensity. Under Section 50.1(B), the Board of Appeals may authorize this exception to the maximum building by Special Permit. The applicant submits that the proposed building height, after completion of site grading, will not be substantially more detrimental to the neighborhood than the existing structure's height non-conformity, and will be in harmony with the general purpose and intent of §50.1(A).

- END -

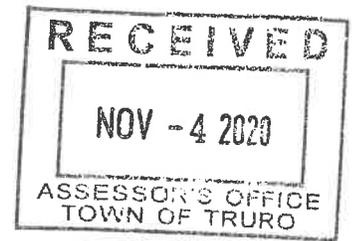


TOWN OF TRURO

Assessors Office

Certified Abutters List

Request Form



DATE: November 2, 2020

NAME OF APPLICANT: Anne Labouisse Peretz; William T. Burdick & Richard C. Vanison, Tr., Dune House Nom. Tr.

NAME OF AGENT (if any): Benjamin E. Zehnder / La Tanzi, Spaulding & Landreth P.O. Box 2300 Orleans, MA 02653

MAILING ADDRESS: 39 Fayerweather Street, Cambridge, MA 02138

CONTACT: HOME/CELL (617) 460-2818 EMAIL alperetz@aol.com

PROPERTY LOCATION: 112 North Pamet Road
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 48 PARCEL 1 EXT. _____
(if condominium)

ABUTTERS LIST NEEDED FOR:
(please check all applicable)

FEE: **\$15.00 per checked item**
(Fee must accompany the application unless other arrangements are made)

- | | | |
|---------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Board of Health ⁵ | <input type="checkbox"/> Planning Board (PB) | <input type="checkbox"/> Zoning Board of Appeals (ZBA) |
| <input type="checkbox"/> Cape Cod Commission | <input type="checkbox"/> Special Permit ¹ | <input checked="" type="checkbox"/> Special Permit ¹ |
| <input type="checkbox"/> Conservation Commission ⁴ | <input checked="" type="checkbox"/> Site Plan ² | <input checked="" type="checkbox"/> Variance ¹ |
| <input type="checkbox"/> Licensing | <input type="checkbox"/> Preliminary Subdivision ³ | |
| Type: _____ | <input type="checkbox"/> Definitive Subdivision ³ | |
| | <input type="checkbox"/> Accessory Dwelling Unit (ADU) ² | |
| <input type="checkbox"/> Other _____ | | |
- (Please Specify) (Fee: Inquire with Assessors)

Note: Per M.G.L., processing may take up to 10 calendar days. Please plan accordingly.

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: Nov 4, 2020 3:45

Date completed: 11/6/2020

List completed by: [Signature]

Date paid: 11/4/2020 Cash Check 13087

¹ Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line.

² Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property.

³ Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. **Note:** For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required.

⁴ All abutters within 300 feet of parcel, except Beach Point between Knowles Heights Road and Provincetown border, in which case it is all abutters within 100 feet. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.

⁵ Abutters sharing any boundary or corner in any direction – including land across a street, river or stream. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.



TRURO ASSESSORS OFFICE
PO Box 2012 Truro, MA 02666
Telephone: (508) 214-0921
Fax: (508) 349-5506

Date: November 5, 2020

To: Dune House Nominee Trust
c/o Benjamin Zehnder & La Tanzi, Spaulding & Landreth
PO Box 2300
Orleans, MA 02653

From: Assessors Department

Certified abutters list application for: 112 No Pamet Rd Map 48 Parcel 1.

Special Permit-Zoning Board of Appeals:

Attached is a list of Truro abutters for the property located at 112 No Pamet Rd. Due to the fact that the sole abutter within 300 feet is only the National Seashore, we have included the closest abutters surrounding the property within a reasonable distance. The current owner of the property is the Dune House Nominee Trust. The names and addresses of the abutters are as of October 30, 2020 according to the most recent documents received from the Barnstable County Registry of Deeds.

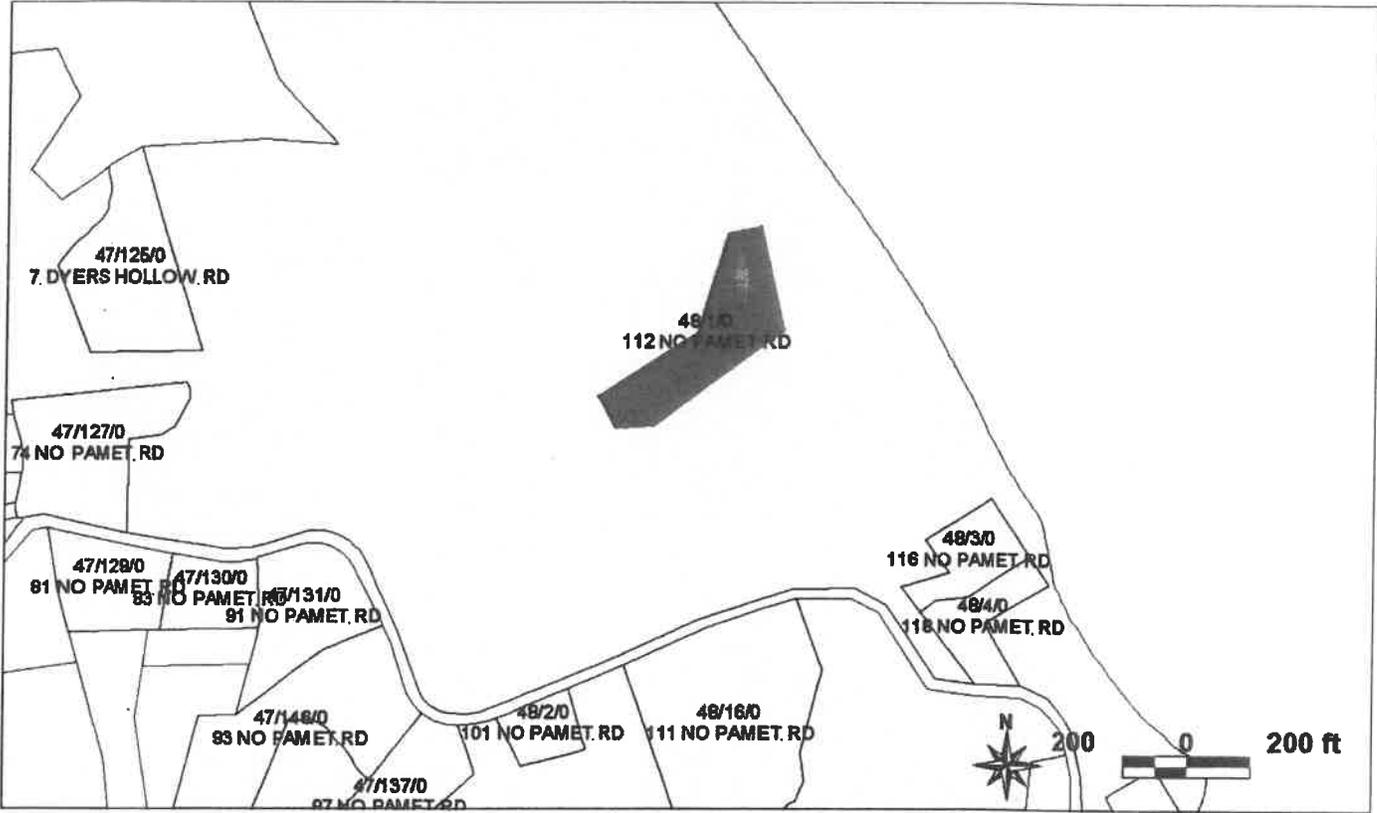
Certified by: _____

Jon Nahas
Principal Assessor
Town of Truro
24 Town Hall Rd
PO Box 2012
Truro, MA 02666
508.214.0917
jnahas@truro-ma.gov

112 No Pamet Rd
 Map 48 Parcel 1
 Special Permit-ZBA

TOWN OF TRURO, MA
 BOARD OF ASSESSORS
 P.O. BOX 2012, TRURO MA 02666

Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
7292	40-999-0-E	USA-DEPT OF INTERIOR Cape Cod National Seashore	0 CAPE COD NATIONAL SEASHORE	99 Marconi Site Rd	Wellfleet	MA	02667
2699	47-125-0-R	WEINSTEIN ROBERT M & KRAFT MONICA	7 DYERS HOLLOW RD	PO BOX 478	TRURO	MA	02666
2701	47-127-0-R	GREGORY ANDRE & KLEINE CINDY R	74 NO PAMET RD	455 WEST 20TH ST #4B	NEW YORK	NY	10011
2703	47-129-0-R	AIKEN FAMILY TRUST TRS: BARRINGTON SAMUEL C	81 NO PAMET RD	PO BOX 1130	TRURO	MA	02666-1130
2704	47-130-0-R	RICHARDS NOMINEE TRUST TRS: RICHARDS TIMOTHY JET AL	83 NO PAMET RD	C/O RICHARDS JAMES F PO BOX 1	SOUTH KENT	CT	06785
2705	47-131-0-R	AIKEN ALISON REV LIV TRUST AGR TRS: AIKEN ALISON	91 NO PAMET RD	PO BOX 1041	TRURO	MA	02666-1041
2711	47-137-0-R	IRWIN ANNE L IRREV TRUST TRS: N J WOLFF & E C IRWIN	97 NO PAMET RD	PO BOX 846	TRURO	MA	02666-0846
2720	47-146-0-R	SULLIVAN DANIEL E & KATHERINE AIKEN	93 NO PAMET RD	1614 NE ALBERTA ST	PORTLAND	OR	97211
2738	48-1-0-R	DUNE HOUSE NOMINEE TRUST TRS BURDICK WILLIAM T ET AL	112 NO PAMET RD	C/O CLARK ESTATES INC 1 ROCKEFELLER PLAZA FLOOR 31	NEW YORK	NY	10020
2739	48-2-0-R	KINZER STEPHEN A & MARIANNE A	101 NO PAMET RD	33 UNION PARK	BOSTON	MA	02116
2740	48-3-0-R	FAY SHARON & SCHAFFER MAXINE	116 NO PAMET RD	46 MONROE PLACE	BROOKLYN	NY	11201
2741	48-4-0-R	GERSEN JACOB E & JEANNIE C SUK	118 NO PAMET RD	10 FAYERWEATHER ST	CAMBRIDGE	MA	02138
6555	48-16-0-E	U S A DEPT OF THE INTERIOR	111 NO PAMET RD	CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD	WELLFLEET	MA	02667

Handwritten signature and date: j 11/6/2020

<p>40-999-0-E</p> <p>USA-DEPT OF INTERIOR Cape Cod National Seashore 99 Marconi Site Rd Wellfleet, MA 02667</p>		<p>47-125-0-R</p> <p>WEINSTEIN ROBERT M & KRAFT MONICA PO BOX 479 TRURO, MA 02666</p>		<p>47-127-0-R</p> <p>GREGORY ANDRE & KLEINE CINDY R 455 WEST 20TH ST #4B NEW YORK, NY 10011</p>
<p>47-129-0-R</p> <p>AIKEN FAMILY TRUST TRS: BARRINGTON SAMUEL C PO BOX 1130 TRURO, MA 02666-1130</p>		<p>47-130-0-R</p> <p>RICHARDS NOMINEE TRUST TRS:RICHARDS TIMOTHY J ET AL C/O RICHARDS JAMES F PO BOX 1 SOUTH KENT, CT 06785</p>		<p>47-131-0-R</p> <p>AIKEN ALISON REV LIV TRUST AGR TRS: AIKEN ALISON PO BOX 1041 TRURO, MA 02666-1041</p>
<p>47-137-0-R</p> <p>IRWIN ANNE L IRREV TRUST TRS: N J WOLFF & E C IRWIN PO BOX 846 TRURO, MA 02666-0846</p>		<p>47-146-0-R</p> <p>SULLIVAN DANIEL E & KATHERINE AIKEN 1614 NE ALBERTA ST PORTLAND, OR 97211</p>		<p>48-1-0-R</p> <p>DUNE HOUSE NOMINEE TRUST TRS BURDICK WILLIAM T ET AL C/O CLARK ESTATES INC 1 ROCKEFELLER PLAZA FLOOR 31 NEW YORK, NY 10020</p>
<p>48-2-0-R</p> <p>KINZER STEPHEN A & MARIANNE A 33 UNION PARK BOSTON, MA 02116</p>		<p>48-3-0-R</p> <p>FAY SHARON & SCHAFFER MAXINE 46 MONROE PLACE BROOKLYN, NY 11201</p>		<p>48-4-0-R</p> <p>GERSEN JACOB E & JEANNIE C SUK 10 FAYERWEATHER ST CAMBRIDGE, MA 02138</p>
<p>48-16-0-E</p> <p>U S A DEPT OF THE INTERIOR CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD WELLFLEET, MA 02667</p>				

Key: 2738

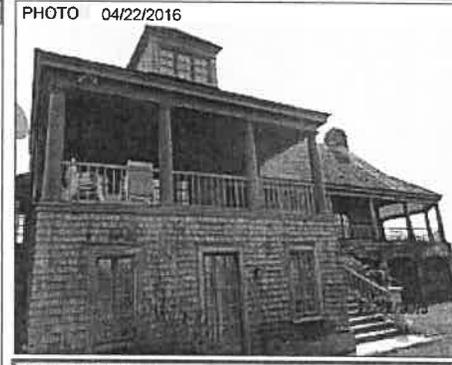
Town of TRURO - Fiscal Year 2021

10/9/2020 9:05 am SEQ #: 2,794

CURRENT OWNER				PARCEL ID				LOCATION				
DUNE HOUSE NOMINEE TRUST TRS BURDICK WILLIAM T ET AL C/O CLARK ESTATES INC 1 ROCKEFELLER PLAZA FLOOR 31 NEW YORK, NY 10020				48-1-0				112 NO PAMET RD				
TRANSFER HISTORY				DOS	T	SALE PRICE	BK-PG (Cert)					
DUNE HOUSE NOMINEE TRUST				01/07/2016	F		(208468)					
QUALIFIED PERS RES TRUST				02/24/2010	99		(190783)					
QUALIFIED PERS RES TRUST				03/07/1995	F		(136571)					
CD	T	AC/SF/UN	Nbhd	Inf1	Inf2	ADJ BASE	SAF	Inf3	Lpi	VC	CREDIT AMT	ADJ VALUE
100	A	0.775	16	1.00	1	1.00	1	1.00	SW1	7.50		1,568,790
300	A	2.525	16	1.00	1	1.00	1	1.00	SW1	7.50		390,110

TOTAL	3.300 Acres	ZONING	NSD	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	NAT'L SEASHORE	N FY07=CHGD WF FACTOR TO MATCH O 48-003+004+012. CHECK A2 FACTOR 1/07 (EXTREME T PRIVACY; NO ABUTTERS EXCEPT CCNS).				LAND	1,958,900	1,939,400
Inf1	NO ADJ					BUILDING	1,306,200	1,213,100
Inf2	NO ADJ					DETACHED	0	0
						OTHER	0	0
						TOTAL	3,265,100	3,152,500

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD



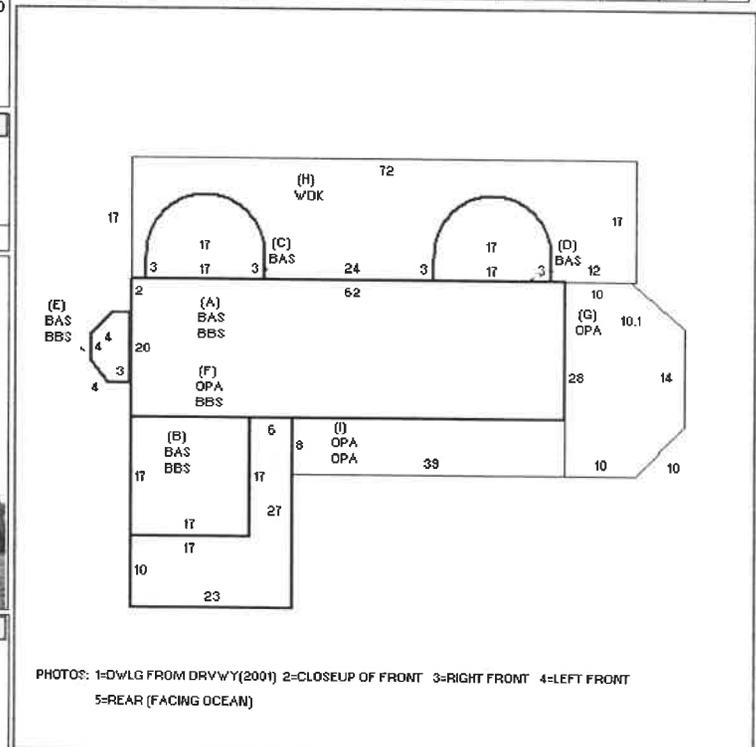
BLDG COMMENTS
FY11 CHNGS PER 12/09 MEAS ONLY (100 SF USE = APPROX 10X10 DORMER OVER LEFT FRONT SECT).

BUILDING	CD	ADJ	DESC	MEASURE	4/29/2016	FC
MODEL	1		RESIDENTIAL	LIST	4/29/2016	FC
STYLE	16	1.30	NEW STYLE [100%]	REVIEW	12/15/2010	LVM
QUALITY	E	2.00	EXCELLENT [100%]			
FRAME	1	1.00	WOOD FRAME [100%]			

YEAR BLT	1991	SIZE ADJ	1.000	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN
NET AREA	3,938	DETAIL ADJ	1.000	FOUNDATION	4	BSMT WALL	1.00	+	BBS	L	BSMT BAS AREA	1,908	1991	373.03	711,747
\$NLA(RCN)	\$461	OVERALL	1.330	EXT. COVER	1	WOOD SHINGLES	1.00	+	BAS	L	BAS AREA	1,930	1991	439.25	847,745
				ROOF SHAPE	1	GABLE	1.00	+	OPA	N	OPEN PORCH	1,380		87.98	121,413
				ROOF COVER	2	WOOD SHINGLES	1.01	H	WDK	N	ATT WOOD DECK	869		67.83	58,946
				FLOOR COVER	1	HARDWOOD	1.00	USF	L	UP-STRY FIN	100	1991	363.36	36,336	
				INT. FINISH	2	DRYWALL	1.00	F22	O	FPL 2S 2OP	1		31,693.90	31,694	
				HEATING/COOLING	2	HOT WATER	1.02								
				FUEL SOURCE	1	OIL	1.00								
CAPACITY		UNITS	ADJ												
STORIES(FAR)		2	1.00												
ROOMS		0	1.00												
BEDROOMS		2	1.00												
BATHROOMS		3	1.00												
FIXTURES		9	\$6,300												
UNITS		0	1.00												

TOTAL RCN	1,814,180
CONDITION ELEM	CD
EFF YR/AGE	1991 / 28
COND	28 28 %
FUNC	0
ECON	0
DEPR	28 % GD 72
RCNLD	\$1,306,200

CLASS	CLASS%	DESCRIPTION	BN ID	BN	CARD			
1010	100	SINGLE FAMILY		1	1 of 1			
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
89-154	10/20/1989	1	SINGLE FAM R	750,000	07/29/1992		100	100



LEG
AL
LAND

DET
ACH
ED

B
U
I
L
D
I
N
G



- Parcels
- Buildings
- Sidewalks
- Street Pavement
- Town Boundary
- MA Highways
 - Interstate
 - US Highway
 - Numbered Routes
- Street Centerlines
- Abutting Towns Labels
- Abutting Towns
- Waterbodies
- Major Streams
- Town Mask
- Bath Donut2
 - 0-5 ft
 - 5-10 ft
 - 10-15 ft
 - 15-20 ft
 - 20-30 ft
 - 30-40 ft
 - 40-50 ft
 - 50-60 ft
 - 60-70 ft
 - 70+ ft
- Bathymetry
 - 0-5 ft
 - 5-10 ft
 - 10-15 ft
 - 15-20 ft
 - 20-30 ft
 - 30-40 ft
 - 40-50 ft
 - 50-60 ft
 - 60-70 ft
 - 70+ ft
- Background

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 11/18/2020 at 10:20 AM

112 North Pamet Road - Truro, MA

*One Rockefeller Plaza
New York, N.Y. 10020-2102*

Telephone: 212-977-6900

November 17, 2020

**Re: Dune House Nominee Trust
112 North Pamet Road
Assessor's Map 48, Parcel 1**

We, William T. Burdick and Richard C. Vanison, as Trustees of the Dune House Nominee Trust u/d/t dated February 27, 2015, hereby authorize and give permission to Anne Labouisse Peretz and her representative, Benjamin E. Zehnder, Esq. of La Tanzi, Spaulding & Landreth, PC., to apply to the Zoning Board of Appeals and/or the Planning Board for the Town of Truro relative to property owned by us, as Trustees of the above-named Trust, at 112 North Pamet Road, Assessor's Map 48, Parcel 1.



William T. Burdick



Richard C. Vanison

Doc. No. 1,285,948
Ctf. No. 208468

TRANSFER CERTIFICATE OF TITLE

From Certificate No. 190783, Originally Registered February 24, 2010
in the Registry District of Barnstable County.

THIS IS TO CERTIFY that WILLIAM T BURDICK, RICHARD C VANISON, as trustees of the
Dune House Nominee Trust under a Declaration of Trust dated February 27, 2015 being
Document No. 1,285,947, of The Clark Estates Inc., 1 Rockefeller Plaza, 31st Floor,
New York, New York 10020,

the owner(s) in fee simple,

of that land situated in TRURO

in the county of Barnstable and the Commonwealth of Massachusetts, described as
follows:

LOT 7

PLAN 15097-H

Said land is subject to and has the benefit of the easements,
rights and conditions set forth or referred to in Certificate of Title No. 13090,
so far as the same are in force and applicable.

And it is further certified that said land is under the operation and provisions
of Chapter 185 of the General Laws, and that the title of said owner(s) to said
land is registered under said Chapter, subject, however, to any of the encumbrances
mentioned in Section forty-six of said Chapter, which may be subsisting

WITNESS JUDITH C. CUTLER, Chief Justice of the Land Court at Barnstable, in said
County of Barnstable,

the seventh day of January in the year two thousand and sixteen

at 1 o'clock and 42 minutes

Attest, with the Seal of said Court,

JOHN F. MEADE, Assistant Recorder.

Land Court Case No. 15097

SUBDIVISION PLAN OF LAND IN TRURO

15097H

W. G. Slade, Surveyor

August, 1971

S Osborn Ball et al Trs.

Cert. 4406

N 60° 48' 40" E

776.31

1102 ±

L.G.B. 201 ±

Pamet Cranberry Company

N 18° 34' 00" W
317.18
413.94
18723.00 ±
C.B. Ball

WAY

U.S. Coast & Geod. Survey

8

N 75°

39'

32' E

381.13

7

637.09

487.79

507.87

S 68° 48' 40" W

1931

293 ±

L.C.B. Slade

S Osborn Ball et al Trs.

Cert. 4406



WAY

NORTH
PAMET RD.

ATLANTIC OCEAN
Mean High Water Mark

Subdivision of Lot 1^R
Shown on Plan 15097^H
Filed with Cert. of Title No. 6979
Registry District of Parnstable County

Separate certificates of title may be issued for land
shown hereon as Certs. Z & R
By the Court.

Jeanne M. Maloney
Deputy Recorder

OCT. 22, 1971.

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
OCT. 22, 1971
Scale of this plan 150 feet to an inch
R.L. Woodbury, Engineer for Court



COASTAL
engineering co.

CIVIL, STRUCTURAL,
MARINE ENGINEERS
AND LAND SURVEYORS

260 Cranberry Highway, Orleans, MA 02653

Orleans | Sandwich | Nantucket

508.255.6511 P 508.255.6700 F coastalengineeringcompany.com

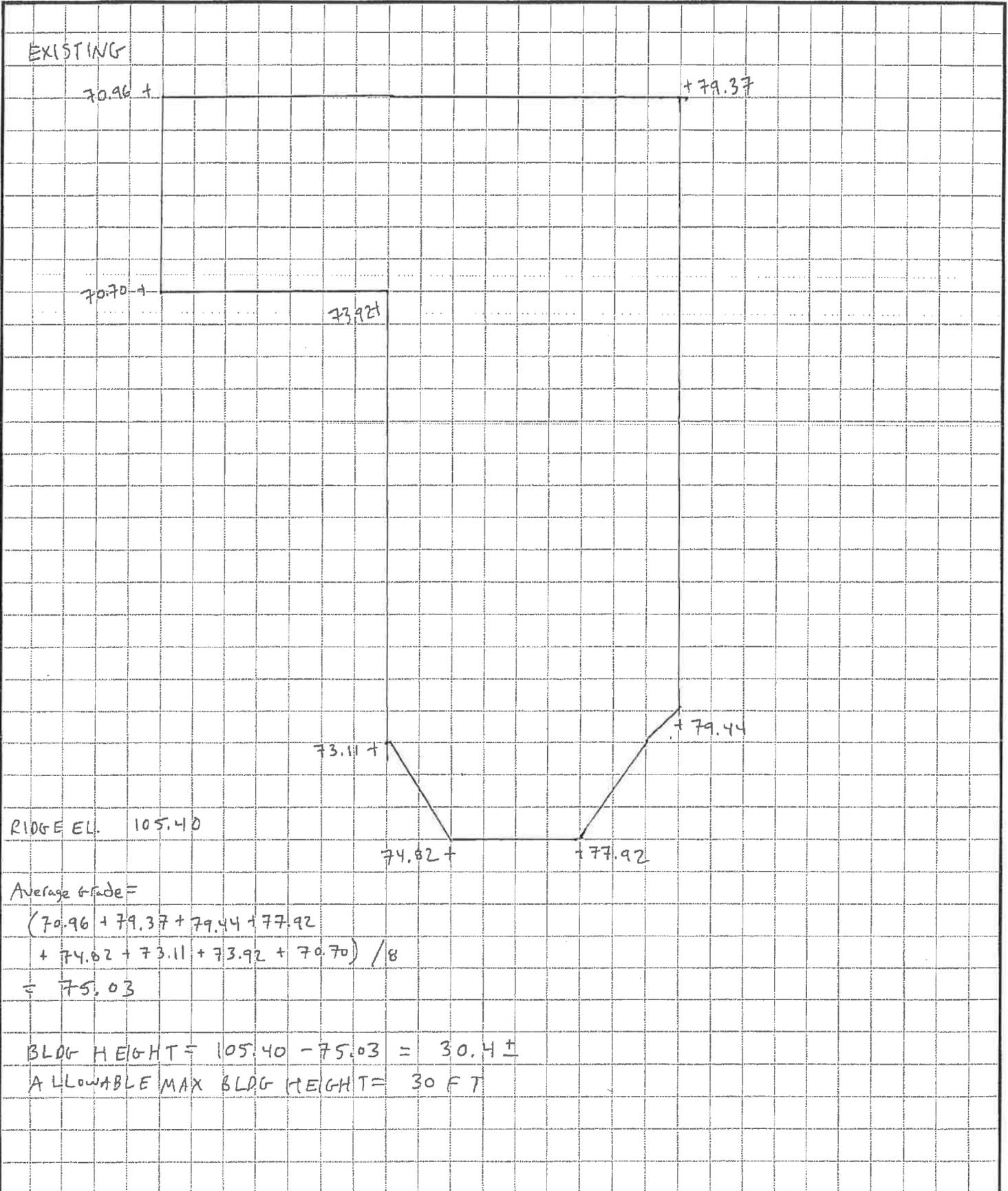
JOB C 11403.01

SHEET NO. _____ OF _____

CALCULATED BY SRM DATE 2/23/17

CHECKED BY _____ DATE _____

SCALE None





COASTAL
engineering co.

CIVIL, STRUCTURAL,
MARINE ENGINEERS
AND LAND SURVEYORS

260 Cranberry Highway, Orleans, MA 02653

Orleans | Sandwich | Nantucket

508.255.6511 P 508.255.6700 F coastalengineeringcompany.com

JOB G11483.01 PEREZ

SHEET NO. 1 OF

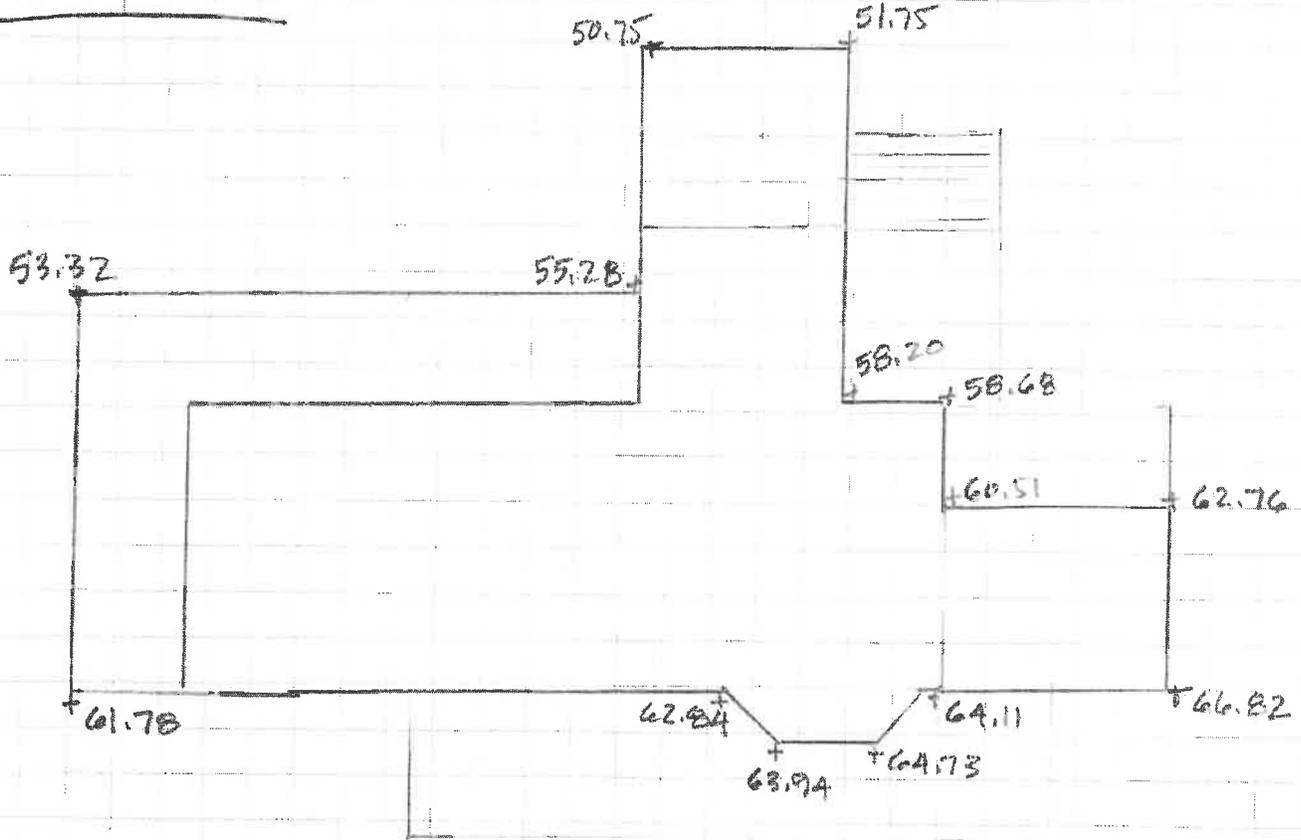
CALCULATED BY BPM DATE 11-12-20

CHECKED BY DATE

SCALE NONE

PROPOSED

GRADE PLANE CALCULATION



AVG. GRADE

$$\frac{(53.32 + 55.28 + 50.75 + 51.75 + 58.20 + 58.68 + 60.51 + 62.76 + 66.82 + 64.11 + 64.73 + 63.94 + 62.84 + 61.78)}{14} = 59.67$$

AVG. EXISTING GRADE = 59.67

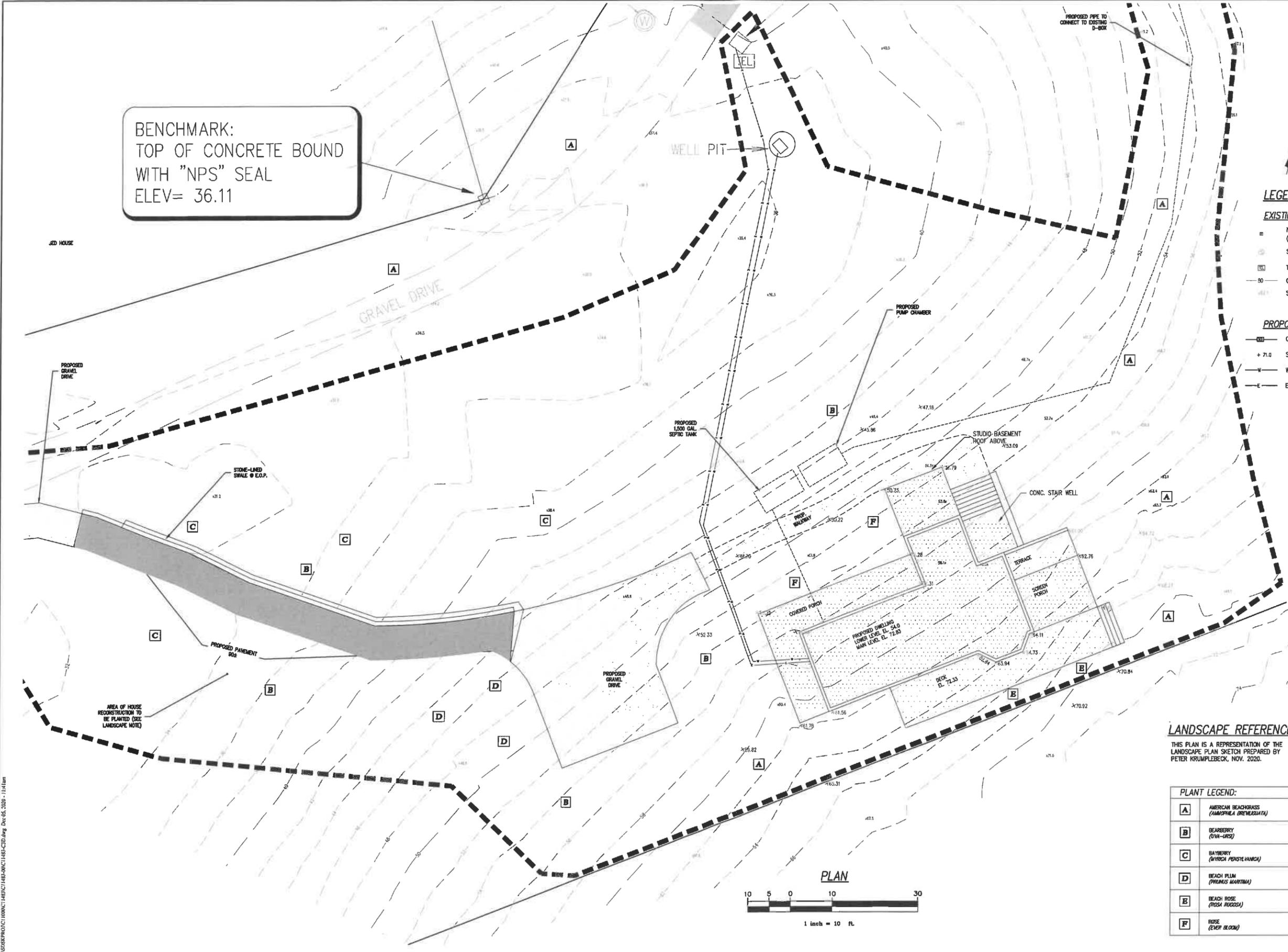
10/16/20 Plans From Coast -

$$\begin{array}{r} \text{Ridge Elev } 89.75 \\ - 59.67 \\ \hline \end{array}$$

30.07 PROPOSED BUILDING HEIGHT

BENCHMARK:
TOP OF CONCRETE BOUND
WITH "NPS" SEAL
ELEV= 36.11

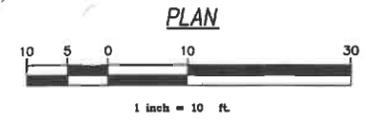
- LEGEND**
- EXISTING**
- NPS BOUND (NATIONAL PARK SERVICE)
 - SEWER MANHOLE
 - TELEPHONE BOX
 - - - CONTOUR
 - SPOT GRADE
- PROPOSED**
- - - CONTOUR
 - + 71.0 SPOT GRADE
 - W WATER SERVICE
 - E ELECTRIC SERVICE



LANDSCAPE REFERENCE:

THIS PLAN IS A REPRESENTATION OF THE LANDSCAPE PLAN SKETCH PREPARED BY PETER KRUMPLEBECK, NOV. 2020.

PLANT LEGEND:	
A	AMERICAN BEACHGRASS (AMPHIPHILA BREVILOBIATA)
B	BEARBERRY (VIBURNUM)
C	BAYBERRY (MYRTLE PENSTEMON)
D	BEACH PLUM (PRUNUS MARITIMA)
E	BEACH ROSE (ROSA rugosa)
F	ROSE (ROSA rugosa)



NO.	DATE	BY	REVISION

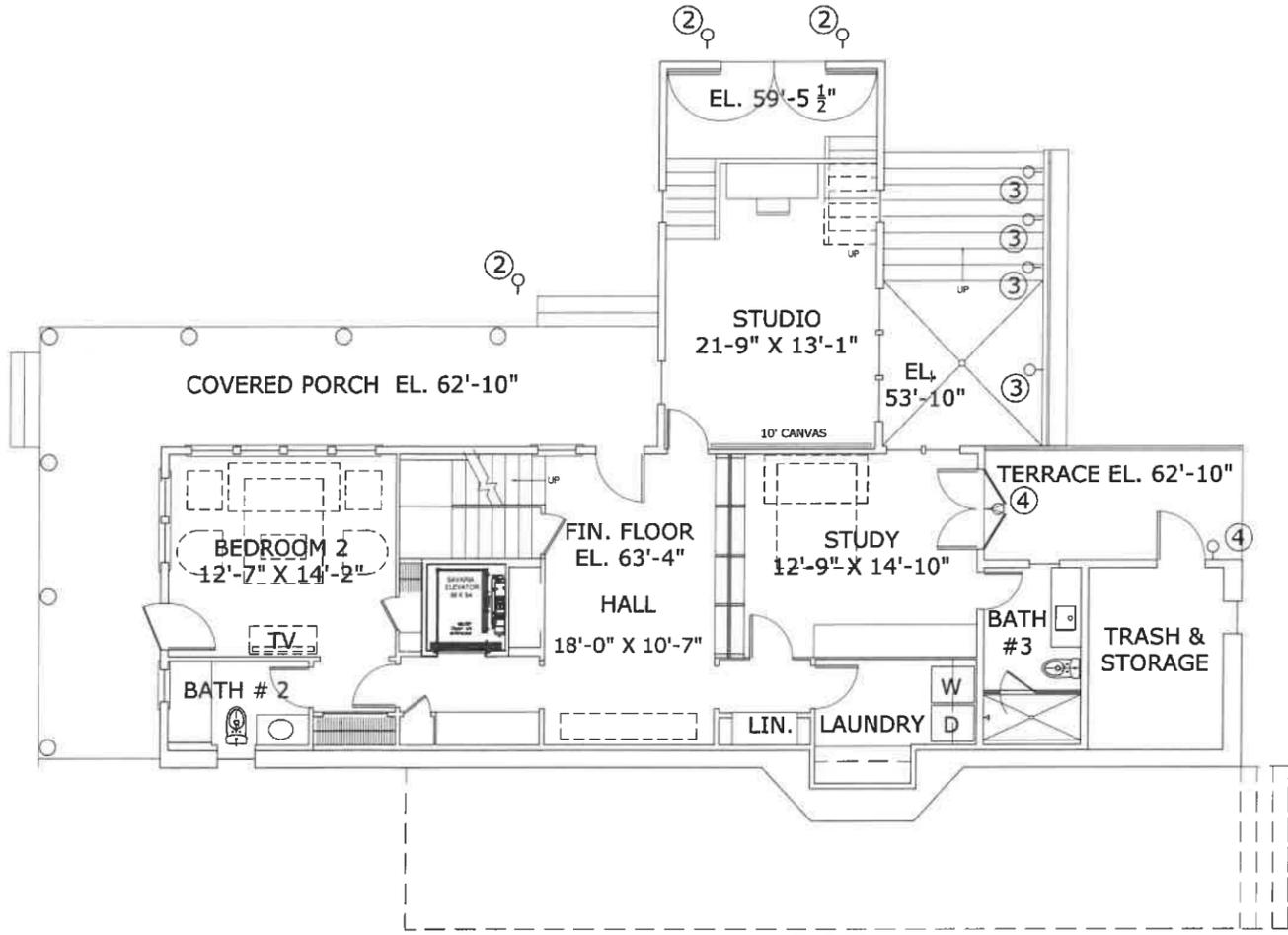
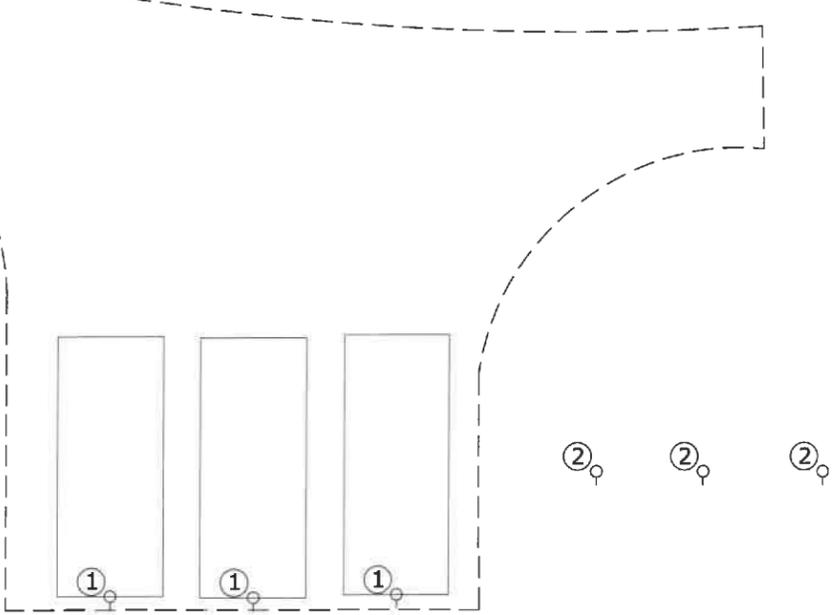
SEAL

PROJECT: ANNE PERETZ
112 NORTH PAMET ROAD
TRURO, MA
SHEET TITLE: LANDSCAPE PLAN

SCALE: AS NOTED
DRAWING FILE: C11483-C3D.dwg
DATE: 12-07-2020
DRAWN BY: bpm
CHECKED BY:

L1.1.1
1 OF 1 SHEETS
PROJECT NO.: C11483.01

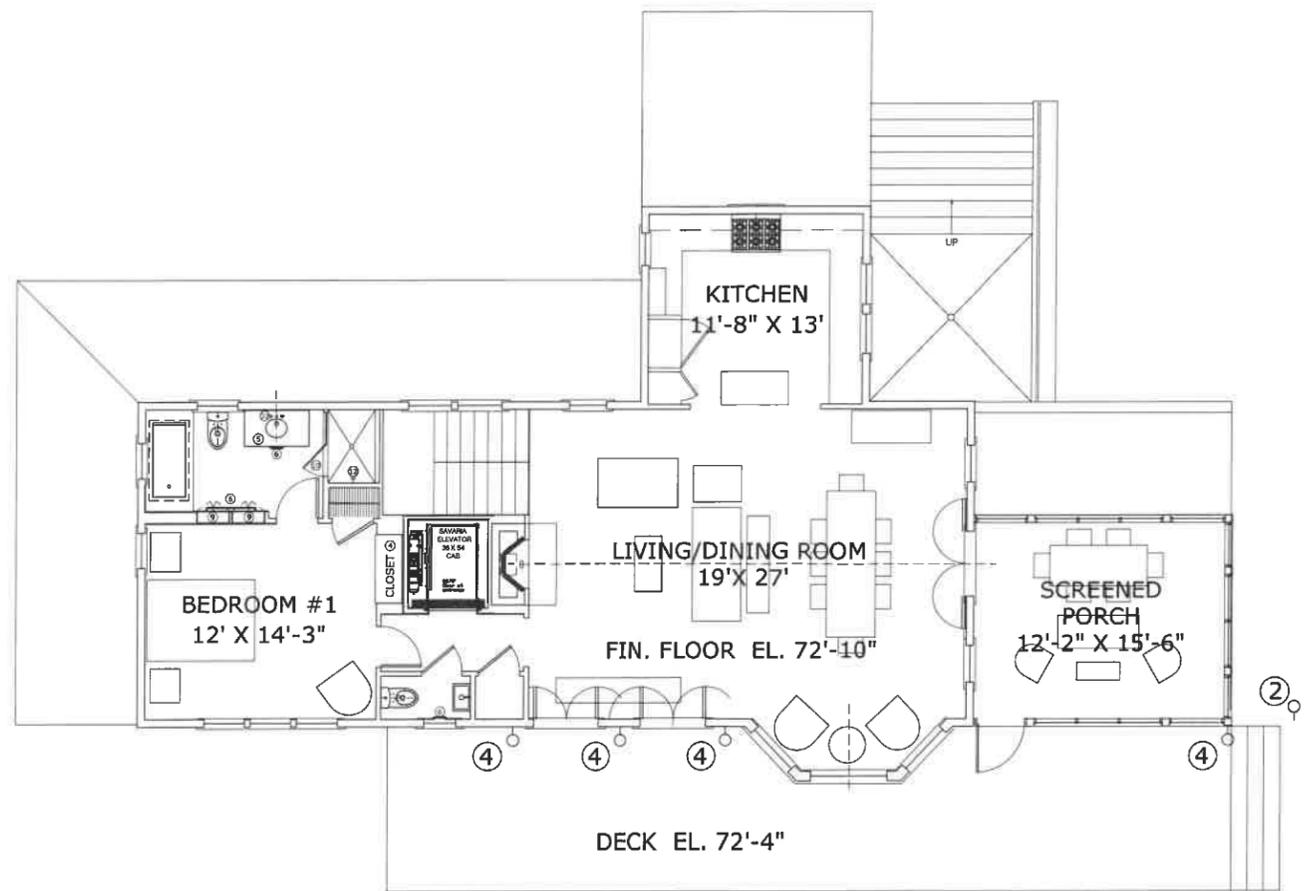
P:\2020\PROJECTS\C11483-C3D.dwg Dec-06-2020 11:11am



LOWER, LEVEL FLOOR PLAN



<p>PERETZ 112 112 NORTH PAMET RD. TRURO, MA</p>																				
<p>DAN COSTA P.O BOX 411 MYSTIC, CT 06355 617-448-9954</p>																				
<table border="1"> <thead> <tr> <th>No.</th> <th>Date</th> <th>Revision</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	No.	Date	Revision																<p>OWNER SIGN-OFF WITH DATE</p>	
No.	Date	Revision																		
<p>LOWER LEVEL PLAN</p>																				
<p>GRAPHIC SCALE</p>																				
<p>DECEMBER 7, 2020</p>																				
<p>A1</p>																				



MAIN LEVEL FLOOR PLAN



PERETZ 112
112 NORTH PAMET RD.
TRURO, MA

DAN COSTA
P.O BOX 411
MYSTIC, CT 06355
617-448-9954

No.	Date	Revision

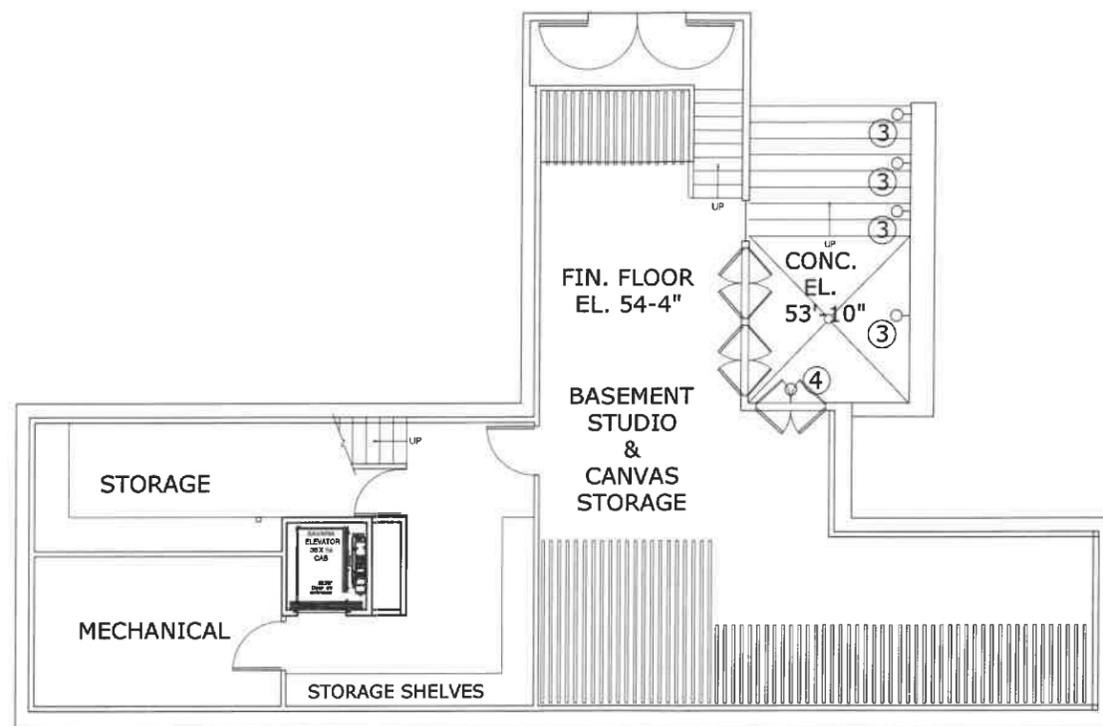
OWNER SIGN-OFF WITH DATE

**MAIN
LEVEL
PLAN**

GRAPHIC SCALE

DECEMBER 7, 2020

A2



BASEMENT PLAN



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

**BASEMENT
 LEVEL
 PLAN**

GRAPHIC SCALE

DECEMBER 7, 2020

A3



SOUTH ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

SOUTH ELEVATION

GRAPHIC SCALE

DECEMBER 7, 2020

A4



WEST ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

WEST
 ELEVATION

GRAPHIC SCALE

DECEMBER 7, 2020

A5



NORTH ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

**NORTH
 ELEVATION**

GRAPHIC SCALE

DECEMBER 7, 2020

A6



EAST ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

**EAST
 ELEVATION**

GRAPHIC SCALE

DECEMBER 7, 2020

A7

DECISION OF THE ZONING BOARD OF APPEALS

Special Permit

Atlas Map 48 Parcel 1

Address: 112 North Pamet Road

Case Reference No.: 2020-009/ZBA

Applicant: Anne Labouisse Peretz,
William T. Burdick & Richard C.
Vanison, Trustees, Dune House Nom Tr.

Hearing Dates: January 25, 2021

Decision Date:

Vote: X-X

Sitting:

Arthur F. Hultin, Jr., Chair; Fred Todd, Vice Chair; John Dundas; John Thornley; Chris Lucy, Heidi Townsend

Motion (M. ; M. second). In the matter of 2020-009/ZBA, Application of Anne Labouisse Peretz, William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom Tr. to **[grant]** **[deny]** a Special Permit to reconstruct a nonconforming dwelling in the Seashore District under r G.L. c. 40A, s. 6 and Section 30.7 and 30.8 of the Zoning on property at 112 North Pamet Road (Map 48, Parcel 1), based upon the following materials filed with this Board:

- Application for Hearing
- Project Narrative - Common Narrative for Variance and Special Permit Applicants
- Certified Abutters List
- Assessor's Records
- Owner's Authorization
- Transfer Certificate of Title and Memoranda of Encumbrances
- Subdivision Plan of Land in Truro, No. 15097H, W. G. Slade, Surveyor, August 1973
- Grade calculations, Coastal Engineering (Feb. 23, 2017 and November 12, 2020)
- "Plan Showing Existing Site Conditions, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated August 20, 2009, Scale 1" = 30 ft.
- "Site Plan Showing Proposed Dwelling Reconstruction, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated December 7, 2020, Scale 1" = 30 ft.
- "Proposed Grading Plan for Proposed Dwelling Reconstruction, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated December 7, 2020, Scale 1" = 10 ft.
- "Landscape Plan, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated December 7, 2020, Scale 1" = 10 ft.
- Floor Plans, "Peretz 112, 112 North Pamet Road, Truro, MA" prepared by Dan Costa dated December 7, 2020, Sheets A1-A3

- Elevations, “Peretz 112, 112 North Pamet Road, Truro, MA” prepared by Dan Costa dated December 7, 2020, Sheets A4-A7

The Board also received:

-

This Special Permit Decision is based on the following findings of fact:

1. This property is located in the Seashore District, containing 3.3 acres, conforming as to setbacks. The lot is surrounded by National Seashore property and has no residential abutters. The property has no frontage on North Pamet Road or any street; it is accessed by a dirt road.
1. According to Assessor’s records, the existing house was constructed in 1991. It is located close to the top of coastal bank and is proposed to be demolished due to threat from ongoing coastal erosion. A new residence will be constructed approximately *X feet* shoreward, adjacent to the property’s southern boundary. This site was selected to avoid hollows to the north and west on the property, and to provide protection from coastal bank erosion and storm damage.
2. The proposed setback from the southern lot line is five feet for a deck, and twelve feet for the dwelling itself. Both are nonconforming, where the setback requirements is 25 feet. A variance is required.
3. The height of the existing dwelling is 30.4 feet (nonconforming; 30 feet maximum), The height of the proposed dwelling is 30.1 feet (nonconforming). The elevations for the proposed dwelling indicate a peak ridge height of 90.3 feet. The proposed dwelling itself has a modest footprint, similar to the existing footprint. It is surrounded by a terrace, screened porch, deck and covered porch.
4. A new paved drive and gravel parking area are proposed. Regrading in the area of the new house site, and re-landscaping of the abandoned house site will occur. Paved areas will remain at 1,500 square feet; walkways and terrace areas will increase from 0 to 322 square feet. Lot coverage will decrease from 4,441 to 3,870 square feet, or from 3.1% to 2.7%.
5. Floor plans indicate that there will be a “main level”; “lower level” and “basement” (partially finished) and that the house will have two bedrooms. The elevations suggest a half-story above the “main level” [*more information*]. Exterior material will be red cedar shingles.
6. The Total Gross Floor area of the existing dwelling is 3,167 sq ft.; the proposed Total Gross Floor areas is XXXX. At 3.3 acres, the maximum Gross Floor Area as of right for the lot would be approximately 3660 square feet. The proposed dwelling *conforms/does not conform*.

Findings under Zoning Bylaw Section 30.7 and Section 30.8 and G.L. c. 40A, s. 6

7. The Board finds that the lot is nonconforming as to frontage (lacking any frontage on a street), and that the proposed reconstruction increases existing nonconformities. A special permit is required under Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008).
8. The Board further finds that the existing structure is nonconforming as to height, at 30'4", where the Bylaw maximum is 30 feet. The Board finds that the proposed structure, at 30'1" *does/does not* intensify the existing nonconformity.

[if it does intensify the existing nonconformity, facts on why; special permit finding required]

9. The Board finds that the proposed dwelling essentially recreates the dimensions of the existing dwelling, and that other proposed modifications (relocation of driveway; new parking area) will not alter the character of the lot.
10. The Board finds that construction of the new dwelling at the selected site adjacent to the lot line with National Seashore property *[does] [does not]* impact this neighboring property.

[other findings dependent]

11. Based on the above, the Board finds under Section 30.7 of the Zoning Bylaw that as conditioned herein, the proposed expansion of the existing nonconforming dwelling *[will] [will not]* be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board further finds that the expansion will exist in harmony with the general purpose and intent of the Bylaw.
12. The Board further finds pursuant to Section 30.8 that the proposed use *[is] [is not]* in harmony with the general public good and intent of the Zoning Bylaw.
13. The Board likewise finds under G.L. c 40A, s. 6 that the proposed expansion *[will] [will not]* be substantially more detrimental than the existing nonconforming dwelling to the neighborhood.

Conditions [if a grant]

This Special Permit is granted subject to the following conditions:

1. Construction shall conform to the plans referenced in this decision, including referenced building materials.

2. The height of the expanded structure is limited to *[X feet in height from median grade or other]*
3. Prior to issuance of an occupancy permit, the Applicant shall submit a stamped, As-Built Plan of the residence confirming that the residence conforms to the above limits and dimensions indicated on the Plans.
4. The use of the Property shall be in strict conformance with the Town of Truro Bylaw;
5. Construction shall conform to all conditions imposed by the Planning Board under Residential Site Plan Review.
6. A variance is required in conjunction with this Special Permit for construction of the proposed dwelling and related site work. This Special Permit may be exercised only in compliance with all terms of the variance decision.
7. The Applicant must obtain approval from the Conservation Commission for demolition of the existing house; removal of the existing septic system; planting and other landscaping, and any other activity taking place within jurisdictional resources under the Wetlands Protection Act and/or Truro Wetlands Protection Bylaw.

8. Other conditions

This Special Permit shall lapse after one year if substantial use is not commenced with that time. See Zoning Bylaw Section 30.8.

Art Hultin, Chair

Date

Received, Office of the Town Clerk:

Signature

Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

- No Appeal has been filed.
- An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.



La Tanzi
Spaulding
& Landreth

8 Cardinal Lane
Orleans

14 Center Street, Suite 4
Provincetown

3010 Main Street, Suite 2E
Barnstable

Benjamin E. Zehnder
ext. 128
bzehnder@latanzi.com

December 21, 2020

Susan Joseph, Acting Town Clerk
Truro Town Hall
24 Town Hall Road
Truro, MA 02666

Via hand delivery

Re: Two new Zoning Board of Appeals Applications (Special Permit; Variance)
112 North Pamet Road (Assessor's Parcel ID 48-1)

Dear Ms. Joseph:

Please find enclosed for filing two new applications to the Zoning Board of Appeals, one for a special permit and the other for a variance, for the property at 112 North Pamet Road. I have included an additional nine copies of each application, as well nine copy packets of the common materials (the supporting materials are the same for both applications). Please also find enclosed check no. 13113 in the amount of \$50.00 for the special permit application filing fee, and check no. 13181 for the variance application filing fee. My office will email scans of both applications, with supporting materials, to planner1@truro-ma.gov today.

Thank you for your assistance.

Very truly yours,

Benjamin E. Zehnder

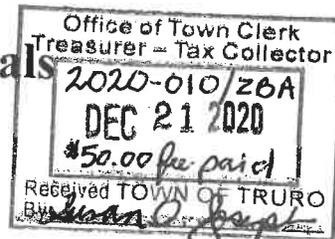
Enc.
cc via email only w attachments:
client
Daniel Costa
Bradford Malo
David Michniewicz

A Legal Beacon since 1969



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666



APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date December 21, 2020

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section 50.1(A) of the Truro Zoning Bylaw concerning *(describe)* removal and replacement of a single family residential dwelling 5' from southerly lot line where minimum setback distance is 25'.

APPLICATION FOR SPECIAL PERMIT

- Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____.
- Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section _____ of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____.

Property Address 112 North Pamet Road Map(s) and Parcel(s) 48-1

Registry of Deeds title reference: Book N/A, Page N/A, or Certificate of Title Number 208468 and Land Ct. Lot # 7 and Plan # 15097-H

Applicant's Name Anne Peretz

Applicant's Legal Mailing Address 39 Fayerweather Street, Cambridge, MA 02138

Applicant's Phone(s), Fax and Email (617) 460-2818; alperetz@aol.com

Applicant is one of the following: *(please check appropriate box)*

*Written Permission of the owner is required for submittal of this application.

- Owner Prospective Buyer* Other*

Owner's Name and Address William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr.***

Representative's Name and Address Benjamin E. Zehnder / La Tanzi, Spaulding & Landreth P.O. Box 2300

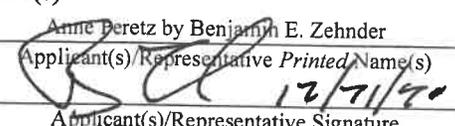
Representative's Phone(s), Fax and Email Orleans, MA 02653 (508) 255-2133; (508) 255-3786; bzehnder@latanzi.com

2. The completed application **shall also** be submitted **electronically** to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

- The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

*** The Clark Estates, Inc. 1 Rockefeller Plaza, 31st Floor, New York, NY 10020

Signature(s)

Anne Peretz by Benjamin E. Zehnder
 Applicant(s)/Representative Printed Name(s)

 Applicant(s)/Representative Signature

William T. Burdick & Richard C. Vanison, Trustees
 Owner(s) Printed Name(s) or written permission
 (see attached owners' authorization)
 Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date December 21, 2020

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section 50.1(A) of the Truro Zoning Bylaw concerning *(describe)* removal and replacement of a single family residential dwelling 5' from southerly lot line where minimum setback distance is 25'.

APPLICATION FOR SPECIAL PERMIT

- Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____.
- Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section _____ of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____.

Property Address 112 North Pamet Road Map(s) and Parcel(s) 48-1

Registry of Deeds title reference: Book N/A, Page N/A, or Certificate of Title Number 208468 and Land Ct. Lot # 7 and Plan # 15097-H

Applicant's Name Anne Peretz

Applicant's Legal Mailing Address 39 Fayerweather Street, Cambridge, MA 02138

Applicant's Phone(s), Fax and Email (617) 460-2818; alperetz@aol.com

Applicant is one of the following: *(please check appropriate box)* Owner Prospective Buyer* Other* *Written Permission of the owner is required for submittal of this application.

Owner's Name and Address William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom. Tr.***

Representative's Name and Address Benjamin E. Zehnder / La Tanzi, Spaulding & Landreth P.O. Box 2300

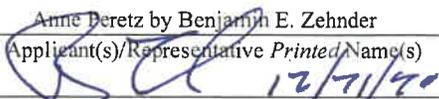
Representative's Phone(s), Fax and Email Orleans, MA 02653 (508) 255-2133; (508) 255-3786; bzehnder@latanzi.com

2. The completed application **shall also** be submitted **electronically** to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

• The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

*** The Clark Estates, Inc. 1 Rockefeller Plaza, 31st Floor, New York, NY 10020

Signature(s)

Anne Peretz by Benjamin E. Zehnder
Applicant(s)/Representative *Printed Name(s)*
 12/21/20
Applicant(s)/Representative Signature

William T. Burdick & Richard C. Vanison, Trustees
Owner(s) *Printed Name(s)* or written permission
(see attached owners' authorization)

Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

Project Narrative – Common Narrative for Special Permit and Variance Applications

112 North Pamet Road
Assessor's Map 48, Parcel 1
Anne Peretz

December 21, 2020

Prepared by B. Zehnder / La Tanzi, Spaulding & Landreth

Applicant Anne Peretz seeks zoning relief for developed property at 112 North Pamet Road, Assessor's Parcel ID 48-A, which is held in trust by William T. Burdick and Richard C. Vanison as Trustees of the Dune House Nominee Trust under a declaration of trust dated February 27, 2015.

Due to the ongoing coastal bank erosion the applicant intends to demolish the existing residential dwelling near the crest of the bank and construct a smaller replacement dwelling further inland. However, due to the lot topography the most suitable location for the house is in the side yard (south) setback and therefore requires a M.G.L. c. 40A § 10 variance from the Bylaw § 50.1(A) 25' minimum side yard setback requirement. The proposal also requires a special permit under § 30.8 for the demolition and reconstruction pursuant to § 30.3(8) and § 30.7, due to the lot's pre-existing frontage non-conformity and the dwelling's pre-existing height non-conformity under § 50.1(A).

1. Lot Description and History:

The applicant's property is an ocean front 3.30 acre parcel of registered land in the Cape Cod National Seashore and the town's Seashore zoning district. It is accessed via an unnamed dirt way off North Pamet Road and is north of Ballston Beach and the Pamet River.

The parcel was originally created in 1944 as Lot 1B on Land Court Plan 15097-D. At that time it was improved with a dwelling, as shown on the 1944 Land Court plan, and the lot extended to the mean high water mark. In 1971 the United States of America acquired title to a portion of Lot 1B, excepting the house and 3.30 acres of land. This resulted in the current lot configuration, shown as Lot 7 on Land Court Plan 150970-H (Tract 17-T-8597 on the Seashore's Tract Maps). All of the lands abutting the property are owned by the United States and there are no private abutters

In 1988-89 the owners installed a foundation and relocated the existing dwelling, incorporating it into a new wooden frame. This work was done pursuant to a building permit and a Conservation Commission Order of Conditions. At that time, the Building Inspector did not require the property owners to obtain zoning relief for the alterations but permitted them to be done as a matter of right.

The coastal bank has eroded significantly since 1989. As of this October the foundation of the existing dwelling was approximately 20' from the top of the coastal

bank at its closest point. The top of bank line is currently approximately 30' closer to the house than it was when measured in October 2015. As demonstrated by the storm damage to the beach and properties to the south at 116 North Pamet Road and 133 South Pamet Road, the coastal bank in this area does not erode at a predictable rate but instead is susceptible to sudden significant erosion during storms.

2. *Lot and Structure Non-Conformities:*

Locus is pre-existing and non-conforming as to frontage, having no frontage on a 'street' as defined under the current zoning bylaw. Additionally, the existing dwelling has a building ridge height of 30.4' as measured from the existing average grade and is protected for the purposes of special permit relief under G.L. c. 40A, s. 7. The property is conforming as to minimum lot size and front, rear, and side yard setback distances.

3. *Proposed Removal of Existing Dwelling & Construction of New Dwelling:*

The applicant proposes demolishing the existing dwelling and building a smaller dwelling at a different location. The proposed demolition would occur within the marked work limit and staging areas shown on the site plan, and would include the complete removal of the existing structure and paved section of driveway leading to it, followed by re-vegetation of the house site with native grasses and wood shrubs. The existing septic tank and pipe would be abandoned, with a new pipe to connect the existing d-box proposed.

The new replacement dwelling is proposed for a section of the lot southeasterly from the current dwelling, adjacent to the property's southerly boundary. This location will result in the new structure being approximately 165' distant from the current top of bank,

The proposed dwelling is smaller than the existing house and will result in a total impervious lot coverage of 3,870 s.f. (2.7%), which is a decrease of 571 sq. ft. from the current 4,441 sq. ft. coverage. The new structure will have a building height of 30.1', reducing the existing height non-conformity by 0.3' and making the property more conforming under zoning.

4. *Petition for Variance:*

The applicant requests a variance from Bylaws §50.1(A) (requiring a minimum side yard setback distance of 25' in the zoning district). She proposes a 5' setback distance from that same property line to the proposed deck, as shown on the site plan.

Under Bylaws § 30.3(B)(8), the Board of Appeals is authorized to approve lesser side yard setback distances, provided doing so does not alter the residential character of the premises. The applicant submits that a variance is appropriate relief

under the circumstances at locus, including the lot shape and topography, and the ongoing erosion. The property is roughly bow-tie shaped, with an elongated southwest-northeast axis and a proportionally narrower southeast-northwest axis. This shape resulted from a prior owner's grant of a large portion of the former lot configuration to the United States of America in 1971. Before then, the lot extended over 590' from its southerly to northerly property lines and had a much larger area to relocate a dwelling, had it been necessary. Because of the narrow lot shape, there is only a small area of the property where a conforming structure may be built within the 25' side setback envelope (there is no 'street,' as defined, connecting to or abutting locus, which would require a 50' yard setback distance and would reduce the envelope further).

However, the land within the envelope is not suitable for placing a house. The easterly side of the property is close to the top of the coastal bank and thus subject to the same ongoing coastal erosion as the current dwelling. Locating a dwelling there would only provide a few additional years of use before erosion threatened that structure as well.

The westerly side of the property, and the area to the north of the proposed location, are the lowest areas of the lot's topography (the ground elevations rise towards the property lines on both sides) and form hollows. As a result, water during severe rain storms would always flow towards a house built in either place. Furthermore, wind-blown sand on the ocean side tends to accumulate in hollows and it would be necessary to shovel sand out of the lower levels of a house there on a regular basis. Finally, a replacement dwelling in these areas would lose the existing beautiful water views, which are integral to the use and enjoyment of the property, because it would be located behind the much higher topography to the east.

The lot shape and topography factors affect this particular property, but do not generally affect properties within the Seashore Zoning District. The existing house was located away from the hollows at a higher elevation on the lot to maximize the scenic views of the Atlantic Ocean. The Land Court plans depict the original house at approximately 140' away from the coastal bank. The current house location was moved further back on the lot during the 1989 / 90 alterations. Since that time the bank has eroded significantly, and is beginning to cut into the lot, resulting in the increasingly narrow lot shape and reduction in the non 'hollow' areas of the property.

The applicant proposes a new house location adjacent to the southerly property boundary of the lot. The structure would be setback 12' ± from the sideline, with an outdoor deck setback 5' ±, requiring a variance from the 25' side yard setback requirement. This proposal minimizes future erosion risk, retains the applicant's view, and allows her to avoid building in hollows or having to relocate her water well. Due to these factors, a literal interpretation of the 25' sideline setback requirement would involve substantial hardship, financial and otherwise, to the applicant.

Desirable relief may be granted without harm to the public good. Locus is surrounded by land owned by the United States in its natural, undeveloped condition.

As part of the Cape Cod National Seashore, the surrounding land will never be developed. There are no abutting developed properties which would be negatively impacted by the location of a dwelling in the side yard setback (for example, by reducing light or natural space between structures). Insofar as impact on the public good, generally, there is no substantive difference between a structure 12 feet away from an invisible line of ownership versus one set back 25 feet; there will continue to be an extremely large area of natural land between the dwelling and any other dwelling, and the public use of the land in the United States' ownership will not change at all.

The applicant submits that a variance may be granted without nullifying or substantially derogating from the intent or purpose of the Bylaws' setback requirements. The requirements result in separation between structures on abutting properties and between structures and streets. Their purpose is to increase safety in a zoning district by requiring sufficient building separation to allow for natural light, air, vegetation, and access. Without such requirements an owner could build up to his or her common property line, which would make it impossible to access all sides of a structure by, e.g., police, fire or rescue personnel.

These considerations are simply not applicable at locus. As noted above, the surrounding property is undeveloped federal land and will remain so forever. There is thus no possibility that another structure will be built in proximity to the lot line and reducing the possible means of access. Similarly, there are no other houses for the proposed replacement dwelling to impinge upon, in terms of light, natural space, or airflow. Based on these facts, a variance would not harm the purposes of the Bylaws' minimum setback distance requirements.

5. *Application for Special Permit:*

Because locus is pre-existing and non-conforming with regard to frontage on a 'Street' and is protected under G.L. c. 40A, s. 7 as to building height, special permit relief is available under § 30.3(B)(8), § 30.7(A), and § 50.1(B).

Residential uses are allowed in the Seashore District. Under § 30.3(B)(8), the moving, alteration, enlargement, maintenance, or repair of existing one family residential dwellings is allowed, provided there is a 50' minimum setback from any streets and a 25' minimum setback from abutters' property lines, and provided that the Building Commissioner determines that the changes do not alter the essential character of the structure as a residential dwelling. Under that same section, the Board of Appeals is authorized to approve lesser sideline setback distances, provided doing so does not alter the residential character of the premises.

Under Section 30.7(A), lawful pre-existing non-conforming uses and structures may, when a variance would otherwise be required, be altered or extended by special permit if the Board finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing non-conforming use or structure, and

that the alteration or extension will exist in harmony with the general purpose and intent of the Bylaw.

The proposed dwelling will be a traditional, gable roofed shingle style single family dwelling. This structure will be smaller than the existing dwelling and will be set at a lower elevation, such that it is less visible from the beach and surrounding lands. These alterations at locus will not be more detrimental to the neighborhood than the existing building, nor will they affect or change the frontage non-conformity. As such, the applicant submits that the proposed alteration will exist in harmony with the purpose and intent of the Bylaws.

The existing dwelling is non-conforming under § 50.1(A) as to building height, having a ridge height of 30.4'. The applicant is seeking to continue this non-conformity at the proposed location for the new dwelling, with a proposed building height of 30.1', which is a reduction in intensity. Under Section 50.1(B), the Board of Appeals may authorize this exception to the maximum building by Special Permit. The applicant submits that the proposed building height, after completion of site grading, will not be substantially more detrimental to the neighborhood than the existing structure's height non-conformity, and will be in harmony with the general purpose and intent of §50.1(A).

- END -

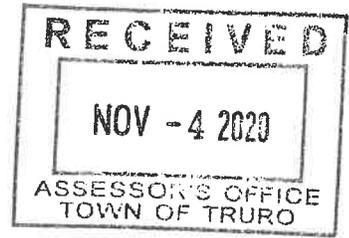


TOWN OF TRURO

Assessors Office

Certified Abutters List

Request Form



DATE: November 2, 2020

NAME OF APPLICANT: Anne Labouisse Peretz; William T. Burdick & Richard C. Vanison, Tr., Dune House Nom. Tr.

NAME OF AGENT (if any): Benjamin E. Zehnder / La Tanzi, Spaulding & Landreth P.O. Box 2300 Orleans, MA 02653

MAILING ADDRESS: 39 Fayerweather Street, Cambridge, MA 02138

CONTACT: HOME/CELL (617) 460-2818 EMAIL alperetz@aol.com

PROPERTY LOCATION: 112 North Pamet Road
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 48 PARCEL 1 EXT. _____
(if condominium)

ABUTTERS LIST NEEDED FOR:
(please check all applicable)

FEE: **\$15.00 per checked item**
(Fee must accompany the application unless other arrangements are made)

- | | | |
|---------------------------------------------------------------|---------------------------------------------------------------------|-----------------------------------------------------------------|
| <input type="checkbox"/> Board of Health ⁵ | <input type="checkbox"/> Planning Board (PB) | <input type="checkbox"/> Zoning Board of Appeals (ZBA) |
| <input type="checkbox"/> Cape Cod Commission | <input type="checkbox"/> Special Permit ¹ | <input checked="" type="checkbox"/> Special Permit ¹ |
| <input type="checkbox"/> Conservation Commission ⁴ | <input checked="" type="checkbox"/> Site Plan ² | <input checked="" type="checkbox"/> Variance ² |
| <input type="checkbox"/> Licensing | <input type="checkbox"/> Preliminary Subdivision ³ | |
| Type: _____ | <input type="checkbox"/> Definitive Subdivision ³ | |
| | <input type="checkbox"/> Accessory Dwelling Unit (ADU) ² | |
| <input type="checkbox"/> Other _____ | | |
- (Please Specify) (Fee: Inquire with Assessors)

Note: Per M.G.L., processing may take up to 10 calendar days. Please plan accordingly.

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: Nov 4, 2020 3:45

Date completed: 11/6/2020

List completed by: [Signature]

Date paid: 11/4/2020 Cash/Check 13087

¹Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line.

²Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property.

³Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. **Note:** For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required.

⁴All abutters within 300 feet of parcel, except Beach Point between Knowles Heights Road and Provincetown border, in which case it is all abutters within 100 feet. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.

⁵Abutters sharing any boundary or corner in any direction – including land across a street, river or stream. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.



TRURO ASSESSORS OFFICE
PO Box 2012 Truro, MA 02666
Telephone: (508) 214-0921
Fax: (508) 349-5506

Date: November 5, 2020

To: Dune House Nominee Trust
c/o Benjamin Zehnder & La Tanzi, Spaulding & Landreth
PO Box 2300
Orleans, MA 02653

From: Assessors Department

Certified abutters list application for: 112 No Pamet Rd Map 48 Parcel 1.

Variance-Zoning Board of Appeals:

Attached is a list of Truro abutters for the property located at 112 No Pamet Rd. Due to the fact that the sole abutter within 300 feet is only the National Seashore, we have included the closest abutters surrounding the property within a reasonable distance. The current owner of the property is the Dune House Nominee Trust. The names and addresses of the abutters are as of October 30, 2020 according to the most recent documents received from the Barnstable County Registry of Deeds.

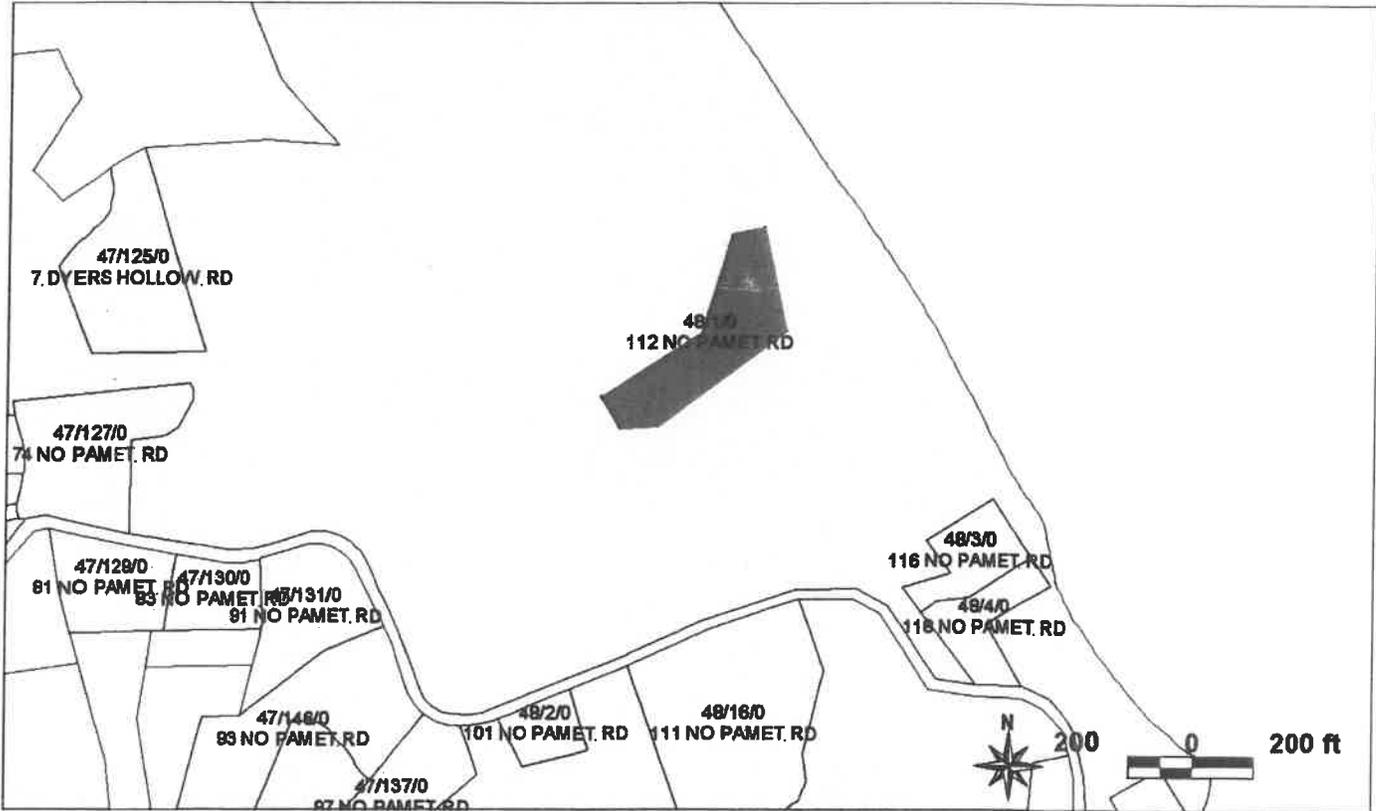
Certified by:  _____

Jon Nahas
Principal Assessor
Town of Truro
24 Town Hall Rd
PO Box 2012
Truro, MA 02666
508.214.0917
jnahas@truro-ma.gov

112 No Pamet Rd
 Map 48 Parcel 1
 Variance-ZBA

TOWN OF TRURO, MA
 BOARD OF ASSESSORS
 P.O. BOX 2012, TRURO MA 02666

Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	Zip/C d/Country
7292	40-999-0-E	USA-DEPT OF INTERIOR Cape Cod National Seashore	0 CAPE COD NATIONAL SEASHORE	99 Marconi Site Rd	Wellfleet	MA	02667
2699	47-125-0-R	WEINSTEIN ROBERT M & KRAFT MONICA	7 DYERS HOLLOW RD	PO BOX 479	TRURO	MA	02666
2701	47-127-0-R	GREGORY ANDRE & KLEINE CINDY R	74 NO PAMET RD	455 WEST 20TH ST #4B	NEW YORK	NY	10011
2703	47-129-0-R	AIKEN FAMILY TRUST TRS: BARRINGTON SAMUEL C	81 NO PAMET RD	PO BOX 1130	TRURO	MA	02666-1130
2704	47-130-0-R	RICHARDS NOMINEE TRUST TRS: RICHARDS TIMOTHY J ET AL	83 NO PAMET RD	C/O RICHARDS JAMES F PO BOX 1	SOUTH KENT	CT	06785
2705	47-131-0-R	AIKEN ALISON REV LIV TRUST AGR TRS: AIKEN ALISON	81 NO PAMET RD	PO BOX 1041	TRURO	MA	02666-1041
2711	47-137-0-R	IRWIN ANNE L IRREV TRUST TRS: N J WOLFF & E C IRWIN	87 NO PAMET RD	PO BOX 846	TRURO	MA	02666-0846
2720	47-146-0-R	SULLIVAN DANIEL E & KATHERINE AIKEN	93 NO PAMET RD	1614 NE ALBERTA ST	PORTLAND	OR	97211
2738	48-1-0-R	DUNE HOUSE NOMINEE TRUST TRS BURDICK WILLIAM T ET AL	112 NO PAMET RD	C/O CLARK ESTATES INC 1 ROCKEFELLER PLAZA FLOOR 31	NEW YORK	NY	10020
2739	48-2-0-R	KINZER STEPHEN A & MARIANNE A	101 NO PAMET RD	33 UNION PARK	BOSTON	MA	02116
2740	48-3-0-R	FAY SHARON & SCHAFFER MAXINE	116 NO PAMET RD	46 MONROE PLACE	BROOKLYN	NY	11201
2741	48-4-0-R	GERSEN JACOB E & JEANNIE C SUK	118 NO PAMET RD	10 FAYERWEATHER ST	CAMBRIDGE	MA	02138
6555	48-16-0-E	U S A DEPT OF THE INTERIOR	111 NO PAMET RD	CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD	WELLFLEET	MA	02667

11/6/2020

<p>40-999-0-E</p> <p>USA-DEPT OF INTERIOR Cape Cod National Seashore 99 Marconi Site Rd Wellfleet, MA 02667</p>	<p>47-125-0-R</p> <p>WEINSTEIN ROBERT M & KRAFT MONICA PO BOX 479 TRURO, MA 02666</p>	<p>47-127-0-R</p> <p>GREGORY ANDRE & KLEINE CINDY R 455 WEST 20TH ST #4B NEW YORK, NY 10011</p>
<p>47-129-0-R</p> <p>AIKEN FAMILY TRUST TRS: BARRINGTON SAMUEL C PO BOX 1130 TRURO, MA 02666-1130</p>	<p>47-130-0-R</p> <p>RICHARDS NOMINEE TRUST TRS:RICHARDS TIMOTHY J ET AL C/O RICHARDS JAMES F PO BOX 1 SOUTH KENT, CT 06785</p>	<p>47-131-0-R</p> <p>AIKEN ALISON REV LIV TRUST AGR TRS: AIKEN ALISON PO BOX 1041 TRURO, MA 02666-1041</p>
<p>47-137-0-R</p> <p>IRWIN ANNE L IRREV TRUST TRS: N J WOLFF & E C IRWIN PO BOX 846 TRURO, MA 02666-0846</p>	<p>47-146-0-R</p> <p>SULLIVAN DANIEL E & KATHERINE AIKEN 1614 NE ALBERTA ST PORTLAND, OR 97211</p>	<p>48-1-0-R</p> <p>DUNE HOUSE NOMINEE TRUST TRS BURDICK WILLIAM T ET AL C/O CLARK ESTATES INC 1 ROCKEFELLER PLAZA FLOOR 31 NEW YORK, NY 10020</p>
<p>48-2-0-R</p> <p>KINZER STEPHEN A & MARIANNE A 33 UNION PARK BOSTON, MA 02116</p>	<p>48-3-0-R</p> <p>FAY SHARON & SCHAFFER MAXINE 46 MONROE PLACE BROOKLYN, NY 11201</p>	<p>48-4-0-R</p> <p>GERSEN JACOB E & JEANNIE C SUK 10 FAYERWEATHER ST CAMBRIDGE, MA 02138</p>
<p>48-16-0-E</p> <p>U S A DEPT OF THE INTERIOR CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD WELLFLEET, MA 02667</p>		

Key: 2738

Town of TRURO - Fiscal Year 2021

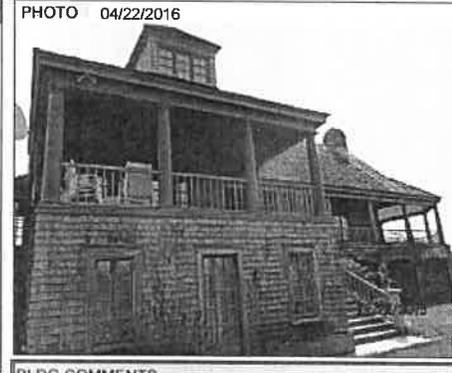
10/9/2020 9:05 am SEQ #: 2,794

CURRENT OWNER										PARCEL ID				LOCATION			
DUNE HOUSE NOMINEE TRUST TRS BURDICK WILLIAM T ET AL C/O CLARK ESTATES INC 1 ROCKEFELLER PLAZA FLOOR 31 NEW YORK, NY 10020										48-1-0				112 NO PAMET RD			
TRANSFER HISTORY										DOS		T		SALE PRICE		BK-PG (Cert)	
DUNE HOUSE NOMINEE TRUST										01/07/2016		F		(208468)			
QUALIFIED PERS RES TRUST										02/24/2010		99		(190783)			
QUALIFIED PERS RES TRUST										03/07/1995		F		(136571)			
CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	Lpi	VC	CREDIT AMT	ADJ VALUE					
100	A	0.775	16	1.00	1	1.00	1	1.00	1	1.00	SW1 7.50	1,568,790					
300	A	2.525	16	1.00	1	1.00	1	1.00	1	1.00	SW1 7.50	390,110					

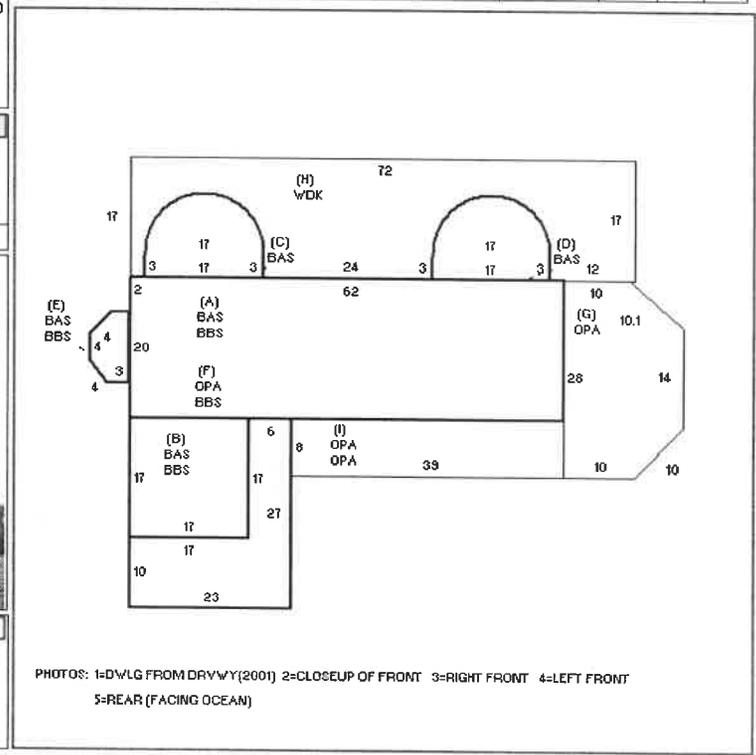
CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD	
1010	100	SINGLE FAMILY				1	1 of 1	
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
89-154	10/20/1989	1	SINGLE FAM R	750,000	07/29/1992		100	100

TOTAL	3.300 Acres		ZONING	NSD	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	NAT'L SEASHORE		N FY07=CHGD WF FACTOR TO MATCH O 48-003+004+012. CHECK A2 FACTOR 1/07 (EXTREME T PRIVACY; NO ABUTTERS EXCEPT CCNS). E				LAND	1,958,900	1,939,400
Infl1	NO ADJ						BUILDING	1,306,200	1,213,100
Infl2	NO ADJ						DETACHED	0	0
							OTHER	0	0
							TOTAL	3,265,100	3,152,500

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD



BLDG COMMENTS
FY11 CHNGS PER 12/09 MEAS ONLY (100 SF USF = APPROX 10X10 DORMER OVER LEFT FRONT SECT).



BUILDING	CD	ADJ	DESC	MEASURE	4/29/2016	FC
MODEL	1		RESIDENTIAL	LIST	4/29/2016	FC
STYLE	16	1.30	NEW STYLE [100%]	REVIEW	12/15/2010	LVM
QUALITY	E	2.00	EXCELLENT [100%]			
FRAME	1	1.00	WOOD FRAME [100%]			

YEAR BLT	1991	SIZE ADJ	1.000	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN
NET AREA	3,938	DETAIL ADJ	1.000	FOUNDATION	4	BSMT WALL	1.00	+	BBS	L	BSMT BAS AREA	1,908	1991	373.03	711,747
\$NLA(RCN)	\$461	OVERALL	1.330	EXT. COVER	1	WOOD SHINGLES	1.00	+	BAS	L	BAS AREA	1,930	1991	439.25	847,745
				ROOF SHAPE	1	GABLE	1.00	+	OPA	N	OPEN PORCH	1,380		87.98	121,413
				ROOF COVER	2	WOOD SHINGLES	1.01	H	WDK	N	ATT WOOD DECK	869		67.83	58,946
				FLOOR COVER	1	HARDWOOD	1.00	USF	L	O	UP-STRY FIN	100	1991	363.36	36,336
				INT. FINISH	2	DRYWALL	1.00	F22	O		FPL 2S 2OP	1		31,693.90	31,694
				HEATING/COOLING	2	HOT WATER	1.02								
				FUEL SOURCE	1	OIL	1.00								

TOTAL RCN	1,814,180
CONDITION ELEM	CD
EFF YR/AGE	1991 / 28
COND	28 28 %
FUNC	0
ECON	0
DEPR	28 % GD 72
RCNLD	\$1,306,200

LEG
AL
LAND

DET
ACH
ED

B
U
I
L
D
I
N
G



- Parcels
- Buildings
- Sidewalks
- Street Pavement
- Town Boundary
- MA Highways
 - Interstate
 - US Highway
 - Numbered Routes
- Street Centerlines
- Abutting Towns Labels
- Abutting Towns
- Waterbodies
- Major Streams
- Town Mask
- Bath Donut2
 - 0-5 ft
 - 5-10 ft
 - 10-15 ft
 - 15-20 ft
 - 20-30 ft
 - 30-40 ft
 - 40-50 ft
 - 50-60 ft
 - 60-70 ft
 - 70+ ft
- Bathymetry
 - 0-5 ft
 - 5-10 ft
 - 10-15 ft
 - 15-20 ft
 - 20-30 ft
 - 30-40 ft
 - 40-50 ft
 - 50-60 ft
 - 60-70 ft
 - 70+ ft
- Background

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.



Printed on 11/18/2020 at 10:20 AM

112 North Pamet Road - Truro, MA

*One Rockefeller Plaza
New York, N.Y. 10020-2102*

Telephone: 212-977-6900

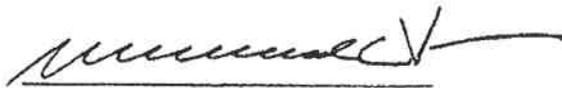
November 17, 2020

**Re: *Dune House Nominee Trust*
112 North Pamet Road
*Assessor's Map 48, Parcel 1***

We, William T. Burdick and Richard C. Vanison, as Trustees of the Dune House Nominee Trust u/d/t dated February 27, 2015, hereby authorize and give permission to Anne Labouisse Peretz and her representative, Benjamin E. Zehnder, Esq. of La Tanzi, Spaulding & Landreth, P.C., to apply to the Zoning Board of Appeals and/or the Planning Board for the Town of Truro relative to property owned by us, as Trustees of the above-named Trust, at 112 North Pamet Road, Assessor's Map 48, Parcel 1.



William T. Burdick



Richard C. Vanison

Doc. No. 1,285,948
Ctf. No. 208468

TRANSFER CERTIFICATE OF TITLE

From Certificate No. 190783, Originally Registered February 24, 2010
in the Registry District of Barnstable County.

THIS IS TO CERTIFY that WILLIAM T BURDICK, RICHARD C VANISON, as trustees of the
Dune House Nominee Trust under a Declaration of Trust dated February 27, 2015 being
Document No. 1,285,947, of The Clark Estates Inc., 1 Rockefeller Plaza, 31st Floor,
New York, New York 10020,

the owner(s) in fee simple,

of that land situated in TRURO

in the county of Barnstable and the Commonwealth of Massachusetts, described as
follows:

LOT 7

PLAN 15097-H

Said land is subject to and has the benefit of the easements,
rights and conditions set forth or referred to in Certificate of Title No. 13090,
so far as the same are in force and applicable.

And it is further certified that said land is under the operation and provisions
of Chapter 185 of the General Laws, and that the title of said owner(s) to said
land is registered under said Chapter, subject, however, to any of the encumbrances
mentioned in Section forty-six of said Chapter, which may be subsisting

WITNESS JUDITH C. CUTLER, Chief Justice of the Land Court at Barnstable, in said
County of Barnstable,

the seventh day of January in the year two thousand and sixteen

at 1 o'clock and 42 minutes

Attest, with the Seal of said Court,

JOHN F. MEADE, Assistant Recorder.

Land Court Case No. 15097

SUBDIVISION PLAN OF LAND IN TRURO

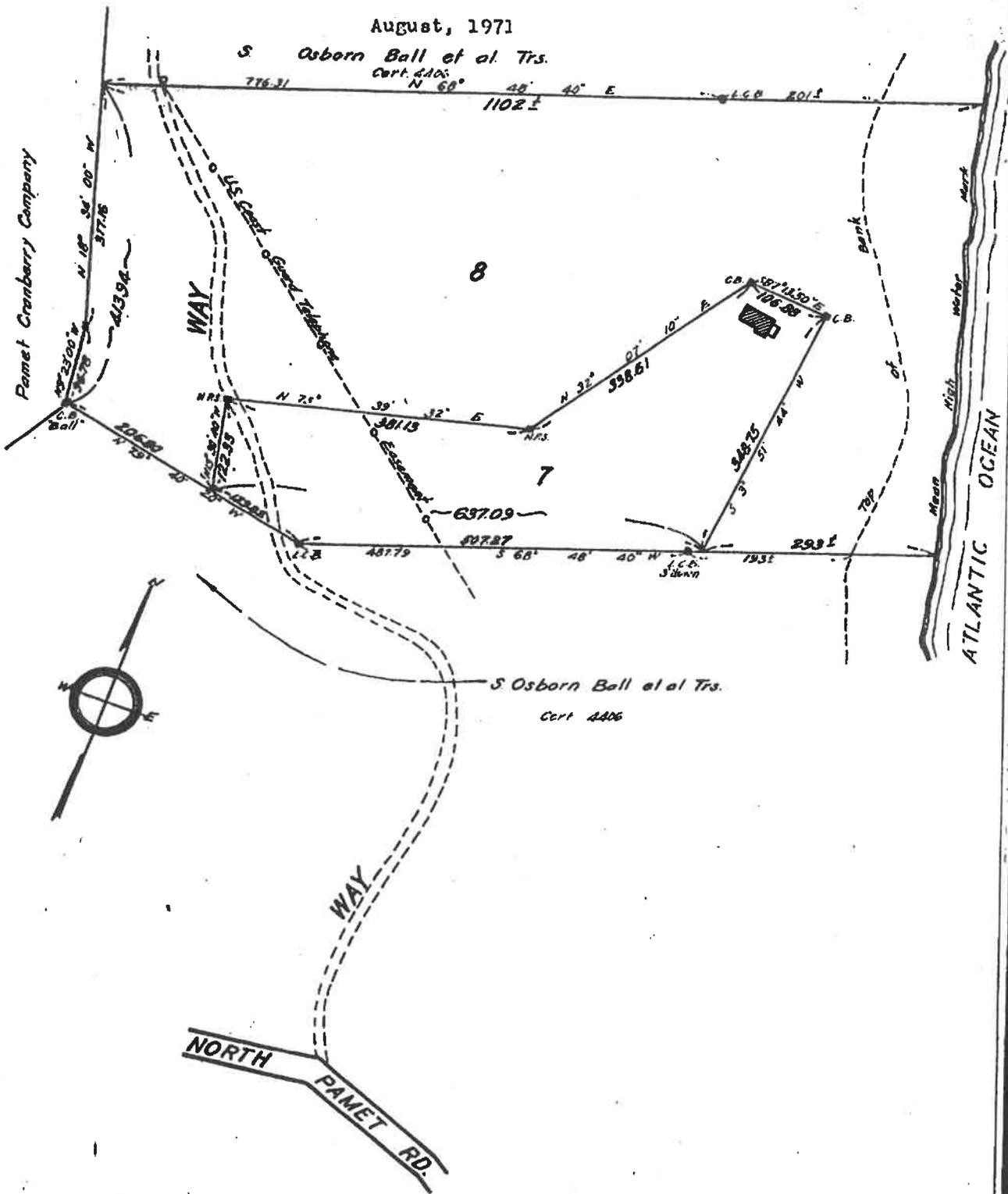
15097H

W. G. Slade, Surveyor

August, 1971

S Osborn Ball et al Trs.

Cert. 4406



Subdivision of Lot 1^R
 Shown on Plan 15097^D
 Filed with Cert. of Title No. 6979
 Registry District of Parnstable County

Separate certificates of title may be issued for land
 shown hereon as Lots 7 & 8
 By the Court.

James M. Maloney
 Deputy Recorder

OCT. 22. 1971.

Copy of part of plan
 filed in
LAND REGISTRATION OFFICE
 OCT. 22. 1971
 Scale of this plan 150 feet to an inch
 R.L. Woodbury, Engineer for Court



COASTAL
engineering co.

CIVIL, STRUCTURAL,
MARINE ENGINEERS
AND LAND SURVEYORS

260 Cranberry Highway, Orleans, MA 02653

Orleans | Sandwich | Nantucket

508.255.6511 P 508.255.6700 F coastalengineeringcompany.com

JOB C11403.01

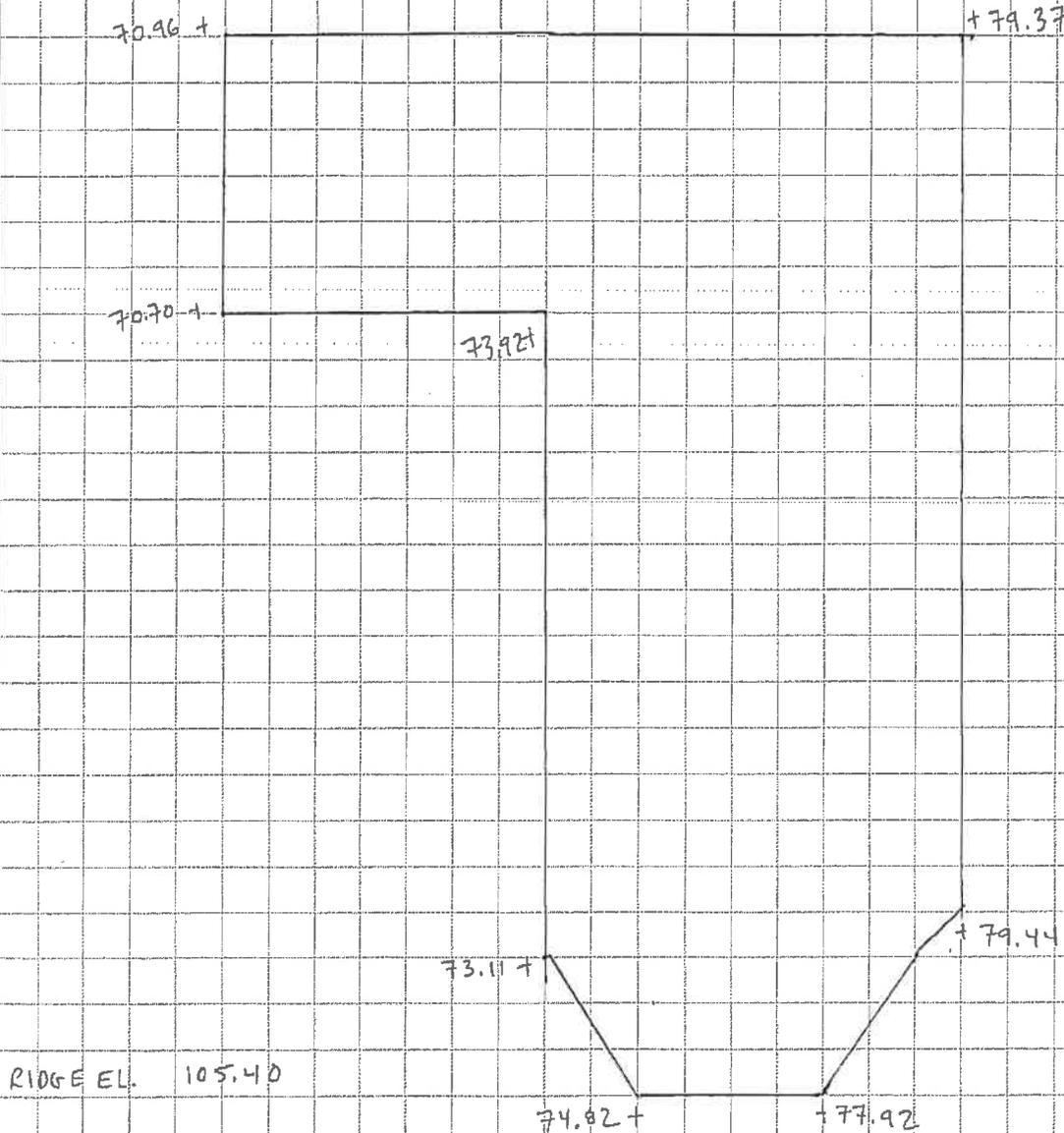
SHEET NO. _____ OF _____

CALCULATED BY SRM DATE 2/23/17

CHECKED BY _____ DATE _____

SCALE None

EXISTING



Average Grade =

$$\frac{(70.96 + 79.37 + 79.44 + 77.92 + 74.82 + 73.11 + 73.92 + 70.70)}{8} = 75.03$$

$$\text{BLDG HEIGHT} = 105.40 - 75.03 = 30.4 \pm$$

ALLOWABLE MAX BLDG HEIGHT = 30 FT



COASTAL
engineering co.

CIVIL, STRUCTURAL,
MARINE ENGINEERS
AND LAND SURVEYORS

260 Cranberry Highway, Orleans, MA 02653

Orleans | Sandwich | Nantucket

508.255.6511 P 508.255.6700 F coastalengineeringcompany.com

JOB G11483.01 PERRET 2

SHEET NO. 1 OF

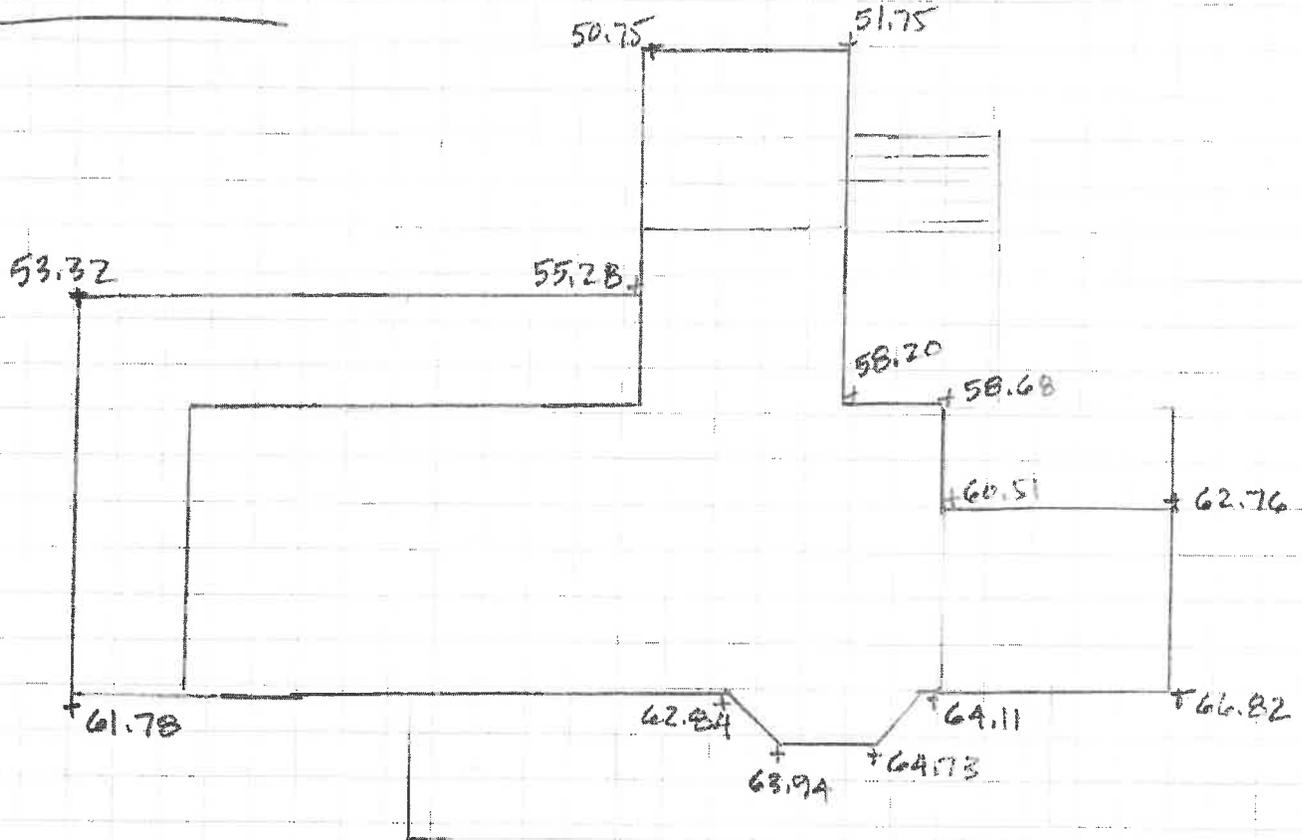
CALCULATED BY BPM DATE 11-12-20

CHECKED BY DATE

SCALE NONE

PROPOSED

GRADE PLANE CALCULATION



AVG. GRADE

$$\frac{(53.32 + 55.28 + 50.75 + 51.75 + 58.20 + 58.68 + 60.51 + 62.76 + 66.82 + 64.11 + 64.73 + 63.94 + 62.84 + 61.78)}{14} = 59.67$$

AVG. EXISTING GRADE = 59.67

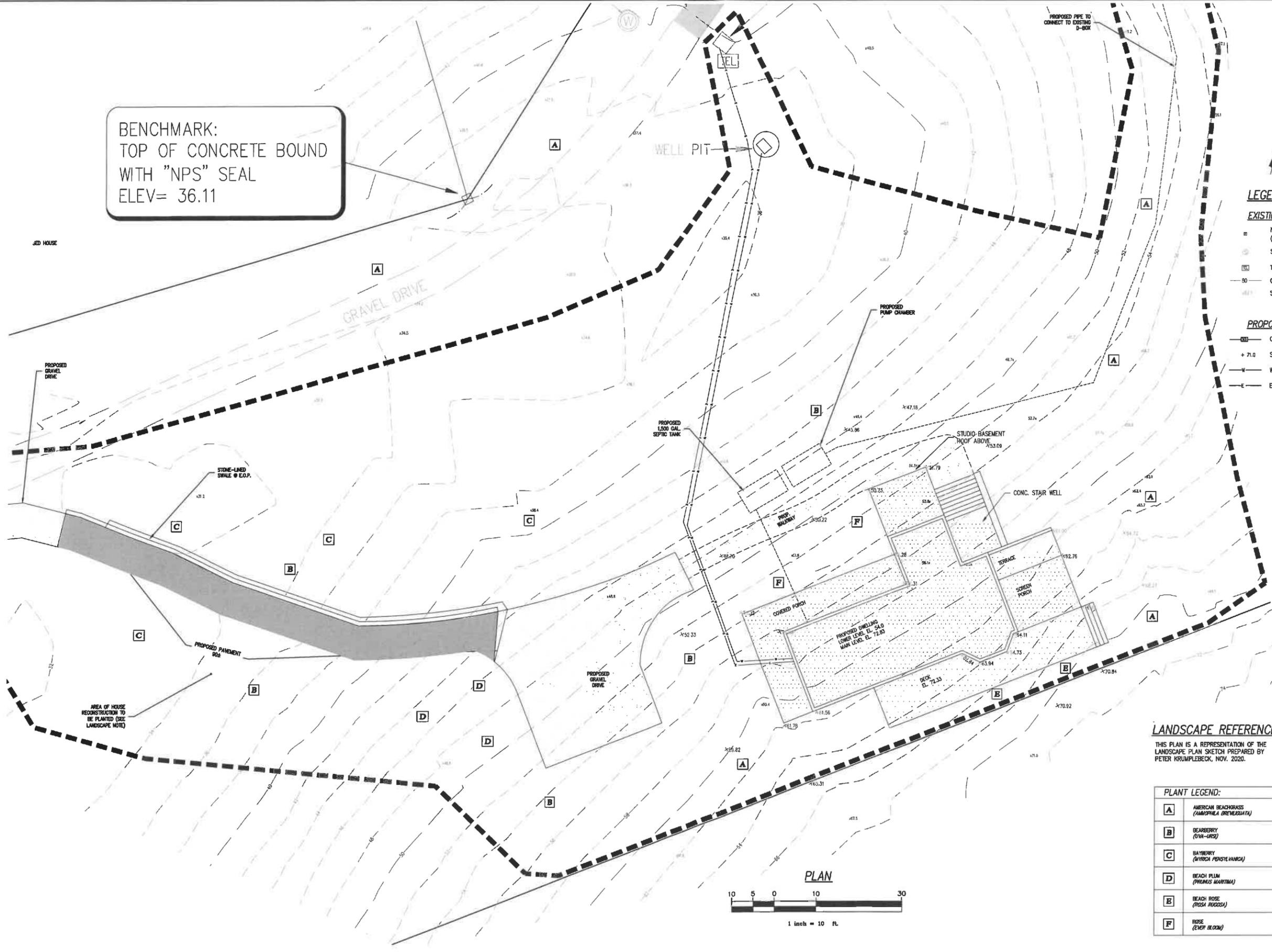
10/16/20 Plans From Costr -

$$\begin{array}{r} \text{Ridge Elev } 89.75 \\ - 59.67 \\ \hline \end{array}$$

30.07 PROPOSED BUILDING HEIGHT

BENCHMARK:
TOP OF CONCRETE BOUND
WITH "NPS" SEAL
ELEV= 36.11

- LEGEND**
- EXISTING**
- NPS BOUND (NATIONAL PARK SERVICE)
 - SEWER MANHOLE
 - TELEPHONE BOX
 - 80 - CONTOUR
 - SPOT GRADE
- PROPOSED**
- 71.0 - CONTOUR
 - + 71.0 - SPOT GRADE
 - W - WATER SERVICE
 - E - ELECTRIC SERVICE



LANDSCAPE REFERENCE:

THIS PLAN IS A REPRESENTATION OF THE LANDSCAPE PLAN SKETCH PREPARED BY PETER KRUMPLEBECK, NOV. 2020.

PLANT LEGEND:

A	AMERICAN BEACHGRASS (AMPHIPHILA BREVILOBIATA)
B	BEARBERRY (VIBURNUM)
C	BAYBERRY (MYRTLE PENSTEMON)
D	BEACH PLUM (PRUNUS MARITIMA)
E	BEACH ROSE (ROSA rugosa)
F	ROSE (ROSA rugosa)

NO.	DATE	BY	REVISION

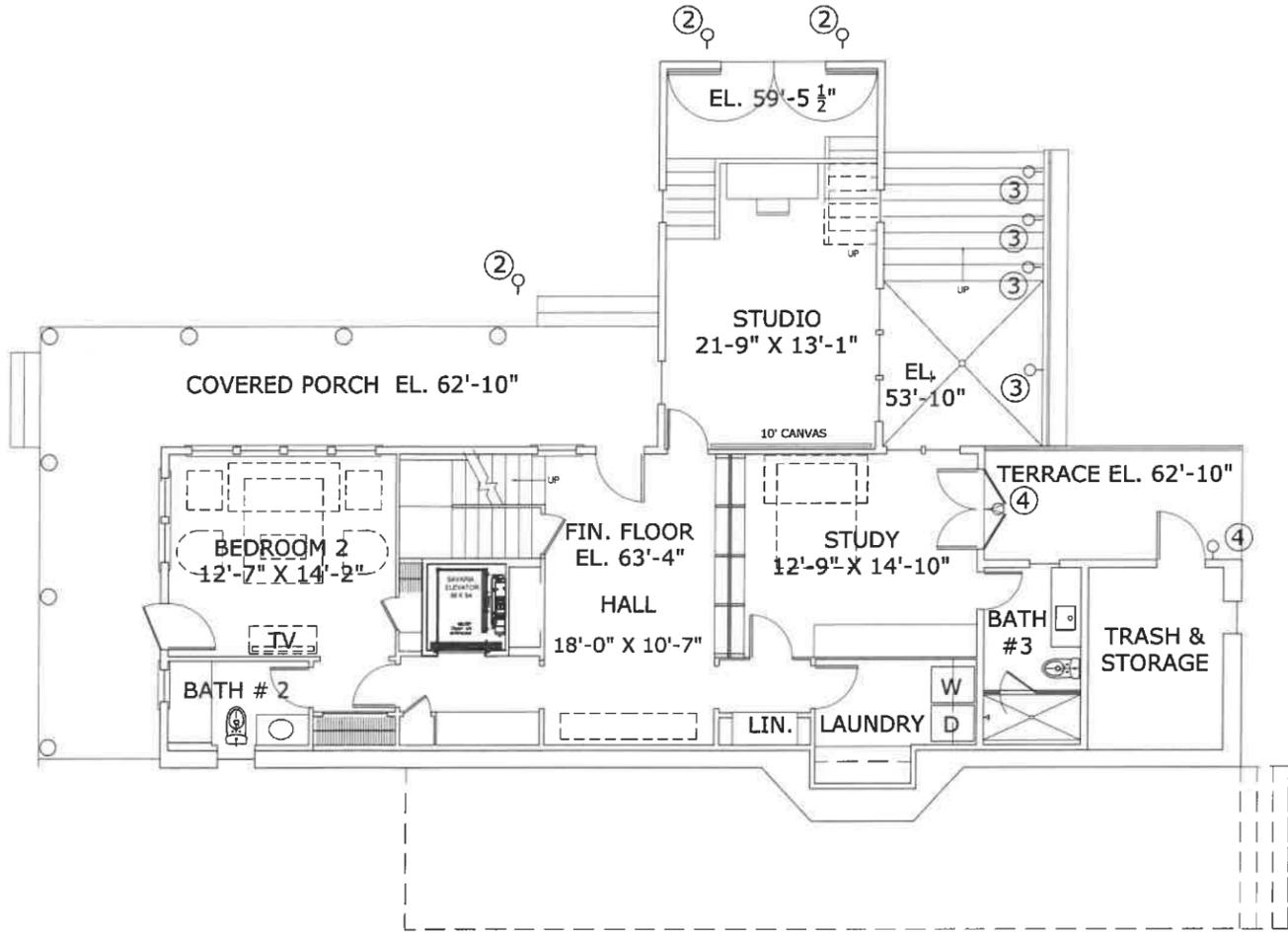
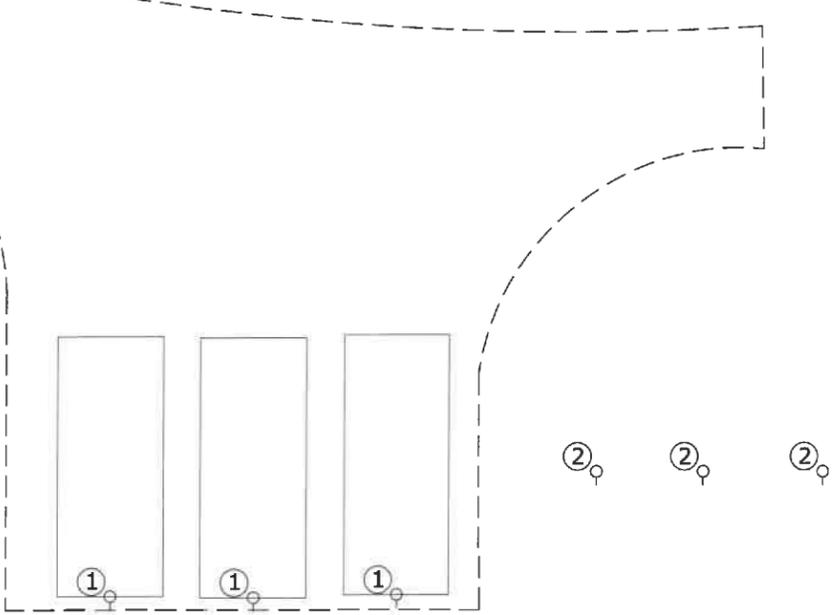
SEAL

PROJECT: ANNE PERETZ LANDSCAPE PLAN
112 NORTH PAMLET ROAD TRURO, MA
SHEET TITLE

SCALE: AS NOTED
DRAWING FILE: C11483-C3D.dwg
DATE: 12-07-2020
DRAWN BY: bpm
CHECKED BY:

Coastal Engineering Co., Inc. © 2020
L1.1.1
1 OF 1 SHEETS
PROJECT NO. C11483.01

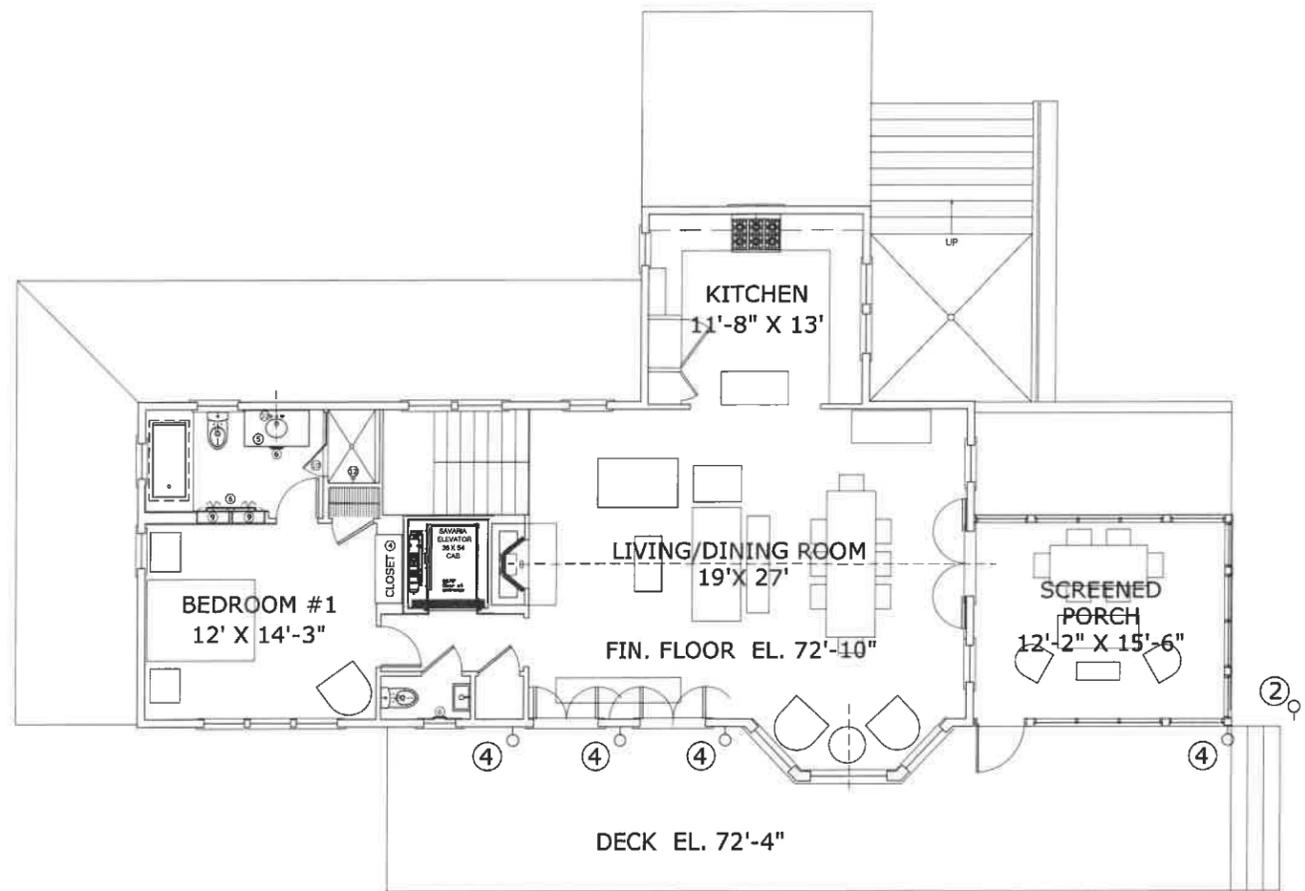
P:\2020\PROJECTS\C11483-C3D.dwg Dec-06-2020 1:14:11pm



LOWER, LEVEL FLOOR PLAN



<p>PERETZ 112 112 NORTH PAMET RD. TRURO, MA</p>																				
<p>DAN COSTA P.O BOX 411 MYSTIC, CT 06355 617-448-9954</p>																				
<table border="1"> <thead> <tr> <th>No.</th> <th>Date</th> <th>Revision</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	No.	Date	Revision																<p>OWNER SIGN-OFF WITH DATE</p>	
No.	Date	Revision																		
<p>LOWER LEVEL PLAN</p>																				
<p>GRAPHIC SCALE</p>																				
<p>DECEMBER 7, 2020</p>																				
<p>A1</p>																				



MAIN LEVEL FLOOR PLAN



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

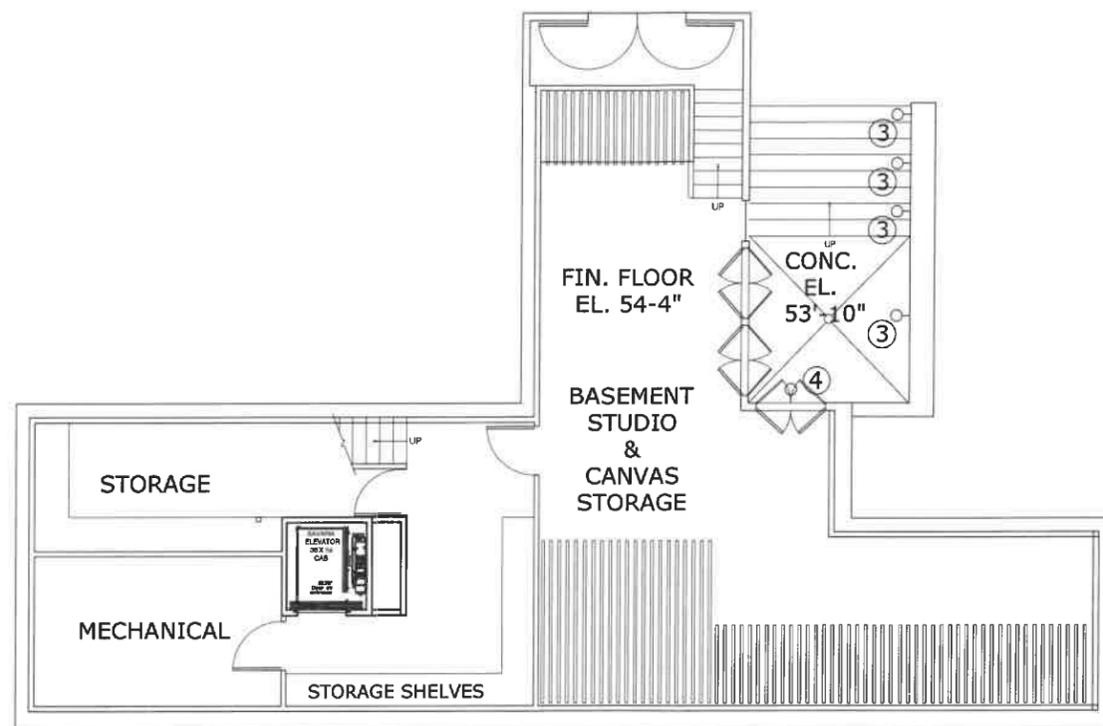
OWNER SIGN-OFF WITH DATE

**MAIN
 LEVEL
 PLAN**

GRAPHIC SCALE

DECEMBER 7, 2020

A2



BASEMENT PLAN



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

**BASEMENT
 LEVEL
 PLAN**

GRAPHIC SCALE

DECEMBER 7, 2020

A3



SOUTH ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

**SOUTH
 ELEVATION**

GRAPHIC SCALE

DECEMBER 7, 2020

A4



WEST ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

WEST
 ELEVATION

GRAPHIC SCALE

DECEMBER 7, 2020

A5



NORTH ELEVATION



PERETZ 112
 112 NORTH PAMET RD.
 TRURO, MA

DAN COSTA
 P.O BOX 411
 MYSTIC, CT 06355
 617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

NORTH ELEVATION

GRAPHIC SCALE

DECEMBER 7, 2020

A6



EAST ELEVATION



PERETZ 112
112 NORTH PAMET RD.
TRURO, MA

DAN COSTA
P.O BOX 411
MYSTIC, CT 06355
617-448-9954

No.	Date	Revision

OWNER SIGN-OFF WITH DATE

**EAST
ELEVATION**

GRAPHIC SCALE

DECEMBER 7, 2020

A7

DECISION OF THE ZONING BOARD OF APPEALS

Variance

Atlas Map 48 Parcel 1

Address: 112 North Pamet Road

Case Reference No.: 2020-009/ZBA

Applicant: Anne Labouisse Peretz,
William T. Burdick & Richard C.
Vanison, Trustees, Dune House Nom Tr.

Hearing Dates: January 25, 2021

Decision Date:

Vote: X-X

Sitting:

Arthur F. Hultin, Jr., Chair; Fred Todd, Vice Chair; John Dundas; John Thornley; Chris Lucy, Heidi Townsend

Motion (M. ; M. second). In the matter of 2020-009/ZBA, Application of Anne Labouisse Peretz, William T. Burdick & Richard C. Vanison, Trustees, Dune House Nom Tr. to **[grant]** **[deny]** a variance under G.L. c. 40A, s. 10 and Zoning Bylaw Section 50.1 to construct a dwelling with a setback of five feet (25 feet required) on property at 112 North Pamet Road (Map 48, Parcel 1), based upon the following materials filed with this Board:

- Application for Hearing
- Project Narrative - Common Narrative for Variance and Special Permit Applicants
- Certified Abutters List
- Owner's Authorization
- Assessor's Records
- Transfer Certificate of Title and Memoranda of Encumbrances
- Subdivision Plan of Land in Truro, No. 15097H, W. G. Slade, Surveyor, August 1973
- Grade calculations, Coastal Engineering (Feb. 23, 2017 and November 12, 2020)
- "Plan Showing Existing Site Conditions, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated August 20, 2009, Scale 1" = 30 ft.
- "Site Plan Showing Proposed Dwelling Reconstruction, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated December 7, 2020, Scale 1" = 30 ft.
- "Proposed Grading Plan for Proposed Dwelling Reconstruction, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated December 7, 2020, Scale 1" = 10 ft.
- "Landscape Plan, 112 North Pamet Road, Truro, MA" prepared for Anne Peretz by Coastal Engineering, dated December 7, 2020, Scale 1" = 10 ft.
- Floor Plans, "Peretz 112, 112 North Pamet Road, Truro, MA" prepared by Dan Costa dated December 7, 2020, Sheets A1-A3

- Elevations, “Peretz 112, 112 North Pamet Road, Truro, MA” prepared by Dan Costa dated December 7, 2020, Sheets A4-A7

The Board also received:

-

This Variance Decision is based on the following findings of fact:

1. This property is located in the Seashore District, containing 3.3 acres, conforming as to setbacks. The lot is surrounded by National Seashore property and has no residential abutters.
2. According to Assessor’s records, the existing house was constructed in 1991. It is located close to the top of coastal bank and is proposed to be demolished due to threat from ongoing coastal erosion.
3. A new residence will be constructed approximately *X feet* shoreward, adjacent to the property’s southern boundary. This site was selected to avoid hollows to the north and west on the property, and to provide protection from coastal bank erosion and storm damage
4. The proposed dwelling will have a Total Gross Floor area of XXXX square feet on two floors. It features a terrace, screened porch, covered porch, and a deck on the south side of the house which extends essentially the length of the dwelling
5. The proposed setback of the dwelling itself from the southern lot line is twelve feet. The proposed setback of the deck is five feet. The Bylaw setback requirement is 25 feet.
6. Apart from the variance required for construction of the dwelling in the location proposed, special permit is required to allow reconstruction of a dwelling on this nonconforming lot.

Requirements for a Variance under General Laws Chapter 40A, s. 10:

Under G.L. c. 40A, s. 10, a variance may be granted where a Board “specifically finds that:

[1] owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,

[2] a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and

[3] that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Board must find all three of the above to grant the requested variance requested. In this case, the Applicant requests a variance of the Bylaw’s 25-foot setback requirement to allow dwelling to be constructed within five feet of the lot line.

Findings of the Board under Massachusetts General Laws Chapter 40A, Section 10

1. The Board finds that due to the lot’s shape, arising from a prior owner’s grant of a portion of the former lot to the National Seashore, there is a limited area in which a conforming structure could be located.
2. The Board further **[finds] [does not find]** that this “conforming” area and other areas on the property are unsuitable for the placement of a house due to continuing erosion, flooding, and accumulation of windblown sand. These are “circumstances relating to the soil conditions, shape, or topography.”
3. The Board further **[finds] [does not find]** that these circumstances affect this property and not others within the Seashore District. **[additional comment]**
4. The Board further **[finds][does not find]** that a literal interpretation of the setback requirement would involve substantial financial and other hardship to the Applicant. **[additional comment]**
5. The Board further finds that a variance **[may] [may not]** be granted without substantial detriment to the public good, and without substantially derogating from the intent of the Bylaw.

The adjacent land is Seashore property and there are no residential abutters to be impacted by a dwelling within the side yard setback. The purpose of Bylaw setback requirements is to ensure sufficient distance between buildings; in this case, there are no such concerns

OR

The Applicant suggests that the purpose of setback requirements is to ensure sufficient distance between buildings; in this case, there are no such concerns, because there are no residential abutters to be impacted by a dwelling with the side yard setback. But setback requirements are not irrelevant simply because the abutting use is not residential. The 25 foot setback protects the abutting “natural,

undeveloped” National Seashore land, and its associated landscape preservation and conservation values. Zoning safeguards these concerns as well as public safety. In considering whether a variance may be granted without derogating from the intent of the Bylaw, the Board may consider all of these concerns.

Where the Board [**can**][**cannot**] make the three necessary findings under G.L. c. 40A, s. 10, the variance [**may**][**may not**] be granted.

Conditions [if a grant]

This Variance is granted subject to the following conditions:

1. Construction shall conform to the plans referenced in this decision, including referenced building materials.
2. The height of the expanded structure is limited to *[X feet in height from median grade or other]*
3. No part of the structure, including the deck, may be located closer than [**five**] [**some greater distance**] from the southern lot line.
4. Prior to issuance of an occupancy permit, the Applicant shall submit a stamped, As-Built Plan of the residence confirming that the residence conforms to the above limits and dimensions indicated on the Plans.
5. The use of the Property shall be in strict conformance with the Town of Truro Bylaw;
6. Construction shall conform to all conditions imposed by the Planning Board under Residential Site Plan Review.
7. A Special Permit is required in conjunction with this Variance for construction of the proposed dwelling and related site work. This Variance may be exercised only in compliance with all terms of the Special Permit decision.
8. The Applicant must obtain approval from the Conservation Commission for demolition of the existing house; removal of the existing septic system; planting and other landscaping, and any other activity taking place within jurisdictional resources under the Wetlands Protection Act and/or Truro Wetlands Protection Bylaw.

9. Other conditions

This Variance shall lapse after one year if substantial use is not commenced with that time. See G.L. c. 40A, s. 10.

Art Hultin, Chair

Date

Received, Office of the Town Clerk:

Signature

Date

I hereby certify that this decision was filed with the Office of the Town Clerk on _____ and 20 (twenty) days have elapsed since the date of filing, and:

- No Appeal has been filed.
- An Appeal has been filed and received in this office on: _____

Signature

Date

NOTE: Any person aggrieved by a decision of the Zoning Board of Appeals may appeal to the Superior or Land Court by bringing action within twenty days after the decision has been filed with the Town Clerk of Truro. (Massachusetts General Laws, Chapter 40A, Section 17)

THE COPY OF THIS DECISION PROVIDED BY THE TOWN CLERK MUST BE FILED WITH THE REGISTER OF DEEDS OF BARNSTABLE COUNTY BY THE APPLICANT.



**OFFICE OF
TOWN CLERK
TOWN OF TRURO, MA 02666-2012**

January 5, 2021

M. Louise Briggs Living Trust
Louise Brigg, Trustee
PO Box 94
Truro, MA 02666-0094

Location: 8 Castle Road, 50-145 (2020-005/ZBA)

S9 ZONING ORDINANCES AND BYLAWS CH 205 (2006)

No variance or special permit, or any extension, modification or renewal shall take effect until a copy of the decision bearing the certification of the city or town clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk is recorded in the registry of deeds. (12/06)

CERTIFIED DECISION ENCLOSED FOR RECORDING

Susan A. Joseph
Temporary Town Clerk, Town of Truro
(508)214-0926

cc: Board of Appeals
Building Commissioner
Planning Consultant



Zoning Board of Appeals

Town of Truro

24 Town Hall Road
Truro, MA 02666
(508) 349-7004

DECISION OF THE ZONING BOARD OF APPEALS

Special Permit

Atlas Map 50 Parcel 145

Address: 8 Castle Road

Case Reference No.: 2020-005/ZBA

Applicant: M. Louise Briggs Living Trust
Louise Briggs, Trustee

Hearing Dates: November 23, 2020

Decision Date: November 23, 2020 Vote: 5-0

Sitting: Arthur F. Hultin, Jr., Chair; Fred Todd, Vice Chair; John Dundas; John Thornley; Darrell Shedd (recused himself)

Motion (Mr. Dundas; Mr. Hultin second). In the matter of 2020-005/ZBA, Louise Briggs, Trustee, to grant a Special Permit to expand a nonconforming structure in a Residential District under G.L. c. 40A, s. 6 and Sections 30.7 and 30.8 of the Zoning Bylaw on property located at 8 Castle Road (Atlas Map 50, Parcel 145) based upon the following materials filed with this Board:

- Cover Letter dated November 13, 2020
- Application for Hearing
- Certified Abutters List
- "Site Plan, 8 Castle Road, Truro, MA, prepared for Louise Briggs," F. Roche, Jr." prepared by Felco, Inc., Engineering – Land Surveying, Scale 1"= 40' dated September 22, 2020, revised November 18, 2020
- Plan Set, "8 Castle Road, Truro, MA," prepared by Elton Elperin, Architect, Scale: various, dated November 6, 2020 Sheets A01 – A4, inclusive; A10-13, inclusive; A21, A23
- "8 Castle Road, Project Summary" dated November 18, 2020

The Board also received:

- Letter dated September 17, 2020 from Pam and Ross Blair, 6 Castle Road to Zoning Board of Appeals, with attachments

This Special Permit is based on the following findings of fact:

1. This is an application by Louise Briggs for a Special Permit to expand a nonconforming single-family house under G.L. c. 40A, s. 6 and Sections 30.7 and 30.8 of the Truro Zoning Bylaw (“Bylaw”).
2. This property, located in the Residential District, conforms as to lot area (2.4 acres) and frontage (199.39 feet on Castle Road). The existing house, on the eastern side of the property, encroaches into the side setback (20.6 feet where 25 feet required).
3. A garage near the house, closer to the street, is also nonconforming as to setback, at 13.6 feet from the property line. A 529 square foot cottage, constructed in 2018 and conforming to setback requirements, is located toward the western side of the property.
4. The proposed project entails demolition of a portion of the house, including a porch, and replacing it with a one and a half story addition, and new porch. This will result in an expansion of the preexisting nonconforming structure.
5. The addition will contain an expanded kitchen on the first floor; and a new bedroom, bath, and storage area on the second floor, which is open to the room below. A new basement is also proposed.
6. The existing Gross Floor Area of the house is 1,856 square feet; the proposed is 2,352 square feet. Although the added square footage is a modest 496 square feet, from the exterior, the impact to massing is more considerable.
7. The existing house and proposed construction lie within 100 feet of the Riverfront Area (Pamet River) and within the buffer zone to other wetland resources. A Notice of Intent was filed with the Conservation Commission and heard on September 14, 2020 and October 5, 2020. An Order of Conditions issued November 9, 2020.

Findings under Zoning Bylaw Section 30.7 and Section 30.8 and G.L. c. 40A, s. 6

1. The Board finds that the proposed project is a reasonably-scaled addition to the existing nonconforming dwelling that modestly expands and updates living space in keeping with the existing configuration of structures on the property.
2. The Board finds that the proposed expansion is consistent with neighboring single-family structures on Castle Road.
3. The Board finds that due to the proximity of the dwelling to the lot line with 6 Castle Road, and the increased massing of the expanded structure along that lot line,

maintenance of existing screening will be needed to mitigate impacts on the abutting property.

4. Based on the above, the Board finds under Section 30.7 of the Zoning Bylaw that as conditioned herein, the proposed expansion of the existing nonconforming dwelling will not be substantially more detrimental to the neighborhood than the existing nonconforming structure. The Board further finds that the expansion will exist in harmony with the general purpose and intent of the Bylaw.
5. The Board further finds pursuant to Section 30.8 that the proposed use is in harmony with the general public good and intent of the Zoning Bylaw.
6. The Board likewise finds under G.L. c 40A, s. 6 that the proposed expansion will not be substantially more detrimental than the existing nonconforming dwelling to the neighborhood.

Conditions

This Special Permit is granted subject to the following conditions:

1. Construction shall conform to the plans referenced in this decision.
2. The Gross Floor Area of the expanded structure is limited to 2,352 square feet and the height of the addition is limited to 23 feet in height from median grade.
3. Prior to issuance of an occupancy permit, the Applicant shall submit a stamped, As-Built Plan of the residence confirming that the residence conforms to the above limits.
4. The use of the Property shall be in strict conformance with the Town of Truro General Bylaws and Zoning Bylaws;
5. Construction shall conform to all conditions imposed by the Conservation Commission in the applicable Order of Conditions date November 9, 2020.
6. The right of way from Castle Road to the 6 Castle Road property shall not be blocked or otherwise impeded.
7. No condensers, generators, or other mechanical equipment shall be located within the setback.
8. The applicant shall plant and maintain vegetative screening between the new construction and the property line from the list of approved Conservation Commission plantings.

8 Castle Road
Project Summary
18 November 2020

Existing space - gross floor area

1 st floor	1,167 s.f.
2 nd floor	689 s.f.
Total	1,856 s.f.

Porches 245 s.f.

Demolition of gross floor area

1 st floor	292 s.f.
2 nd floor	80 s.f.

Demolition of Porches 245 s.f.

New Construction, gross floor areas

1 st floor	415 s.f.
(demolished)	292 s.f.
Net new 1st floor	123 s.f.

2 nd floor	453 s.f.
(demolished)	80 s.f.
Net new 2nd floor	373 s.f.

Total net new gross floor area 496 s.f.
Total proposed gross floor area 2,352 s.f.

Porches	322 s.f.
(demolished)	245 s.f.
Net new porches	77 s.f.

Distance from south lot line (existing) 20.6'
 Distance from south lot line (proposed) 20.6'

Height from median grade (existing) 23.2'
 Height from median grade (proposed) 23.2'

Depth of proposed excavation below grade 8'

8 Castle Road
Truro, MA

ELTON ELPERIN ARCHITECT

49 MONMOUTH STREET • BROOKLINE, MA
917-716-6876

JOB NO.		
DRAWN		
DATE	6 NOVEMBER 202	
REVISIONS		
NO.	DATE	DESCRIPTION



1 NORTH ELEVATION
SCALE: 3/16"

NORTH ELEVATION

SCALE AS NOTED

DRAWING NO.

A 21

8 Castle Road
Truro, MA

ELTON ELPERIN ARCHITECT

49 MONMOUTH STREET • BROOKLINE, MA
917-716-8876

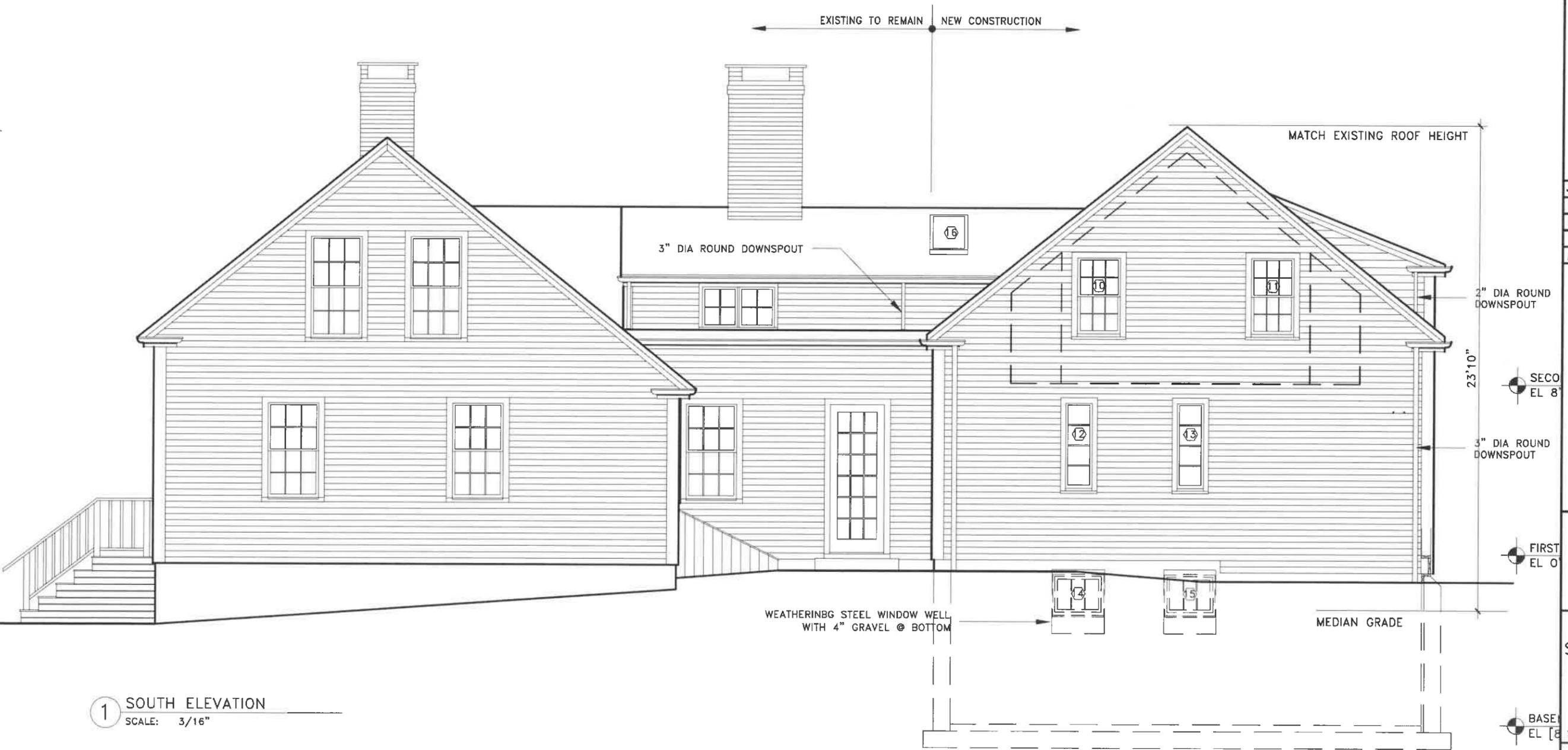
JOB NO.

DRAWN

DATE 6 NOVEMBER 202

REVISIONS

NO.	DATE	DESCRIPTION
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1 SOUTH ELEVATION
SCALE: 3/16"

SOUTH ELEVATION

SCALE AS NOTED

DRAWING NO.

A 23

DECISION OF THE ZONING BOARD OF APPEALS

Comprehensive Permit

Cloverleaf Truro Rental Housing

Applicant: Community Housing Resource, Inc.

Owner: Town of Truro

Locus: 22 Highland Road
Assessor's Map 36, Parcel 238

Sitting: Arthur F. Hultin, Jr., Chair; Fred Todd, Vice Chair; John Dundas; John Thornley; Chris Lucy, Darrell Shedd (alternate, not voting) Heidi Townsend (alternate, not voting)

Public Hearing Dates:

November 21, 2019; December 5, 2019; December 12, 2019; December 19, 2019; January 16, 2020 (procedural); February 24, 2020 (procedural); March 12, 2020; April 2, 2020 (procedural); May 28, 2020 (procedural); June 25, 2020; July 9, 2020 (adjourned early due to technical difficulties); July 16, 2020; July 30, 2020; August 20, 2020; September 3, 2020 (procedural); September 10, 2020; September 24, 2020; October 1, 2020; October 8, 2020; October 22, 2020; November 5, 2020; November 12, 2020 (adjourned early due to GoToMeeting Outage); December 3, 2020; December 17, 2020; January 7, 2021; January 14, 2021.

On November 6, 2019, Community Housing Resource, Inc. (CHR or Applicant) submitted an application for comprehensive permit for a project known as "Cloverleaf," proposed to be constructed on Town-owned land off Highland Road on the east side of Route 6 ("Project"). Public hearing opened on November 21, 2019, and was continued to the dates above. Pursuant to extensions granted by the Applicant, and further continuances necessitated by the COVID-19 emergency declared by the Governor on March 13, 2020, the hearing closed on January 14, 2021. The Board deliberated on January 14, 2021. Pursuant to G.L. c. 40B, ss. 20-23 and regulations thereunder, the Zoning Board of Appeals voted to GRANT the application for a comprehensive permit for Cloverleaf, subject to certain conditions.

I. History of Project

The 3.91-acre project site is a parcel conveyed to the Town of Truro by the Massachusetts Department of Transportation 2017 for the purpose of constructing a mixed-income housing development, with at least 25% of units affordable to persons or households earning 80% of the

Area Median Income.¹ The parcel was a portion of the State Highway layout and was made available to the Town through the Commonwealth’s “Open for Business” initiative. Town Meeting approved the acquisition of the parcel for affordable housing purposes on April 26, 2016, ATM Article 20. The Release Deed was accepted by the Select Board on September 19, 2017.

Over the next six months, the Truro Housing Authority, working with Town staff and officials through a public process, developed a housing program for the property. Rental housing was selected to meet the Town’s most acute housing needs. Density, unit size/mix, and levels of affordability were discussed. Following this process, the Board of Selectmen approved a Housing Program for 30 to 40 units, a density enabled by extension of the water line down Highland Road to the project site.² In 2019 the Town was awarded a MassWorks grant of \$2.1 million to fund the costs of the water line extension. In addition, Truro was designated a “Housing Choice Community” and was awarded a “Planning for Housing Production” technical assistance grant of \$75,000 for engineering costs relating to extension of the water line.³

The Town issued a Request for Proposals in August of 2018 for the development and management of an affordable and mixed-income rental development of 30 to 40 units, envisioned to be permitted under G.L.c . 40B. Among other design and construction guidelines indicated, the RFP included a suggestions of buildings clustered into small but multi-unit structures, and “a larger structure housing multiple smaller units with some common space, creating an independent living arrangement that would be appealing to senior citizens.”

CHR submitted a proposal consistent with RFP criteria and was selected as the developer through the RFP process in January 2019. A Land Development Option Agreement was executed by the Select Board and CHR in September 2019. This Agreement provides, at CHR’s option, and subject to the developer’s obtaining all necessary permits, for CHR and the Town to enter into a 99-year ground lease under which the Applicant will construct and operate the housing development on the parcel. The Town will enter into such lease through the Select Board, which will negotiate certain terms and conditions governing construction and operation of the development.

¹ The parcel is described in a Release Deed recorded with the Barnstable County Registry of Deeds at Book 30796 Page 289, and is shown as “Parcel 1” on a plan entitled “Plan of Land in Truro Massachusetts” dated September 6, 2019, prepared by VHB, Inc., and recorded with the Barnstable County Registry of Deeds at Plan Book 672, Page 31.

² The Town of Provincetown approved the Cloverleaf water line extension in April 2019.

³ Prior to construction of the Project, the Town of Truro will extend the water line to 22 Highland Road and install the water line within the project site to serve the Project. Certain conditions in this permit are applicable prior to site disturbance (for example, the requirement of a Turtle Protection Plan approved in writing by the state’s Natural Heritage and Endangered Species Program). To the extent applicable, the Town’s work within the Project site must comply with the conditions in this Permit.

Project Site and Components

The Project parcel lies in a Residential Zoning District, abutting Route 6 to the west, the National Seashore and a single-family property to the east; Highland Road to the south, and a single family property to the north. It lies within an area mapped by the Natural Heritage and Endangered Species Program as Priority Habitat for Eastern Box Turtle. The parcel does not include or border on any wetlands under the Wetlands Protection Act or Truro Wetlands Bylaw.

The Project site is currently wooded and vacant. The front area of the parcel is fairly steeply sloped, from an elevation of 24' at Highland Road to an elevation of 63' within the parcel. The parcel slopes down to an elevation of 32' at the rear of the parcel. Site work will include considerable clearing, earth removal, and regrading in order to construct a safe roadway, and to create a level area for the project buildings and leaching field of the project's Title 5 system.⁴All traffic will enter and exit the project on a single roadway to Highland Road. A gated emergency access road (also to be used for construction) will provide access to Route 6 from the rear area of the parcel.

The Project in its final design consists of twelve two-family townhouse or duplex buildings and a fifteen-unit apartment building, for a total of thirty-nine rental units.⁵Ten of the two-family buildings and the three-story apartment building are sited around an oval loop roadway, within which is a landscaped common area; two additional two-family townhouse buildings are located at the rear of the parcel behind the apartment building. The two-family buildings contain a mix of one-, two-, and three-bedroom units. The architectural style is described as "variations on Cape Cod vernacular" and the exterior to be cedar shingles or clapboard.

The apartment building contains mostly one-bedroom units and an elevator, allowing for "single-level" living. Community space and an office are also located within the building. Design changes to the roof of the apartment building and townhouse buildings, discussed during public hearing, will allow for the installation of solar panels.

The project is proposed under the Low-Income Housing Tax Credit Program. Based on modifications to the original proposal as discussed during public hearing, twenty of the units will be affordable to households earning no more than 80% of Area Median Income (AMI); of these twenty units, five will be affordable to households earning no more than 30% of AMR, and fifteen will be affordable to households earning no more than 80% AMI. Eight units will be affordable to households earning between 80% and 120% AMI. Six units will be unrestricted/market rate. The remaining five units will be allocated as warranted by funding sources. The substantial proportion of affordable units in the project, as well as the deeper

⁴ As a condition of approval, the soils removed will be contributed to the Town, to be used for beach nourishment.

⁵ As originally proposed, the project contained forty units and included a seven-unit building near the front of the parcel. This building was eliminated from the design because its location did not permit sufficient and safe access to the project by emergency vehicles.

affordability of many, provides meaningful progress towards addressing the Town's rental housing needs. The considerable relief requested from the Town's Zoning Bylaw and other regulations is premised on this contribution.

II. Record before the Zoning Board of Appeals

The materials identified in **Appendix A** comprise the record before the Board.

III. Findings of the Board

A. Findings on "Project Eligibility"

Based on the materials submitted by the Applicant, the Board makes the following findings with respect to the requirements of 760 CMR 56.04(1):

- (a) The Applicant shall be a public agency, a non-profit organization, or a Limited Dividend Organization

The Applicant to the Board is Community Housing Resources, Inc. As interpreted by DHCD, it is sufficient under G.L.c. 40B for an applicant to state an intention to form a Limited Dividend Organization at a later time in order to satisfy this requirement. The Applicant has stated that a qualifying single-purpose ownership entity, tentatively named "CHR Cloverleaf, LLC" will be formed and controlled by Edward Malone; this entity must limit profit and return on investment as required by the subsidizing agency and otherwise meet the general eligibility standards of the Low Income Housing Tax Credit Program.

The Board finds that this satisfies the requirement of 760 CMR 56.04(1)(a).

- (b) The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program.

The Project Eligibility Letter issued by DHCD on November 19, 2019, states that the project has been approved under the Low Income Housing Tax Credit (LIHTC) program. Under DHCD regulations, this approval letter is sufficient to establish "fundability" for purposes of 760 CMR 56.04(1)(b); although as noted by the Project Eligibility Letter, it is not a guarantee that LIHTC funds will be allocated to this Project.

The Board finds that this satisfies the requirement of 760 CMR 56.04(1)(b).

- (c) The Applicant shall control the site.

The Applicant entered into a Land Development Option Agreement with the Town of Truro, through its Select Board, on September 24, 2019. This Agreement has been extended by the parties through December 31, 2021. Under this Agreement, the Applicant has an option to develop and manage the Project, pursuant to 99-year ground lease to be executed by the Town, which will retain ownership of the parcel.

The Board finds that the Applicant controls the site for purposes of 760 CMR 56.04(1)(c).

B. Findings on the need for affordable housing

1. The Board finds that there is a critical, unmet need for affordable housing in the Town of Truro.

2. The Board finds that the need for year-round, affordable rental units is particularly acute.

3. The Board finds that the production of affordable rental housing was identified as a priority in the Town's most recent Housing Production Plan (HPP).

4. The Board finds that the Town of Truro has not achieved the 10% threshold identified in G.L. c. 40B, ss. 20, or any other “safe harbor” under the statute and DHCD regulations. The Town currently has 25 housing units on the Department of Housing and Community Development’s Subsidized Housing Inventory (SHI), or 2.3%.

IV. Waivers

Massachusetts General Laws c. 40B, §§20-23 empowers local Boards of Appeals to grant waivers from local rules and regulations, where the waivers are “consistent with local needs” under the statute. The Board understands that reasonable waivers from local regulations should be granted if, but for the waiver, the development of the housing project would be "uneconomic," as that term is used in G. L. c. 40B, §§ 20-23.

The Applicant included its November 6, 2019 application to the Board a list of requested waivers. This List was updated during the hearing process.

Under existing law and regulation, the Applicant has an affirmative obligation to demonstrate the need for the requested waivers to avoid the proposed project becoming "uneconomic." Although the Applicant has not provided documentation to demonstrate that the Project would be rendered uneconomic *but for* the specifically requested waivers and exceptions, the Board has reviewed the Applicant's waiver requests and has granted those that are consistent with protection of the general health, safety and welfare. The Board finds, in the absence of any substantiation to the contrary, that the waivers not granted do not either alone, or in the aggregate, render the Project uneconomic.

In the event that the Applicant or any Town Department head, or consultant retained for review of the project determines that the final design of the Project necessitates further waivers, the Applicant shall submit a written request for such waiver(s) to the Board. The Board may grant or deny such additional waivers in accordance with applicable rules and regulations and the judgment of the Board.

The Board's decision as to each of the waivers and exemptions requested is set forth in **Appendix B, Decision on Waivers**. The only waivers granted are those expressly approved in Appendix B. If a waiver is not expressly approved in Appendix B, it is denied. All local regulations, other than those expressly waived in Appendix B, are applicable to this project, including regulations for which no waiver was requested. No "plan waiver" is granted.

TERMS AND CONDITIONS

Subject to the conditions set for hereinafter, the Board grants this comprehensive permit (the "Permit") to the Applicant for the Project proposed. The Board notes that 760 CMR 56.05(8)(d) provides that:

"The Board shall not issue any order or impose any condition that would cause the building or operation of the Project to be Uneconomic...."

In reaching this Decision, the Board has endeavored to ensure that the conditions herein do not render the Project uneconomic and that the conditions are consistent with local needs. If the Applicant should appeal this Decision to the Housing Appeals Committee and the Committee were to find that any particular condition or conditions render the Project uneconomic or not consistent with local needs, the Board requests that any order to the Board to remove or modify any condition in this Decision be limited to such particular condition or conditions and that all other conditions and aspects of this Decision be confirmed.

1. The Comprehensive Permit application was based on a Project Eligibility letter issued to the Applicant by DHCD on November 19, 2019 under the Low Income Housing Tax ~~Credit~~ (Credit) (LIHTC) program. This Permit is conditional upon receipt of Final Approval from DHCD and the grant of subsidy funding through the LIHTC program or other subsidy approved by DHCD. Grant of LIHTC funding (or other subsidy approved by DHCD) is a condition precedent to any grading, land disturbance, construction of any structure or infrastructure (except such work performed by the Town for installation of the water line), or issuance of any building permit.
2. This Permit is conditional upon the execution of a Regulatory Agreement for this Permit by DHCD and the Applicant, in form and substance as required by DHCD, to which the Town of Truro shall be made a party and beneficiary. The Town shall have enforcement rights under the Regulatory Agreement as to the affordability restrictions. The execution of such Regulatory Agreement is a condition precedent to any grading, land disturbance, construction of any structure or infrastructure (except such work performed by the Town for installation of the water line), or issuance of any building permit. No building permit shall be granted until the terms and conditions of the Regulatory Agreement and project eligibility letter have been complied with in full, except for those which by their nature are to be complied with during and after construction of the project.

3. The Project shall conform to the following Plans (“Plans of Record”). These Plans were submitted by the Applicant as a package and are referred to as “Cloverleaf Architectural and Engineering Updated Plans as of 2020-10-20”:

“Cloverleaf Truro Rental Housing, 22 Highland Road, Permit Set”, Sheets 1-6, prepared by J.M. O’Reilly & Associates, Inc., consisting of:

- Sheet 1, “Site Plan” dated November 1, 2019
- Sheet 2, “Sewage – Drainage Site Plan – 40B Permit Set” dated Nov. 1, 2019
- Sheet 3, “Sewage Details – 40B Permit Set” dated November 1, 2019
- Sheet 4, “Site Details – 40B Permit Set” dated November 1, 2019
- Sheet 5, “Site Details – 40B Permit Set” dated November 1, 2019
- Sheet 6, “Erosion Control Site Plan” dated July 28, 2020

“Cloverleaf Truro Rental Housing, Watershed Areas Plan,” prepared by J.M. O’Reilly & Associates, Inc., dated September 16, 2020

“Cloverleaf Truro Rental Housing, Swept-Path Analysis - Entrance,” prepared by J.M. O’Reilly & Associates, Inc., dated September 2, 2020

“Cloverleaf Truro Rental Housing, Swept-Path Analysis - Exit,” prepared by J.M. O’Reilly & Associates, Inc., dated September 2, 2020

“Cloverleaf Truro Rental Housing, Truro, Massachusetts, Buildings 1-3, 2-4 and 6-8,” prepared by Spring Hill Design, dated September 4, 2020, cover sheet and Sheets A1.1, A1.2 (scale 1/8”=1’), A.2.1 (scale 1/4”=1’)

“Cloverleaf Truro Rental Housing, Truro, Massachusetts, Building 5-7,” prepared by Spring Hill Design, dated September 4, 2020, cover sheet and Sheets A1.1, A1.2, A2.1 (scale 1/4”=1’)

“Cloverleaf Truro Rental Housing, Truro, Massachusetts, Buildings 9-11, 10-12, 17-19, and 18-20,” prepared by Spring Hill Design, dated September 4, 2020, cover sheet and Sheets A1.0, A2.1 (scale 1/8”=1’)

“Cloverleaf Truro Rental Housing, Truro, Massachusetts, Buildings 13-15 and 14-16,” prepared by Spring Hill Design, dated September 4, 2020, cover sheet and Sheets A1.0, A2.1 (scale 1/8”=1’)

“Cloverleaf Truro Rental Housing, Truro, Massachusetts, Building 21,” prepared by Spring Hill Design, dated September 17, 2020, cover sheet and Sheets A1.0– A1.3, inclusive; A2.1-A2.2 (scale 1/8”=1’) and “Schematic Section of Building 21” dated September 25, 2020 (1 page)

“Cloverleaf Truro Rental Housing, Truro, Massachusetts, Building 22-24 and 23-25,” prepared by Spring Hill Design, dated September 4, 2020, cover sheet and Sheets A1.0 – A1.2, inclusive; A2.1-A2.2 (scale 1/8”=1’)

“Landscape Planting, Fencing, Trash/Bike Storage, Exterior Lighting Plan, Cloverleaf Truro Rental Housing” dated October 5, 2020

“Fence/Storage Images, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated June 19, 2020

“Exterior Palette/Lighting, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated October 5, 2020

“Interior Palette, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated June 19, 2020

“Control Room Schematic Design, Cloverleaf Truro Rental Housing,” Spring Hill Design dated October 5, 2020

“Building Height Calculations – 1-3, 2-4, 6-8, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated February 20, 2020

“Building Height Calculations – 5-7, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated February 20, 2020

“Building Height Calculations – 9-11, 10-12, 13-15, 14-16, 17-19, and 18-20, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated February 20, 2020, revised August 31, 2020

“Building Height Calculations – 21, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated February 20, 2020, revised September 24, 2020

“Building Height Calculations – 22-24 and 23-25, Cloverleaf Truro Rental Housing,” Spring Hill Design, dated February 20, 2020

“Illustrated Site Plan, Cloverleaf Truro Rental Housing” dated October 12, 2020

All of the above as further modified to comply with the requirements of this Decision; as well as any changes deemed necessary by the Building Inspector or the Board's consultant for compliance with this Decision.

4. Substantive revisions to the Project or the Plans shall not be permitted without the written approval of the Board. If, between the date that this decision is filed with the Office of the Town Clerk and the completion of the Project, Applicant seeks to change any details of the Project (as set forth in the Plans, or as required by the terms of this Decision) the Applicant shall promptly inform the Board in writing of the change requested pursuant to 760 CMR 56.05 (11). The Board will address such requests under the procedures set out in that regulation.
5. Where this Decision provides for the submission of plans or other documents to the Building Inspector, Department of Public Works, the Board, or its agent, a written response shall be provided the Applicant as to whether such plans or other documents are

consistent with this Decision within forty-five days of receipt of such plans or other documents.

Regulatory Compliance: State, Federal and Local

6. Development of the Project shall comply in all respects with all terms and conditions contained in the Project Eligibility approval for the Project issued by DHCD dated November 19, 2019 and any modifications thereto
7. The Project shall conform to all applicable requirements of the Americans with Disabilities Act (ADA) and the Massachusetts Architectural Access Board (MAAB).
8. The Project shall comply with all rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Endangered Species Act, G.L. c. 131, s. 23 and 321 CMR 10.00 et seq. This includes but is not limited to compliance with the “Box Turtle Protection Plan for Cloverleaf Affordable Housing Project” approved by the Division of Fisheries and Wildlife on May 27, 2020, received from MassAudubon, and any amendments to this Plan or additional requirements imposed by the Division.
9. The Project shall comply with all rules, regulations, filing and permit requirements and certifications required by the regulations governing the Massachusetts Historical Commission.
10. The Project shall comply with all rules, regulations, filing and permit requirements and certifications required by the regulations adopted by the Executive Office of Environmental Affairs pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, § 61-62H).
11. The Project shall comply with all rules, regulations, permit and filing requirements, and certifications of the Massachusetts Department of Environmental Protection with respect to wastewater disposal, stormwater disposal, private wells, resource protection, water supply and low impact development best management practices
12. Stormwater management systems shall meet the Guidelines of the Department of Environmental Protection Storm Water Management Policy and Handbook (Vols. 1 & 2), as revised
13. The Project, including but not limited to site work, drainage, utilities, and construction of dwelling units and related improvements shall comply with all other applicable state and federal regulations.
14. Copies of all applications to, and approvals from State and Federal agencies shall be submitted to the Board or its designated agent prior to recording of Final Plans.
15. The Project shall comply with all rules, regulations, permit and filing requirements, and certifications of the Truro Board of Health, except as expressly waived in this Decision.

16. The Project shall comply with the Town of Truro Zoning Bylaw in effect at the time of the Application, except as expressly waived in this Decision
17. The Project shall comply with all Town of Truro rules, regulations, and other local bylaws and requirements not expressly waived by this Decision.

Dwelling Units; Affordability in Perpetuity

18. The project shall consist of thirty-nine units, twenty-four of which shall be contained in twelve two-family buildings and fifteen of which shall be contained in a three-story apartment building (also containing community and office space) constructed in conformity with the Plans specified in Condition 3 above.
19. No fewer than twenty (20) of the Project units constructed and rented shall be affordable, in perpetuity, to individuals and/or families earning no more than 80% of Area Median Income (AMI) as calculated pursuant to formulas determined by the U.S. Department of Housing and Urban Development (HUD) or DHCD. Of these twenty units, five will be affordable to households earning no more than 30% of AMR, and fifteen will be affordable to households earning no more than 80% AMI. Eight units will be affordable to households earning between 80% and 120% AMI. Six units will be unrestricted/market rate. The remaining five units will be allocated as warranted by funding sources.
20. No dwelling unit identified as an “affordable unit” may be rented to anyone other than a qualified tenant as required by this Decision and consistent with the requirements of DHCD and other state agencies governing the rental of below market rate units in a comprehensive permit project; provided, however, if a tenant was income-eligible at initial occupancy, and tenant’s income has increased above eligibility limits, the Applicant shall comply with the Subsidizing Agency’s requirements for converting another unit within the Project to an affordable unit.
21. The affordable units shall be evenly distributed within the Project and shall be indistinguishable in architectural style, exterior finish materials, and exterior appearance from market units.
22. Each affordable unit shall be rented pursuant to an affordable housing restriction, more fully described below, ensuring that only income eligible individuals or families may rent the dwelling unit.
23. The affordable units shall permanently remain affordable units, for so long as the Property does not comply with the Town’s Zoning Bylaw without the benefit of this Comprehensive Permit, or for the longest period allowed by law, if longer, so that the Affordable Units shall continue to serve the public purposes for which this Comprehensive Permit was authorized under G.L. c. 40B, §§ 20-23.
24. An affordable housing restriction, enforceable by the Town of Truro requiring that the affordable units remain affordable in perpetuity, in a form approved by counsel for the Town, shall be recorded senior to any liens on the Project locus to protect the requirement

for the affordable units in the event of any foreclosure, bankruptcy, refinancing or sale. This affordable housing restriction shall reflect the affordability levels stated in paragraph 19 above.

25. All units shall be and shall remain eligible to be included in the Town's Subsidized Housing Inventory, as maintained by DHCD. The Applicant shall cooperate with the preparation of request forms to add Project to the Town's SHI. .

Management Documents and Agreements with Town

26. The Applicant shall prepare documents in a form that conforms to this Decision and applicable law, designed to manage the Project and ensure that the terms and conditions of this Decision are enforced.
27. Management Plan. The Applicant shall submit to the Town of Truro a Management Plan (similar to the "Cloverleaf Truro Housing Property Management Plan" submitted during hearing), stating the roles and responsibilities of the project Owner ("CHR Cloverleaf Limited Partnership" or other) and the Management Agent (Community Housing Resource, Inc. or other), and governs project operations, including marketing, leasing, financial operations, and compliance. All updates to the Management Plan shall be submitted to the Town.
28. Maintenance Plan. The Applicant shall submit to the Town of Truro and the Department of Public Works a detailed Maintenance Plan, prepared in consultation with the DPW Director, governing repair and maintenance of the Project. The Maintenance Plan shall address Project buildings, ways, parking areas, landscaping, lighting, stormwater management systems, and other Project infrastructure and facilities. The Maintenance Plan shall ensure that the terms and conditions of this Decision are enforced. All updates to the Maintenance Plan shall be submitted to Town and DPW
29. The Applicant shall enter into a Lease Agreement, and any other Agreements deemed necessary by the Town, governing the rights and responsibilities of the parties with respect to the Project and the Project Site. Such Agreement(s) shall be approved by Town Counsel.

Profitability

30. The Project shall be limited to the profit allowed under the Regulatory Agreement (the "allowable profit").
31. Any profit that is above the allowable profit pursuant to the Regulatory Agreement, shall be paid in accordance with 760 CMR 56.04(8)(c).
32. The Applicant shall provide to the Board or its designated agent a copy of all financial statements and documentation required by the Regulatory Agreement.

Marketing and Local Preference

33. Prior to construction of the Project, the Applicant shall submit to the Board copies of the Affirmative Fair Housing Marketing Plan and Tenant Selection Plan for the affordable units which will be submitted to DHCD and conforming to all requirements imposed by federal and state regulations.
34. To the extent allowed under G.L. c. 40B and other applicable law and in a form approved by the Subsidizing Agency and/or the Project's monitoring agent, the Project's Tenant Selection Plan shall provide a Local Preference category for up to seventy (70%) of the Affordable units at initial occupancy. The Town will be required to provide evidence satisfactory to the Subsidizing Agency of the need for the foregoing local preference. The Applicant shall provide reasonable and timely assistance to the Town in providing this evidence.
35. The maximum number of affordable units allowed by law and the applicable subsidy program, up to seventy percent of the units in the Project, shall be reserved for households that qualify for inclusion in the above Local Preference category.
36. This local preference shall be implemented by the Applicant and the Applicant shall maintain records of its marketing efforts, which records shall be open to review by the Town (subject to applicable state or federal law regarding privacy) for compliance with the local preference set forth herein, to the extent such local preference has been allowed by the Subsidizing Agency.
37. The local preference shall be implemented pursuant to procedures approved by the Subsidizing Agency. The costs associated with the marketing of units in the Project, including the advertising and processing for the Affordable Units shall be borne by the Applicant.
38. The Applicant shall submit to the Board a report on marketing activity at the Project demonstrating compliance with the local preference requirement pursuant to the plan approved by the subsidizing agency as set forth above, following the initial lease up.

Conditions Precedent to Commencement of Project

The conditions below are conditions precedent to the Applicant's Project construction. In particular, and without limitation, no grading, land disturbance, or construction of any structure or infrastructure shall commence until the following conditions are satisfied:

39. The Building Inspector has reviewed and approved detailed construction drawings for the entirety of the Project, including all buildings, structures, ways, and underground ~~utilities~~ utilities ("Final Plans"). The Building Inspector shall review the Final Plans for conformance with this Decision; for compliance with local requirements not waived in the Permit; and with state and federal codes. All construction plans shall be stamped by a registered architect or registered professional engineer, as may be applicable. The Board may engage, at the Applicant's expense and upon prior agreement to scope and cost of services, one or more agent to review the plan(s) and make recommendations for approval or disapproval to the degree that a plan or plans are inconsistent with this

decision. Copies of the Final Plans shall be filed in hard copy and in digital form with the Building Department; the Board; the Planning Department; and the Department of Public Works.

40. The Board's consultant has reviewed and approved detailed and final plans of the Project's storm water management system. These plans shall be consistent with DEP's Storm Water Management standards, policies, and handbooks; shall address any effects on abutters; and assure that there will be no detrimental drainage or erosion impact on abutting properties.
41. The Board's consultant has reviewed and approved a final Stormwater Operations and Maintenance Plan for the Project roadway, infrastructure and drainage systems, both during and post-construction.
42. The Board's consultant has reviewed and approved an Operations and Maintenance Plan for the Project's wastewater disposal system.
43. The Board's consultant has reviewed and approved an erosion control plan to be in effect for the duration of site disturbance and project construction. This Plan shall ensure that there is no erosion or sedimentation from the project site onto Highland Road, the Route 6 layout, or abutting properties. The Plan shall include measures for extreme weather events. During installation of the water line to and within the Project site, the Department of Public Works shall ensure compliance with the erosion control plan. Prior to commencement of the Applicant's construction of the Project, the Board's consultant shall inspect and approve the installed erosion control measures, and shall inspect the Project site as needed to ensure ongoing compliance with the erosion control plan.
44. The Director of DPW and Conservation Agent have reviewed and approved 1) a plan showing areas of the site proposed for vegetative clearing; limit of construction activity, soil stockpiling areas, construction staging, and refueling and storage area(s); and 2) the Applicant's installation of limit of work construction fencing.
45. The Applicant has submitted to the DPW Director and the Building Inspector a construction schedule identifying the sequence and approximate dates of all key stages of construction
46. A Regulatory Agreement, similar in form to that published by DHCD has been has been executed by the Applicant, DHCD, and the Town of Truro, and has been recorded in the Barnstable Registry of Deeds. The Regulatory Agreement shall:
 - A. Provide that 20 of the units will be affordable in perpetuity to households at no more than 60% of AMI; that an additional 6 units will be affordable in perpetuity to households at no more than 80% of the AMI; and that an additional 6 units will be restricted to up to 110% of AMI;
 - B. Provide for a Monitoring Agent for the Project, whether the subsidizing agency or designee.

C. Provide that the Project shall comply with profit limitations required under G.L. c. 40B;

D. Provide that any excess profit shall be paid in accordance with 760 CMR 56.04 (8)(c).

47. The Applicant, the Board and DHCD have executed a Monitoring Agreement, similar in form to the Monitoring Agreement published by DHCD

48. The Final Plans have been reviewed and approved by the Fire Chief for hydrant locations; access to each building for firefighting purposes; and adequacy of the access roadway from Highland Road and emergency access roadway to Route 6 for fire truck ingress and egress.

49. A NPDES Storm Water Pollution Prevention Plan or Stormwater Pollution and Prevention Plan (SWPPP) has been prepared. The final SWPPP shall be provided to all contractors and subcontractors during construction. Copies of the SWPPP shall be submitted to the DPW Director, Conservation Agent, and Planning Department.

50. A Disposal Works Construction Permit been obtained from the Board of Health under Title 5 of the State Environmental Code.

51. The Applicant shall provide the Town of Truro, in form and substance approved by Town Counsel, Applicant's agreement that the Town of Truro shall be free of any liability for any act, omission or negligence caused by the Applicant, its employees, agents, subcontractors, beneficiaries or trustees with relation to this Project, and that Applicant on behalf of itself and its successors and assigns has consented and agreed to indemnify the Town, its employees and officials for any harm, damage or injury caused by the Applicant, its employees, agents, subcontractors, beneficiaries or trustees with regard to this Project.

Conditions Prior to Issuance of a Building Permit (Applicant's Project)

52. The Applicant shall obtain Final Approval from DHCD (or other subsidizing agency) and shall provide evidence of such Final Approval to the Building Department and the Board.

53. The Applicant shall record this Decision and the above-described Regulatory Agreement in the Barnstable Registry of Deeds with the Final Plans, and provide proof of such recording to the Board. No building permit shall issue until this condition is satisfied

54. The Applicant shall provide to the Board and to the Building Department a set of full sized Final Plans (and any additional sets as requested by the Building Department) and a digital copy of the final endorsed set. No building permit shall issue until this condition is satisfied

55. A Project Manager, Project Superintendent, and Jobsite Foreman shall be identified by the Applicant. The name and phone numbers, including emergency phone numbers of these individuals, shall be provided to the Department of Public Works, the Building Inspector and the Planning Department as agent for the Board.

56. Performance Guarantee. Prior to issuance of a Building Permit, the Applicant shall provide the Town with a performance guarantee in an amount satisfactory to Town Counsel in consultation with the DPW Director, and in a form approved by Town Counsel, such approval not unreasonably withheld, to secure the completion of the Project's ways, utilities and drainage systems. No performance guarantee shall be provided for any MassWorks grant work. The performance guarantee shall be released by the Town in increments upon request by the Applicant as corresponding to sections of the Project completed in a satisfactory manner.

Conditions Relating to Construction

57. Prior to Applicant's commencement of work on the Project site, at a time designated by the DPW Director, a pre-construction kick-off meeting shall be held with the DPW Director, Project Manager, Project Superintendent, and Jobsite Foreman. . A meeting every two weeks shall be held with the Project Manager, Jobsite Superintendent, DPW Director
58. During construction, the Applicant and its agents and employees shall conform to all local, state and federal laws regarding noise, vibration, dust, odor, and use of Town roads and utilities. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. No construction activity shall commence on any day Monday through Friday before 7:00 AM or on Saturday before 9:00 AM. Construction activities shall cease by 7:00 PM on all days. No construction activity whatsoever shall take place on Sunday or federal holidays. For purposes of this condition, construction activity shall include, but not be limited to: start-up of equipment or machinery, removal of trees; grubbing; clearing; grading; filling; excavating; import or export of earth materials; installation of utilities; and removal of stumps and debris.
59. The removal of trees, shrubs, and natural ground cover on the site shall be minimized to preserve the natural environment to the highest degree possible.
60. The Applicant shall comply with the Environmental Management Plan prepared by Safe Harbor dated July 6, 2020.
61. Except as otherwise provided by this Decision, roadway design and construction standards shall conform to the requirements of the Truro Planning Board Subdivision Rules and Regulations. Roadway design plans and construction details shall be provided for approval by the DPW Director prior to roadway construction
62. All electric, cable, and telephone utilities shall be underground and shall conform to the utility companies' requirements. Utilities plan and construction details shall be provided to the DPW Director.
63. All stumps, brush, and other debris resulting from any clearing or grading shall be removed from the Project site. No stumps or other debris shall be buried on the Project site

64. All staging areas, including without limitation parking areas for construction personnel, portable toilets, temporary work facilities, etc. shall be on the Property.
65. If construction activity ceases for longer than 30 days, then written notice shall be provided by the Applicant to the Building Commissioner at least 48 hours before resuming work. The Building Commissioner may require that any foundation, trench, structure, equipment or other hazard be secured as necessary, in his opinion, including but not limited to installation of fencing and/or filling of trenches.
66. If construction is temporarily suspended during the growing season, all exposed areas shall be stabilized by seeding and/or mulching within 14 days of suspension of construction. If construction is temporarily suspended outside the growing season, all exposed areas shall be stabilized by mulching and tack within 14 days of suspension of construction. Slopes steeper than 3:1 shall be stabilized by netting and pinning during suspension of construction.
67. Soils disturbed in earth removal on the Project site, not utilized elsewhere on the site, shall be removed by the Applicant from the site and delivered by the Applicant to a location identified by the DPW Director for the purpose of beach nourishment.
68. Invasive Plants. No plants on the Commonwealth's Department of Agriculture "Invasive Plants" list (see <https://www.mass.gov/service-details/invasive-plants>) may be used in the landscaping or any other area of the proposed project
69. All residential buildings shall be constructed so as to allow for rooftop installation of solar panels.
70. The Applicant shall keep the site and the adjoining existing roadway area clean during construction. Upon completion of all work on the site, all debris and construction materials shall be removed and disposed of in accordance with state laws and regulations
71. Any damage to public roads incurred during construction of the Project shall be repaired and/or replaced to the satisfaction of the Department of Public Works.
72. No certificate of occupancy for any building shall be issued until the Board or its agent finds that all improvements required by this Decision have been constructed and installed so as to adequately serve the building for which the occupancy permit is sought.
73. Prior to the issuance of a certificate of occupancy for any building, the Applicant shall submit a letter from the Project engineer and/or architect certifying that the building for which the occupancy permit is sought, and any related improvements, have been constructed in conformity with the Plans of Record.
74. To ensure compliance with the terms and conditions of this Decision, prior to issuance of the final Certificate of Occupancy, the Applicant shall submit to the Building Inspector, DPW Director, and Planning Department as agent for the Board, complete and detailed "As-Built" Plans of the Project, including buildings, utilities, roadway and associated infrastructure. The As-Built Plans shall be submitted as full-size plans and in digital

form. These plans shall be approved by the Board or its agent for consistency with this decision; such approval shall not be unreasonably be denied or delayed. The final Certificate of Occupancy shall not issue unless the As-Built plans conform to this Decision.

75. Pursuant to an agreement reached between the Applicant and an abutter to the Project, the Applicant shall construct and maintain a stockade fence along the full length of the shared property line between the project parcel and Atlas Map 36 Parcel 170 as shown on the Landscaping, Planting and Fencing Plan; and shall supply, at the Applicant's expense: thirty (30) Leyland Cypress trees, 15 gallon container grown stock of 5 to 7 feet in height; 10 Leyland Cypress trees, two-three gallon container grown stock, approximately two feet in height; drip irrigation tubing; planting soil; leaf compost; and wood chip mulch. The above trees will be planted and maintained by the abutter on the abutter's property.

Wastewater Treatment

As discussed in the Waiver Appendix, the proposed Project cannot be constructed without a waiver of Article 14 of the Board of Health regulations ("Nitrogen Loading Requirements"), which requires a minimum of ten thousand square feet of Buildable Upland for every 110 gallons per day of design flow, and requires wastewater disposal systems to meet the standards for Nitrogen Sensitive Areas defined in 310 CMR 15.215 irrespective of whether the properties are located within Nitrogen Sensitive Areas as so defined." This results in a limitation of wastewater flow to 440 gallons per day per acre.

The Cloverleaf site contains a total of 3.91 acres or 170,320 square feet. Under Article 14, the maximum wastewater discharge permitted would be 1,874 gallons per day. The proposed system for this project has a design flow of 7,480 gallons per day. Waiver of Article 14 is required to allow this discharge in excess of the 1,874 gpd limit for a parcel of this size.

The Applicant proposes use of the BioMicrobics BioBarrier wastewater treatment facility to treat wastewater effluent generated by the Project. This is an Innovative/Alternative technology certified for enhanced nutrient removal by the Department of Environmental Protection. This system may be designed to achieve a level of nitrogen removal such that the concentration of nitrogen in effluent averages 5 mg/L. The following conditions are imposed to ensure protection of public health and safety, specifically, downgradient private wells

76. The maximum total nitrogen concentration in the wastewater effluent allowed for this system 10 mg/L measured at any time following the first six months of operation. The six-month timeframe recognizes there is a startup period during which the system reaches its full treatment capacity. If, after three months of operation an effluent sample contains a total nitrogen concentration above 10 mg/L, the applicant shall follow the steps listed in the operation and maintenance condition (#80) below to inspect and repair the system and bring it back into compliance.

77. The system shall be designed and operated to achieve an average total nitrogen concentration of 5 mg/L. The 5 mg/L average will be calculated as a rolling average taking into account all measurements taken in the prior 12 months. The calculation of the rolling average will begin following the initial six-month start-up period.
78. The applicant shall finalize an Operation and Maintenance plan that will be reviewed and approved by the Board of Health prior to system startup to govern the management of the facility. This plan shall incorporate the requirements of the Pilot Approval granted by DEP for the BioBarrier system (DEP, July 11, 2016, Pilot Approval Renewal For BioMicrobics BioBarrier system). It shall also include the additional items listed below for the operation of the system, monitoring of influent and effluent, and monitoring of groundwater upgradient and downgradient of the disposal facility.
79. The applicant will hire a certified operator to inspect, maintain and monitor the facility. The agreement with the certified operator shall run for a period of two (2) years and will be renewed with the same or other certified operator in subsequent two-year periods.
80. Wastewater influent and effluent will be monitored monthly upon the system's start up and shall continue monthly for a period of one year after the development is fully occupied. Influent and effluent shall be monitored for the parameters contained in the DEP Pilot Approval of the BioBarrier system and any other parameters requested by the Board of Health. Notice of when the 12-month period begins, following full occupancy, shall be provided to the Truro Board of Health. Monitoring data will be submitted to the Board of Health and the Barnstable County Department of Health and the Environment within two weeks of receipt of the data.
81. Upon the completion of the 12-month period, the owner and operator may request approval from the Board of Health to adjust the monitoring to a quarterly schedule. Approval from the Board of Health is required to make this change.
82. Prior to the start-up of the system, two (2) proposed long-term monitoring wells shall be installed on the Cloverleaf property to monitor groundwater quality near the proposed leaching facility. One will be placed on the northeast side of the property directly upgradient of the leaching facility. The second will be placed on the southwest property line directly downgradient of soil adsorption system #1, the larger of the two leaching facilities. Once these wells are installed, the owner will develop a new water table map incorporating water level measurements from the two new wells, three existing monitoring wells installed by the Town in 2020 near the property, and from two surface water level monitoring locations in Pilgrim Pond and its associated wetland. The groundwater flow data from this new water table map will be used to site a third long-term monitoring well further downgradient from the leaching facility and located on the southwest edge of the Route 6 property boundary in the vicinity of Old Firehouse Road.

The three long-term monitoring wells shall be installed with ten-foot screens located within the top seven feet of the aquifer. They shall be tested quarterly for total nitrogen, pH, specific conductance, total and fecal coliform and any other parameters requested by

the Board of Health. The first samples will be collected prior to system startup. The groundwater monitoring data will be submitted to the Board of Health within two weeks of receipt of the data.

83. The O&M plan shall include the As-Built Plan of the installed BioBarrier system.
84. The operator and owner will prepare an annual report summarizing the system's performance and submit it to the Board of Health. Within 30 days of the submission of the annual report, the owner and operator shall meet with the BOH or its agent, to review the previous year's O&M.
85. If the effluent concentration from the BioBarrier system exceeds 10 mg/L, the owner and operator will inform the Board of Health within one week and follow the recommended system modifications, procedures and treatment adjustments outlined in DEP's Pilot Approval Renewal to bring the system back into compliance. If the operator is not successful in bringing the system into compliance with the 10 mg/L total nitrogen maximum concentration within two months, the owner and Operator shall notify the DEP and the BOH of additional actions they will take to bring the system into compliance. The required repair/replacement timelines shall conform ~~with~~to the requirements outlined in the Pilot Approval or as required by the BOH upon the issuance of the Disposal Works Permit. During the noncompliance period the BOH, after a public hearing, may require the system to stop discharge of the effluent to the soil absorption systems.
86. If the effluent concentration exceeds 10 mg/L for more than one month, the owner will increase the frequency of groundwater monitoring at the three monitoring wells. Samples will be taken monthly for six months after the system is back in compliance and effluent concentrations are again below 10 mg/L.
87. Once the system is installed and operational, the continual O&M will address the replacement and/or repair of the various mechanical components within the system. The Operator shall review with the Board of Health the necessary mechanical components which should be inventoried and available onsite for immediate installation. These items will be listed in the approved O&M plan and inventoried at the site to make the necessary repairs to keep the system in compliance.

Administrative

88. The fees for consultant reviews incurred in the Board's review of this project application shall be paid by the Applicant. All consultant fees incurred prior to the issuance of this decision are due sixty days after this Decision is filed with the Town Clerk. No site disturbance shall commence until all past fees are paid in full.
89. The Applicant shall be responsible for fees incurred pursuant to consultant review of all project documents and all site inspections as provided for in the Conditions above
90. This permit cannot be transferred without approval of the Board and modification of this Decision following public hearing.

91. At the time the Applicant submits a Chapter 40B cost certification to DHCD, the Applicant shall provide copies to the Board and the Truro Select Board.
92. Except for roadway snow removal, sanding and sweeping, the Applicant shall be responsible for the installation, operation, and maintenance of all aspects of the Project, including but not limited to structures; driveways and parking areas; landscaping; trash/recycling disposal and pickup; stormwater management system, and wastewater disposal system. The Town of Truro shall have no legal or financial responsibility for the installation, operation, and maintenance of the above
93. If construction authorized by this Permit has not begun within three years of the date on which the Permit becomes final, except for good cause, the Permit shall lapse. This time period shall be tolled for the time required to pursue or await the determination on any appeal on any other state or federal permit or approval required for the Project.
94. Construction, once commenced, shall progress through to completion as continuously and expeditiously as possible and in accordance with the construction sequence and timetable provided
95. Funding provided by Town. The Applicant shall comply with any conditions associated with funding provided through allocation(s) by the Town, prior to or subsequent to issuance of this permit, including but not limited to allocations pursuant to the Community Preservation Act.
96. The Applicant shall comply with all Final Approval requirements as determined by DHCD (or other subsidizing agency)
97. If at any time it appears that the Applicant is in violation of an affordable housing restriction, then the Board may pursue such enforcement rights as it may have under the affordable housing restriction and/or applicable law.
98. The Applicant shall provide the Board with copies of any and all documents and statements provided by the Applicant to DHCD (or other subsidizing agency) or its designated auditor of the Applicant's costs and revenues for informational purposes.
99. The Town, by and through the Board or its designee, shall have continuing jurisdiction over the Project to ensure compliance with the terms and conditions of this Decision.
100. The Applicant shall enter into a springing affordable housing restriction and regulatory agreement with the Town ("Town Regulatory Agreement"), which shall be signed by all necessary parties, including subordinations from all mortgagees and lien holders of record for the property, and recorded at the Registry of Deeds prior to issuance of any building permit. The Town Regulatory Agreement shall become effective only if and when the Regulatory Agreement with DHCD or other subsidizing agency is terminated, expires, or is otherwise no longer in effect and is not replaced with another regulatory agreement with another subsidizing agency.

The Town Regulatory Agreement:

- (i) Shall require that the Project's Affordable Units shall remain affordable rental units at the levels designated in this Decision, as modified by DHCD and contained in the Subsidizing Agency's Regulatory Agreement, in perpetuity, and for so long as the Project does not conform to local zoning, or the longest period allowed by law, whichever period is longer; and
 - (ii) Shall restrict or limit the dividend or profit of the Applicant only if and as required under G.L. c.40B and 760 CMR 56.00, et seq., and no independent limitation on dividends or profits is imposed hereunder; and
 - (iii) Shall constitute a restrictive covenant; shall be recorded against the Property; and shall be enforceable by the Town
101. Agents, successors and assigns. All terms and conditions of this permit shall be binding upon the Applicant and all agents, successors and assigns.

THIS IS THE END OF THE BOARD'S DECISION. THE DECISION INCORPORATES APPENDIX A (RECORD) AND B (WAIVERS).

CLOVERLEAF

APPENDIX B – DECISION ON WAIVERS

The Board GRANTS and DENIES the requested waivers as follows:

Board of Health Regulations

Applicant's request: Relief from specific requirements of Article 14 of the Truro Board of Health regulations in excess of MA DEP Title 5 regulations. Article 14 provides:

Article 14: Nitrogen Loading Requirements

“The Truro Board of Health hereby requires that all properties within the Town of Truro meet the loading restrictions set forth in 310 CMR 15.214 and contain at least ten thousand (10,000) square feet of Buildable Upland (as defined in Article 1 hereunder) for every 110 gallons per day of design flow and that all systems designed to serve said facilities meet the same restrictions and requirements contained in Title 5 as the “Nitrogen Sensitive Areas” defined in 310 CMR 15.215 irrespective of whether the properties are located within Nitrogen Sensitive Areas as so defined.”

The Board's peer reviewer, Mark Nelson of Horsley Witten Group, has noted that this regulation limits wastewater flow to 440 gallons per day per acre. The Cloverleaf site contains a total of 3.91 acres or 170,320 square feet. Under Article 14, the maximum wastewater discharge permitted would be 1,874 gallons per day. The proposed system for this project has a design flow of 7,480 gallons per day. Waiver of Article 14 is required to allow this discharge in excess of the 1,874 gpd limit for a parcel of this size.

Mr. Nelson found that the Applicant's original wastewater disposal system did not comply with Title 5 or Article 14 of the Truro Board of Health regulations. The Applicant then submitted a revised proposal utilizing the BioMicrobics treatment system, an Innovative/ Alternative technology system. Mr. Nelson reviewed the system in several reports to the Board.

In his November 30, 2020 letter, Mr. Nelson recommended that the Board require the Applicant to adjust design of wastewater treatment system to achieve higher level of nitrogen removal, in particular, to meet goal of achieving average nitrogen concentration of 5 mg/L and should not, after first six months of operation, exceed a nitrogen concentration of 10 mg/L. Designing the system to meet a 5 mg/L average concentration and setting a maximum threshold of 10 mg/L provides added protection to downgradient private wells.

Mr. Nelson concluded that where the enhanced BioMicrobics system treatment is anticipated to reduce nitrogen concentration to these levels, waiver of Article 14 is appropriate, conditioned on an Operation and Maintenance Agreement; monthly sampling of wastewater effluent for one year (reduced to quarterly if warranted); a contingency plan; and groundwater monitoring downgradient of the leaching field.

The Board GRANTS this waiver.

Article 9: Innovative/Alternative Technology

The proposed BioMicrobics treatment system for the project is an Innovative/Alternative technology certified for enhanced nutrient removal by the Department of Environmental Protection. Article 9 limits the use of I/A Technology treatment systems to “Remedial Use Situations” arising from failed or nonconforming systems:

“(2) Standards. Innovative/alternative (hereinafter, “I/A”) technologies, as defined herein, will only be permitted in Remedial Use situations, and as defined herein (see article 3). I/A technology will not be permitted in any other situations.”

Use of the I/A BioMicrobics system for the project, which is not a Remedial Use Situation, requires a waiver from this Bylaw.

The Board GRANTS this waiver

Zoning Bylaw

Section 30: Use Regulations

30.1(A): General Requirements

Allows “single-family dwelling or single-family dwelling with accessory apartment use” only. Waiver required to allow multi-family and two-family use.

30.2 Use Table. Does not allow two-family or multi-family use. Waiver required to allow these as principal uses.

30.2. Use Table. Does not allow on-site management office, community room or storage as accessory uses. Waiver required to allow these uses as accessory uses in conjunction with multi-family use.

The Board GRANTS the above waivers.

Section 40.6: Growth Management

B. Residential Development Limitation

“1. There shall be no more than forty (40) building permits for new single family dwelling units authorized within any calendar year, beginning January 1 and ending December 31. . .”

Other portions of Section 40.6 limit the issuance of permits to any one applicant during a single month or year.

This section limits residential building permits issued within any calendar year to 40, and further limits the total number to any one applicant to 4.

The Board GRANTS the above waivers.

Section 50: Area and Height Regulations

50.1 Regulations

A. Table: Dimensional Requirements: Minimum Lot size

Minimum lot size is a limit on density; only five lots/dwelling units would be permitted on a parcel of 170,320 square feet. A waiver is required to construct 39 dwelling units on the project parcel.

The Board GRANTS this waiver.

50.1.A. Table: Dimensional Requirements: Side Setbacks and Height

<u>Dimensional Requirements</u>	<u>Required</u>	<u>Provided</u>
Minimum Sideyard Setback	25 feet	see chart for buildings requiring waivers**
Maximum Building Height	2 stories; 30’/23’ flat	see chart for buildings requiring waivers**

Relief Required Building Number	Minimum Sideyard Setback – 25 feet Required	Maximum Building Height (definition of building height to ridge above existing grade) – 30’ max	number of stories – two story maximum
1-3	conforming at 40.8 feet	conforming at 21.7 feet	conforming at two stories
5-7	**waiver required for setback at 12.3 feet	conforming at 24 feet	conforming at two stories
2-4	conforming at 91.2 feet	conforming at 28 feet	conforming at two stories
6-8	conforming at 34.2 feet	conforming at 28.5 feet	conforming at two stories
9-11	conforming at 33.3 feet	conforming at 25.25 feet	conforming at two stories
13-15	**waiver required at 24 feet to foundation excl. egress porch	conforming at 23.75 feet	conforming at two stories

10-12, 14-16, 18-20	**waiver required at 20' to foundation excl. egress porch	conforming at 27.25 feet conforming at 26.5 feet conforming at 28.5 feet	conforming at two stories conforming at two stories conforming at two stories
17-19	**waiver required at 14.8 feet to foundation excl. egress porch	conforming at 25.75 feet	conforming at two stories
22-24 23-25	conforming at 51.5' **waiver required at 14.6 feet to foundation	**waiver required at 36'11" **waiver required at 31'11" due to fill placed at rear of site above existing grade; appears 24'8" at roadway	**waiver required at three stories; definition of basement in terms of foundation exposure on more than one side will classify this basement as a third story; relief required
21	conforming at 61' west side and 40' east side	**waiver required at 31.5' that exceeds 23' limit for flat roof; based on def of building height above existing grade; visible height from road is 22.5' at front and 31.5' at rear	**waiver required at three stories; definition of basement in terms of foundation exposure on more than one side will classify this basement as a third story; relief required

The Board GRANTS these waivers.

50.2: Building Gross Floor Area for the Residential District

“B. Applicability and Exceptions:

1. Total Gross Floor Area Allowed by Right: [B]uilding permits for new construction . . . shall be issued only where, on completion of the construction or project, the Total Gross Floor Area of the new or expanded structure(s) does not exceed 3,600 sq.ft. for a Residential District Minimum Lot Size of 33,750 square ft. and prorated to 3,668 sq.ft. for one acre of land:

a. Plus 300 sq.ft. for each additional contiguous acre of land, or fraction thereof prorated.

..

2. Special Permit to exceed the Total Gross Floor Area limit: The Total Gross Floor Area limit for a dwelling and accessory buildings on a lot established in subsection 50.2.B.1 may be exceeded up to a maximum established by this subsection, by Special Permit. No Special Permit may be issued for any construction if the construction would result in the Total Gross Floor Area exceeding 4,600 sq.ft. for a Residential District Minimum Lot Size of 33,750 (or .775 acre) and prorated to 4,600 sq.ft for one acre of land:
- a. plus 300 sq.ft. for each additional contiguous acre of land, or fraction thereof prorated.
- ...”

At 3.91 acres, the Total Gross Floor Area allowed as of right on the project site would be 4,568 sq. ft. (3,668 for the first acre + 300 sq ft. for each additional acre or fraction). The Total Gross Floor area allowed by Special Permit would be 5,568 sq ft (4,668 for the first acre + 300 sq. ft for each additional area or fraction). As calculated by the Applicant, the Total Gross Floor Area of the project is 46,172 sq.ft. A waiver is required for construction of all Floor Area in excess of 5,568 sq. ft.

The Board GRANTS this waiver.

Section 70: Site Plan Review

70.3. Commercial Development

A. Commercial Site Plan Review is required for:

1. Any construction, alteration, expansion, or modification of any properties, structures and uses other than that of single or two-family residences and their accessory uses and structures.

Under G.L. c. 40B, a separate site plan review process cannot be required. This Board’s review of the comprehensive permit application substitutes for Site Plan Review under Section 70. The Board finds that its exhaustive review of this project, with the benefit of peer review and comment by Town departments, is consistent with the provisions of Commercial Site Plan Review. The Board waives any remaining requirements of Section 70.3, *with the express exception of Section 70.3.I, “Performance Guarantee.”*

With the above-noted exception of Section 70.3.I, “Performance Guarantee,” the Board GRANTS his waiver.

Subdivision Rules and Regulations

Although the project is not a subdivision, it is residential development of a scale, and having design features akin to those of a subdivision. Waivers from standards contained in the Subdivision Rules and Regulations are required. The following waivers are sought:

Section 3. Design Standards

Section 3.6. Street Design

Section 3.6.6. Dead-end streets

a. “The length of dead-end streets should not exceed one thousand (1,000) feet.”

Waiver is required: Loop roadway is 1,060 +/- feet long.

The Board GRANTS this waiver.

Section 3.6.7. Adjacent properties

“Proposed subdivision roads shall be separated from subdivision boundaries by a screening buffer of twenty-five (25) feet width or more. . . .”

Waiver is required: Access road is within 25 feet of side line, adjacent to Unit 21 (east), 13 feet provided.

The Board GRANTS this waiver.

Section 3.6.8. Design Standards: Table 1 in Appendix 2 – Type C

- Minimum Roadway width: 20 feet

Waiver is required: loop road has 14 foot travel way, with 1 foot berms provided (one-way traffic)

The Board GRANTS this waiver.

- Minimum Radius at street centerline: 290 feet

Waiver is required: 100 feet provided at Highland Road entrance; 50 feet provided within the site.

The Board GRANTS this waiver.

- Maximum Grade: 8%

Waiver is required: Main Access Road 10% proposed

The Board GRANTS this waiver.

- Minimum curb radius: 30 feet
30 feet required; 30 foot radius provided on main access road
25 feet lane provided for internal island

The Board GRANTS this waiver.

- Dead-end Street maximum length: 1000 feet

Waiver is required: loop roadway is 1,060 feet +/- long

The Board GRANTS this waiver.

Section 4: Specifications for Construction

4.1.8 Berms

“Berms shall be provided on both sides of all paved roads where the grade is 3% or greater. Bituminous concrete berms, eighteen (18) inches in width on rolled asphalt base or binder course, shall be constructed. . .”

Waiver is required: 12 inch berms proposed

The Board GRANTS this waiver.

4.1.10 Vegetation:

“Existing trees of over six (6) inches in diameter, measured at four and one-half (4-1/2) feet above existing grade, outside the travel surface of any proposed or existing roads and on proposed building lots should be preserved. . . .”

Waiver is required: Trees within the proposed limit of work line shall be removed as needed to allow for the construction of the development, beyond the edge of clearing for the roadway.

The Board GRANTS this waiver.

2.5.4(c) Performance Guarantee

Requires a performance guarantee in the form of a bond, deposit, or covenant to secure construction of ways and installation of municipal services.

The Board DENIES this waiver.

General Bylaws

Chapter 1, Section 8: Soil Removal

1-8-1. “The removal of topsoil, loam, sand, gravel, clay, hardening, subsoil and earth from any parcel of land not in public use in the Town of Truro except as hereinafter provided, shall be allowed only after a written permit therefore is obtained from the Building Commissioner.

Under G.L. c. 40B, a separate permit cannot be required for the earth removal involved in this project, but the Board may secure, through a permit condition requiring administrative review, compliance with any reasonable standards and conditions that would be applied to a non-40B project. For this project, the DPW Director will have oversight of soil removal activity during

the Town's part of the project. For the Applicant's portion of the project, earth removal will be subject to review and approval by the Board's consultant.

The Board GRANTS this waiver subject to the review and approval above.

Curb Cut Permit (Selectmen's Policy 28)

Curb cut permits are granted by the Select Board following review by the DPW Director and Chief of Police. The proposed project will have curb cuts on Highland Road (main entrance) and Route 6 (emergency access). The Highland Road curb cut has effectively been reviewed by DPW and the Police Chief as part of the comprehensive permit process. The DPW will apply for the MassDOT curb cut approval.

The Board GRANTS this waiver

Waiver of Fees

The Applicant requests relief from any requirements for paying fees for any regulatory review or for any permits related to the development of this project, including but not limited to fees for building permits and septic system installation permits.

The Board GRANTS this waiver

ONCE A COMPLETED APPLICATION HAS BEEN RECEIVED

- Town Planner will determine if an Application is complete. Upon determination an Application is complete, the Planning Board will then proceed to post notice of a public hearing in accordance with Section 11 of Chapter 40A of the General Laws of Massachusetts.
- Either you or your agent/representative shall appear before the Board at the scheduled hearing. If you need to reschedule, you must submit a request in writing for a continuance, using Town of Truro Continuance Request Form.
- Additional information may be submitted prior to the scheduled public hearing provided it is received no less than **ten (10) days** prior to the hearing so that it can be included in the packet for Board Members to read and review. Submit fifteen (15) paper copies **AND** an electronic copy to the Town Planner (at planner1@truro-ma.gov). Plans must be submitted to the Town Clerk for filing. Information received less than **ten (10) days** before the scheduled hearing may result in a continuance of the hearing. New material brought to the meeting, that has not previously been filed/submitted, will not be reviewed at that meeting.

Please do not include a copy of these instructions with the application



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

PROCEDURE FOR SUBMITTING APPLICATION FOR HEARING

The following information and requirements must be filed with all Applications for Hearings consistent with the Rules, Regulations and Fee Schedule of the Truro Board of Appeals. **Note: Submittals must be collated into ten (10) packets.**

- Section 1 – Application Form – Original and Nine (9) Copies**
Every application for action by the Board shall be made on an official form. These forms shall be furnished by the Town Clerk and/or Building Department upon request. Any communications purporting to be an application shall be treated as mere notice of intention to such relief until such time as it is made on an official application form accompanied by all requisite supporting data.
- Section 2 – Denial from Building Commissioner – Filing Period – Ten (10) Copies**
Any appeal under M.G.L. Ch. 40A, §8, shall be taken within thirty (30) days from the date of the order or decision being appealed. A copy of said order of decision shall be filed with the required application form in Section 1 above. Note: this is not required for an application for a special permit.
- Section 3 – Required Plan(s) – Ten (10) Copies**
Every application and petition to the Board shall be accompanied by a Certified Plot Plan(s) drawn at a scale of no smaller than 1" = 20' and of a size at least 8½" x 11", providing the following information:
North arrow; locus map; names of streets; zoning district in which the property lies; names of owners of abutters, including owners of land directly opposite on any adjacent public or private way; boundaries of the property lines, including lengths and distances; the location of all existing and proposed buildings, and additions, including dimensions and setbacks to all property lines; use(s) of each building, structure, and the property; entrances, exits, driveways, and walkways shall be shown, including existing or proposed required parking and existing and proposed distances to property lines.
In addition, floor plans and elevation plans drawn to scale shall be provided if applicable to the request before the Board of Appeals.
- Section 4 – Filing Fee**
All applications shall be accompanied by a check payable to the Town of Truro. For Special Permit Applications pursuant to §40.3 (Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel), the fee is **\$50.00 per unit**. For all other applications, the fee is **\$50.00**. All fees are non-refundable.
- Section 5 – Certified Abutters List – Original and Nine (9) Copies**
A Certified Abutters List shall be obtained by the Applicant from the Truro Assessors Office and filed along with the items outline in Sections 1 – 4 above. A copy of the "Request for Certified Abutters List" is included in this packet.
- Section 6 – §40.3 Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel – Original and Nine (9) Copies and a copy of your deed for the property (required)**

The completed application shall also be submitted electronically to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

Upon receipt of a complete application, with this information before it, the Board of Appeals will then proceed to post notice of a public hearing in accordance with Chapter 40A, §11, of the General Laws of Massachusetts.

Either you or your agent/representative shall appear before the Board at the scheduled hearing. If you need to reschedule, you must submit a request for a continuance.

Additional information for an application/petition shall be submitted by the applicant/representative to the Truro Town Clerk no less than seven (7) calendar days prior to the scheduled public hearing or the continuation of the public hearing. *(Voted by the Board of Appeals August 27, 2007)*

Please do **not** include a copy of these instructions with the application

From: John Dundas <johnrdundas@gmail.com>
Sent: Thursday, September 24, 2020 5:00 PM
To: Barbara Huggins Carboni; Arthur Hultin
Cc: Elizabeth Sturdy
Subject: ZBA Form 'Section 3'-Draft Edits/Additions #2 (quick look0

□ Section 3 – Required Plan(s) – Ten (10) Copies

Every application and petition to the Board shall be accompanied by a Certified Plot Plan(s) drawn at a scale of no smaller than 1" = 20' and of a size at least 8½" x 11", providing the following information:

-North arrow; locus map; names of streets; zoning district in which the property lies; names of owners of abutters, including owners of land directly opposite on any adjacent public or private way; boundaries of the property lines, including lengths and distances;

-Location of all existing and proposed buildings, and additions, including dimensions and setbacks to all property lines; use(s) of each building, structure, and the property;

-Entrances, exits, driveways, and walkways shall be shown, including existing or proposed required parking and existing and proposed distances to property lines.

-"Lot coverage and gross floor area" (added), floor plans, elevation plans all drawn to scale shall be provided "if applicable to the request before" for the Board of Appeals.

(Section 50.1.Note 8 "Area and Height Regulations" addresses minimum lot size in Seashore district)

Recommendation: to include lot coverage and gross floor area for all applications.

Elizabeth Sturdy

From: John Dundas <johnrdundas@gmail.com>
Sent: Friday, September 25, 2020 12:28 PM
To: Art Hultin
Cc: Barbara Huggins Carboni; Arthur Hultin; Elizabeth Sturdy
Subject: Re: ZBA Form 'Section 3'-Draft Edits/Additions #2 (quick look0

Yes, I agree.

On Fri, Sep 25, 2020, 12:24 Art Hultin <arthultin@comcast.net> wrote:

Hi,

It might be more direct to require “plan and elevation drawings demonstrating lengths, widths and heights”.

Art

From: Barbara Huggins Carboni <BHugginsCarboni@k-plaw.com>
Sent: Friday, September 25, 2020 12:11 PM
To: 'Art Hultin' <arthultin@comcast.net>; johnrdundas@gmail.com; 'Arthur Hultin' <AHultin@truro-ma.gov>
Cc: 'Elizabeth Sturdy' <ESturdy@truro-ma.gov>
Subject: RE: ZBA Form 'Section 3'-Draft Edits/Additions #2 (quick look0

Thanks Art

Would the phrase **properly dimensioned** be generally understood by everyone mean the same thing? That is, is there a set of dimensions that are commonly understood to be necessary? If not, should we create list or make bylaw references?

Barbara Huggins Carboni, Esq.
KP | LAW
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Boston, MA 02110
O: (617) 654 1824
F: (617) 654 1735
bhugginscarboni@k-plaw.com
www.k-plaw.com

This message and the documents attached to it, if any, are intended only for the use of the addressee and may contain information that is PRIVILEGED and CONFIDENTIAL and/or may contain ATTORNEY WORK PRODUCT. If you are not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited. If you have received this communication in error, please delete all electronic copies of this message and attachments thereto, if any, and destroy any hard copies you may have created and notify me immediately.

From: Art Hultin <arthultin@comcast.net>
Sent: Friday, September 25, 2020 12:05 PM
To: johnrdundas@gmail.com; Barbara Huggins Carboni <BHugginsCarboni@k-plaw.com>; 'Arthur Hultin' <AHultin@truro-ma.gov>
Cc: 'Elizabeth Sturdy' <ESturdy@truro-ma.gov>
Subject: RE: ZBA Form 'Section 3'-Draft Edits/Additions #2 (quick look0

Hi,
For consideration

**TOWN OF TRURO
ZONING BOARD OF APPEALS
MEETING MINUTES
November 5, 2020
Remote Meeting**

Members Present: Chair-Art Hultin, John Dundas, Fred Todd, Chris Lucy, John Thornley, Alternate-Darrell Shedd, Alternate-Heidi Townsend

Others Present: Atty. Barbara Huggins-Carboni, Ted Malone, John O'Reilly, Mark Nelson, Mary Ann Larkin, Hank Keenan, Raymond Clarke, Ellen English, Kevin Grunwald, Pamela Wolff, Laura English, Kathy Sharpless

Atty. Huggins-Carboni read off instructions for citizens interested in joining the meeting.

Chair Hultin called the meeting to order at 5:30pm. He stated that when they last met, the ZBA went through several waivers and had public comment. In tonight's packet is the submission from the Cape Cod Commission regarding the efficacy of the disposal system and general comments regarding this project. He would like to canvass the Board to get general impressions to the responsiveness of the Cape Cod Commission.

Member Townsend feels the submission is straightforward and the points they brought up seem to be points the ZBA has previously addressed with the Applicant and Mr. O'Reilly.

Member Thornley thinks they should advise all the people who live in the Pond Village area to go to the Town Hall and get a copy of the submission. It does reassure people that the system is well designed. He also mentioned another option listed in the submission which is to use fresh water which would be provided by the Town.

Member Dundas states that the Cape Cod Commission provided the ZBA with more confirmation of the effort the Applicant has put forth, at the same time not minimizing the concerns of the residents of Pond Village. He feels the final paragraph is important along with the Cape Cod Commission's recommendation in the long term.

Member Lucy thinks it's an excellent report. He liked the fact that the report included a comparative of what it would look like with a lesser number of units.

Member Todd did not have anything to add to what other members have said. He agreed with what Member Lucy picked up on which was how much better this system will perform as opposed to a much-reduced site with a typical Title V system. He agrees with the concern about operation, monitoring, and contingency. The Board has heard a great deal about those concerns from the Engineer.

Member Shedd concurs with the other Board members. With the water quality being such a concern, and the project being a year out, he suggests that the Pond Village residents look at their own septic systems again. Even if they bring all their systems up to Title V standards, it's still not what the Cloverleaf is projected to emit.

In Chair Hultin's opinion, the conclusions made by the Cape Cod Commission are much along the lines the Board has talked about. One important item to note in the report is that there is no claim that the system reduces all of the downgradient possibilities, but the system supersedes its treatment of effluent of anything else in Town. The final paragraph does point out that there are water quality problems throughout Truro, and the report concludes by saying the Town would benefit from investigating improved public drinking water and wastewater infrastructure.

Public Hearing – Continued

2019-008 ZBA – Community Housing Resource, Inc. seeks approval for a Comprehensive Permit pursuant to G.L. c. 40B, §§20-23 to create 40 residential rental units, of which not less than 25% or 10 units shall be restricted as affordable for low or moderate income persons or families, to be constructed on property located at 22 Highland Road, as shown on Assessor's Map 36 and Parcel 238-0 containing 3.91 acres of land area.

Chair Hultin proceeded, stating that in consideration of Section 70: Site Plan Review he urged the Board to keep in mind the recommendations of the Planning Board to the Zoning Board of Appeals and also to consider this with the other information that's come forward. He would like to go to Section 70 and begin discussion of the items there.

Section 70: Site Plan Review

- **70.3 Commercial Development**
 - A. Commercial Site Plan Review is required for:**
 - 1. Any construction, alteration, expansion, or modification of any properties, structures and uses other than that of single or two-family residences and their accessory uses and structures.**

Chair Hultin stated that from the memo, the Board has a condensed presentation of what the Applicant is seeking relief from.

- Seeking relief from the requirements of Site Plan Review procedures and requirements; and to allow the Comprehensive Permit to be issued in lieu thereof.
- Relief is requested from requirements, if any, to post a bond, cash, Letter of Credit, or impose Planning Board Covenants, related to site development.

The staff comment states that under G.L. c.40B, a separate Site Plan Review process cannot be required. The ZBA's review of the comprehensive permit application substitutes for Site Plan Review under Section 70. The Applicant has submitted most of the information required under Section 70.3.D (except for a lighting plan, which Applicant has been asked to provide). The Board may conclude that its review has been consistent with Section 70.3, and that waiver of any remaining procedural or substantive requirements is warranted. The Board may wish to review the project's conformity with the Review Criteria/Design Guidelines of Section 70.3.F.

Member Todd does not have a problem with any issue regarding the site at this point in time. He also agrees that the posting of a bond is a separate issue under discussion.

Member Thornley agrees with Member Todd. The Board has gone over the details of this design and they have determined they are more than acceptable.

Member Dundas agrees with both Members Todd and Thornley. He'd also like to echo the Applicant's response, particularly when there is concern about something. He'd like to go through each waiver individually, but in general feels the Applicant has made his best effort to mitigate any problems that have been brought up.

Member Lucy stated that they have looked over this proposal many times. One thing he noticed in the Staff Comments was the omission of a lighting plan. He said that he was able to determine the lighting plan by reading over the site plan. He is satisfied with the entire project as far as a Site Review.

Member Townsend agrees with her fellow Board members. She also recalled seeing the light plan on the landscaping plan.

Member Shedd also agrees with his fellow Board members. He asked, for his own clarification, what additional information could come out of a Site Plan Review? Chair Hultin cannot think of anything that hasn't already been covered.

Chair Hultin stated that the Board has gone over this in detail, they have had the plans changed numerous times, and he feels the Applicant has done everything that's been asked of them. Having heard from all the Board members, they are going to waive Section 70: Site Plan Review. He'd like to move to the next section of the Staff Memo pertaining to Section 3.

Section 3. Design Standards

- **Section 3.6. Street Design**

- **Section 3.6.6. Dead-end streets**

- **a. "The length of dead-end streets should not exceed one thousand (1,000) feet."**

- Waiver is required: Loop roadway is 1,060 +/- feet long.

Chair Hultin asked the Board if they had any objection to a waiver required for the loop roadway. Hearing no comment, Chair Hultin stated that it would be the Board's intention to grant the waiver for the loop roadway at 1,060 feet.

- **Section 3.6.7 Adjacent properties**

- **"Proposed subdivision roads shall be separated from subdivision boundaries by a screening buffer of twenty-five (25) feet width or more..."**

- Waiver is required: Access road is within 25 feet of side line, adjacent to Unit 21 (east), 13 feet provided.

Chair Hultin stated that the Board had discussed this through review of the plan but opened the floor up to any Board member who had an objection to this waiver request. Chair Hultin stated that in absence of any objection it would be the Board's intention to grant the waiver for Section 3.6.7.

- **Section 3.6.8 Design Standards: Table 1 in Appendix 2 – Type C**

- **Minimum Roadway width: 20 feet**

- Waiver is required: loop road has 14-foot travel way, with 1-foot berms provided (one-way traffic)

Member Todd thinks it's worth pointing out that the 14-foot way is not a two-way street and he believes 14-feet is adequate.

Member Shedd stated that this was approved by the Fire Chief.

Chair Hultin asked Mr. O'Reilly to comment. Mr. Nelson stated that they went back and forth with the Fire Chief and they ended up measuring the actual truck size and formulated a swept path analysis based upon that measurement. Horsley Witten have given the Fire Chief that plan and have not heard back from him. Mr. Nelson is assuming everything is okay.

- **Minimum Radius at street centerline: 290 feet**

Waiver is required: 100-feet provided at Highland Road entrance; 50-feet provided within the site.

Mr. O'Reilly referenced the original plan submitted for review, stating that Horsley Witten was looking for even more severe waivers with the entrance road. By straightening out the "s" curve they were able to make the emergency vehicle access work much better, but they weren't able to provide the full specified centerline radius on two areas; the main entrance road when coming off Highland, and internally as it goes around the building.

- **Maximum Grade: 8%**

Waiver is required: Main Access Road 10% proposed

Mr. O'Reilly said there is a very steep bank and slope coming off Highland. They have tried to balance vehicle and pedestrian safety with trying to get on top of the plateau of the lot. The 10% grade does provide that ability. He believes Truro has a number of roads at 10% grade. They will grade the site so there is a somewhat level area coming onto and out of the site at Highland Road.

Member Lucy wished to comment. For reference, he remembers when Mr. Malone was constructing the complex at Sally's Way that the access road for that is also 10%. It's not a super steep road. The difference between 8% and 10% is not noticeable.

Chair Hultin agrees with Member Lucy.

- **Minimum curb radius: 30-feet**

30-feet required; 30-foot radius provided on main access road – exit lane

Mr. O'Reilly said that there are areas on the internal island, and around the larger island, that are around 25 or 26-feet.

Chair Hultin stated that the Board has reviewed that plan, along with the DPW and Fire Department, and all have commented that they believe it's adequate and he'll take that as sufficient. He has heard no objections from the Board and believes they are in agree that they will be accepting the waivers requested.

- **Section 4: Specifications for Construction**

- **4.1.8: Berms**

"Berms shall be provided on both sides of all paved roads where the grade is 3% or greater. Bituminous concrete berms, eighteen (18) inches in width on rolled asphalt base or binder shall be constructed..."

Waiver is required: 12-inch berms proposed.

Chair Hultin noted that on a walk recently, he paid attention to the new berm on Castle Road and Resolution Road. Those berms measured 14-inches. He asked if it was possible to go to a slightly larger berm? Mr. O'Reilly stated that if Chair Hultin is talking about going from 12 inches to 14 inches, from an

engineering point of view it is not significant. Going from a volume point of view, it would be interesting to see what the cost would be.

Member Lucy explained that the berms on the sides of the road are there to contain the water. The berm in the plan will be 3 inches thicker at the outside edge than it is on the inside edge. That's a 25% grade and it will contain the water. At 3 inches thick, he thinks 12-inch berms would be fine.

Chair Hultin is okay with letting what he said about a 14-inch berm go. He would not want to see it less than 12 inches.

- **4.1.10: Vegetation**

“Existing trees of over six (6) inches in diameter, measured at four and one-half (4-1/2) feet above existing grade, outside the travel surface of any proposed or existing roads and on proposed building lots should be preserved...”

Waiver is required: Trees within the proposed limit of work line shall be removed as needed to allow for the construction of the development, beyond the edge of clearing for the roadway.

Chair Hultin noted that they have talked about the phasing, construction, and grading of the property and it seems to him to be a reasonable request. Not hearing any objections from the Board, he is assuming consensus.

Additional waiver requested:

- **2.5.4(c) Performance Guarantee**

Requires a performance guarantee in the form of a bond, deposit, or covenant to secure construction of ways and installation of municipal services.

The Applicant has requested waiver of “any requirement...to post a bond, cash, Letter of Credit, or impose Planning Board Covenants, related to site development,” which would include the above.

Staff Comment: To protect the Town's interests and investment in this project, denial of this waiver is recommended.

Mr. Malone believes there were discussions between his financing counsel and Town counsel regarding the protections that are equivalent to a bond and performance guarantees that are required as part of his financing structure. Atty. Huggins-Carboni stated she had a productive conversation with Mr. Malone's counsel. Her recommendation has not changed regarding denial of the waiver. That doesn't mean that a solution that's satisfactory to Mr. Malone and herself (on behalf of the Town) won't be reached.

Chair Hultin said that the Town does have a big investment in this project and they certainly do want some sort of written guarantee that things will get done by the Developer. He opened it up to the Board to see what they think about this waiver.

Member Townsend would agree to Staff recommendations. She does not think it's a good idea to approve the waiver.

Member Todd asked if the Board was being asked to set an amount at this point or just consider a waiver. Atty. Huggins-Carboni explained that the Board was being asked to waive any requirement. They are not being asked to set a particular amount or to waive a certain amount. Member Todd then

asked, in terms of the negotiations with the Developer's counsel, and herself, the Board assumes that would happen and that would provide some protection to the Town? Atty. Huggins-Carboni agreed. It is something she will want to address and will ensure that the Town is protected. She does not have a particular term in mind and that's why it's subject to further discussion.

Member Dundas' sentiment is what Staff recommended. However, the conditions that Atty. Huggins-Carboni is in conversations with the Applicant's counsel is there anything the Board could state that they have to revisit this? The Board still has to vote on any agreement that's made, they can't just say that it's conditioned on discussions between Counsel and the Applicant. He feels it should come back to them for a vote after Atty. Huggins-Carboni tells them what the conditions are, on behalf of the Town. Atty. Huggins-Carboni stated that if they do that, it would have to be before the Board votes on the permit. She thinks the Board can deny a waiver and still look to Counsel to negotiate on what might be an acceptable term. Chair Hultin asked if there was a standard formula for a performance guarantee? Atty. Huggins-Carboni agreed that there must be, but in this case there is so much more Town involvement than there usually is that it might be more complicated to figure out. Mr. Malone states that there are many layers of control that the financing, and subsidizing, that entities have to ensure a project is completed. The contractor being hired will have to present performance bonds and payment bonds. Chair Hultin continued, asking that if the waiver is denied then Mr. Malone's negotiations going forward with the Town could involve these other guarantees? Mr. Malone stated, yes, and said that rereading the performance guarantee language of 2.54 it does say a performance guarantee in the form of a bond, deposit, or covenant will be required. There would be the bonding and guarantees of the General Contractor, and certain guarantees during the construction period that the Developer does have to sign on to.

Atty. Huggins-Carboni stated that the fact that a contractor is bonded is not the same as the Developer posting a performance bond or other guarantee. If the contractor is bonded and something comes up and the contractor cannot perform, that's what the performance bond covers. The point of the Developer's performance bond is that if something untoward happens to the Developer or any of the funding sources, the Town will be protected. She understands from Mr. Malone and his Counsel that there are a lot of incentives for all these lenders to get this project built, but to her, that does not substitute for the Town having some protection in case something happens and the project is not moving forward. She does not see a contractor's performance bond as the equivalent of what the Planning Board would be looking for from a developer for a subdivision.

Member Todd said the language that they are talking about refers specifically to a bond, deposit, or covenant for construction of ways, and installation of services. In his experience, this is put in to make sure if the subdivision is moving forward that the developer doesn't fail to put in the utilities. In this case it's a little complicated since the Town is installing the water and then the Developer will put in the electrical and the road. That's not the whole project, so how does that factor into the whole discussion? Atty. Huggins-Carboni stated that in some respects this project is like any other project and the Town would be looking for something similar to what they'd look for in a subdivision. If the Board feels comfortable waiving this requirement she will not badger the Board about it.

Chair Hultin said that generally this doesn't cover the construction of buildings and other parts of the project. If the Town were to make a legal agreement with Mr. Malone would it be limited to just some aspect of this or would it be "project to completion". Atty. Huggins-Carboni stated that was not the purpose of a performance bond. Sometimes it's project specific, but it's not as if what she'd expect this Board to consider was a bond to secure the entire performance of the project. It's what's typically expected of a developer in building a project of this size.

Member Lucy asked if they couldn't deny the waiver and leave it in the hands of Town's Counsel, or could they? Atty. Huggins-Carboni said that any condition that the Board wants to impose can be left subject to Town Counsel, or other folks in Town. The only thing they can't do is have something come back to the Board after the permit is issued. Member Lucy's personal perspective was for the Board to deny the waiver and then allow it to continue pursuant to discussions with both Counsels. Member Dundas agrees with Member Lucy.

Member Shedd would have been in favor of approving the waiver. He asked if they could grant the permit without seeing the language of the contractor's bond? Atty. Huggins-Carboni said the Board could approve without first seeing the language, but also said she could ask Mr. Malone if that was something he could provide. Member Shedd posed a question; What if the permit was granted and the language from the insurance company of the bond isn't enough protection for the Town, is the Town helpless at that point? Atty. Huggins-Carboni stated she has never, in advising a Board, written a condition that ensures that the Board could look at those agreements afterwards. It cannot come back to the Board, but it could come back to Counsel.

Chair Hultin's opinion is, for now, that he thinks it would be better to deny the waiver and put the incentive on the Developer to come up with an agreement with the Town. Member Todd agrees with the idea of denying the waiver and having Counsel and Mr. Malone work out an agreement. All members are satisfied with waiving the request pursuant to discussions with Town Counsel and Mr. Malone's Counsel. Chair Hultin stated that the consensus on the Board is to deny the waiver and rely on Administrative Staff and Town Counsel to create something that represents a performance guarantee in the terms of the bylaw, limited to covering things typically covered by a performance bond.

Chair Hultin made a motion to deny the waiver for a performance guarantee with the condition that Town Counsel, Developer, and representatives of the Town and the Developer, negotiate an agreement that suffices for the terms of 2.5.4 C.

Member Lucy seconded.

So voted;

Chair Hultin-Aye

Member Todd-Aye

Member Shedd-Aye

Member Thornley-Aye

Member Dundas-Aye

Member Lucy-Aye

Member Townsend-Aye

7-0-0, motion carries.

General Bylaws

- **Chapter 1, Section 8: Soil Removal**

1-8-1. "The removal of topsoil, loam, sand, gravel, clay, hardening, subsoil and earth from any parcel of land not in public use in the Town of Truro except as hereinafter provided, shall be allowed only after a written permit therefore is obtained from the Building Commissioner."

The Applicant is requesting waiver of the requirement that the Permit for Soil Removal be obtained from the Building Commissioner, and that the Permit for Soil Removal, with any conditions imposed, be issued by the Zoning Board of Appeals as part of the Comprehensive Permit. Applicant requests waiver of any bond or other security.

After discussion, Chair Hultin stated that unless he misread comments from the Board, he thinks they would be in favor of granting the waiver.

- **Curb Cut Permit**

The Applicant requests that the Comprehensive Permit substitute for the Curb Cut Permit from the Town of Truro. MA DOT Curb Cut Permit is being sought by Truro DPW.

Chair Hultin believes it's pretty clear from the Plan where everything is going to be placed, and it's his intention to grant the waiver for the curb cut permit. There were no objections voiced by the Board.

- **Catch-all waivers**

The Applicant seeks relief from the Truro General Bylaws and Other Regulations, as follows:

- Relief is requested from any other zoning bylaw, general bylaw or regulations or procedures that may be identified in the review process if full compliance is not physically or economically feasible.
- Relief is requested from the applicability of such other sections of the Zoning By-law, the Subdivision Control Regulations, or of such other local rules and regulations that would otherwise be deemed applicable to this development.

Staff Comment: Catch-all waivers are not recommended. Any relief sought should be specifically identified and considered by the Board.

Chair Hultin is inclined to follow the staff comment, and he asked the Board for comments.

Member Lucy asked, if the Board denies the waiver and they find another By-law or regulation that comes up during the project, what happens then? Atty. Huggins-Carboni stated that the Applicant would come back to the Board for a modification of the permit.

Mr. Malone had no expectation that the catch-all waiver was going to go beyond the hearing process. He gave an example of why this was needed during the review process. He is fine with dismissing it at this point. Chair Hultin did not hear any objections and declared this request dismissed.

- **Waiver of fees**

Relief is requested from any requirements for paying fees for any regulatory review or for any permits related to the development of this project, including but not limited to fees for building permits and septic system installation permits.

Chair Hultin went over the different options the Board could take. His experience in the past is that any 40B project has requested the waiver of all fees and that request has been granted. In this case, because there are some market-rate units, it might be worth considering a percentage of waiving fees. He asked the Board to comment.

Member Todd would be in favor of waiving the fees in general.

Member Thornley agrees with Member Todd.

Member Townsend deferred to the more experienced members.

Member Shedd sees this as part of the Town's commitment to affordable housing and agrees with waiving the fees.

Members Dundas and Lucy both agree to waive.

Chair Hultin stated that the consensus from the Board is to waive all fees.

- **Section 30.9 Parking**

Section 30.9 requires two parking spaces per dwelling unit. The development's 39 dwellings require 78 spaces; 81 spaces are provided.

Atty. Huggins-Carboni explained the reason why this was in the memo. This is not a waiver requested by the Applicant. At face value the parking spaces meet the requirement. During the hearing, one of the Planning Board's comments was that some of these spaces were obstructed. If the ZBA were to find that, then the number of parking spaces is not sufficient, and a waiver would be needed to make up for that.

Member Shedd stated that as far as obstructed spaces go, there are plenty of single-family homes where there is a single driveway (where one car is parked in front of another). He believes that is perfectly adequate for this project.

Member's Todd, Lucy, Dundas, Townsend, and Thornley all agree. Chair Hultin stated there was consensus that the Board does not consider those parking spaces obstructed and a waiver will not be required.

Public Comment

Chair Hultin then opened the continued meeting to additional public comment.

Public Comment Letter from Mary Ann Larkin for the residents of Pond Village.

Ms. Larkin stated that her letter pertains to the medical and scientific information that's available regarding the danger of nitrates in their drinking water. She read excerpts from her letter.

Public Comment Letter from Karen M. Ruymann.

Mr. Hank Keenan introduced himself. He is speaking on behalf of Karen Ruymann. He proceeded to read Ms. Ruymann's letter to the Board.

Public Comment Letter from David Kirchner.

Raymond Clarke said that Mr. Kirchner was unable to attend and asked Mr. Clarke to summarize the letter he had sent to the Board. He stated that the residents of Pond Village were looking forward to reading the details of the Cape Cod Commission report. They were not aware until the beginning of the meeting tonight that the report had been issued and was publicly available (and not in the packet). Mr. Clarke read portions of the letter submitted.

Public Comment Letter from Members of the Pond Village Community.

Ellen English introduced herself and gave the Board a summary of the house she lives in and her profession background. She then proceeded to read the letter sent to the Board.

Public Comment Letter from Pamela Wolff

Ms. Wolff searched for the Cape Cod Commission's report and could not find it on the website. She urged the Board to give the Pond Village residents time at an upcoming meeting to speak. She stated she has sat through all of the Cloverleaf meetings and has never heard any conversation among the Board members about reducing the number of units in the project. Chair Hultin said that the request for proposals was for the number of units that is out there now. There was never a request for proposals

for a lower number. It is not something the Board can require the Applicant to do. Mr. Malone stated that the request for proposals specifically asked for single level living and smaller units to address the needs of the Town. The way to achieve that was through an apartment building.

Ms. Wolff asked when the land would be cleared and has there been a discussion about having someone onsite during this in order to see if there are any archeological artifacts in the topsoil? Mr. O'Reilly said that when the Town was in the process of purchasing the property an environmental assessment was done and it was not listed on any historic records. There is no call for anyone to be onsite for anything that might be discovered, and there is nothing proposed in the permit. Ms. Wolff feels it will be a missed opportunity if it's not addressed.

Ms. Wolff had another question regarding the berm and the runoff from the road. Will there be catch basins along the Way to slow the flow of water toward Highland Road? Chair Hultin stated that per the site plan, there are catch basins.

Member Lucy wished to clarify something that came up regarding the archeological item. There was a submission to the Massachusetts Historical Commission, and that was signed off by a Jonathan Patton. Mr. Patton stamped the submission as follows; "It has been determined that the project is unlikely to affect significant historic or archeological resources." Chair Hultin thought it would be reasonable to put as a condition somewhere in this process that if they come upon artifacts that work be stopped, and the artifacts be treated properly.

Kevin Grunwald identified himself as living in Truro and also as being a member of the Truro Housing Authority. He is speaking on his own behalf. He complimented the ZBA as being respectful, patient, and thoughtful. He wished to make a couple of points.

- It's important to remember this application is about people. The Board is dealing with this application because Truro has a very critical, unmet need for safe and affordable housing. About 2.4% of Truro's year-round housing stock meets guidelines for affordability. That translates to about 27 homes and apartments. State guidelines are that around 10% of year-round housing stock should be affordable which means Truro is short about 83 units.
- For people who are not familiar, a 40B application is a State law which was enacted in 1969 to facilitate construction of low, and moderate-income housing.
- Over the period of time that this application has been public, it's been plagued by a number of misconceptions;
 - This property was given to the Town by the State with the condition that it be used for housing, with at least 25% being designated as affordable. This property was never intended for use as the Public Works garage.
 - The Request for Proposals was released by the Town in 2018 to develop this property. We had two developers respond. One was a non-profit developer and one was Community Housing Resources. The proposal from the non-profit developer was estimated to cost approximately 1 million dollars more than CHR's proposal. That non-profit developer was also looking for a contribution from the Town of about 1.2 million dollars to subsidize the project. While it is not unusual for a developer to ask for assistance from the Town when building a project like this, but he believes the request from CHR was around 500 thousand dollars.
 - The profit that can be earned on a project like this is capped by funding sources, so there is only a certain amount of money any developer can make on a project.
 - In terms of the RFP, there was never a request for a playground.
 - Mr. Grunwald also discussed the lottery process for obtaining a rental unit.
 - Approximately half of the units in this project are designated for families who are at the area median income of 60% or less.

- An additional number of units are for people at up to 80% area median income, and another 6 units go up to 110% of area median income. He believes that leaves 6 market rental units.
- Quoted from the memo from the Cape Cod Commission, Mr. Grunwald read “The wastewater plan is consistent with the Regional Policy Plan’s Water Resources objective and sufficiently addressed the potential impacts to drinking water as necessary.”

Laura English stated that the wording in the review was for a sufficiently rigorous contingency plan. When the Board asks the Pond Village residents, “What are you asking for?”, that would be one of the requests.

Kathy Sharpless stated the onus is on the Town to recognize and address that there is a concern of the nitrates in the water. Conflating Cloverleaf and this issue might be what’s creating the complexity of all of this. This is a Town health issue that Truro residents deserve some kind of research into and should not be swept aside because of a schedule on the Cloverleaf project. Chair Hultin said there is no timeline, and never was one, but the discussion will eventually come to an end and the ZBA will take a vote.

Member Todd asked Mr. Nelson if he’s had a chance to look at the Cape Cod Commission letter and has any comments about it? Mr. Nelson stated he has read the letter and he think it provides a good overview of the general impact, from the nitrogen loading standpoint, coming from the project. Comparing it to what could happen there if it was developed under current regulations, and with the level of treatment being provided by the proposed wastewater treatment plant, the difference is not that substantial at all. The overall sitewide nitrogen loading impact is fairly consistent with what could happen there, because the normal septic systems could be at 35 mg/L and this system will be at 10 mg/L, perhaps even below that. The letter notes that those average numbers are one way to look at things. How individual septic systems react with private wells is a little bit different. That’s true for the homes in the Pond Village area, and it’s true for the septic system that’s proposed for the Cloverleaf. You have to look at it both ways.

**Chair Hultin made a motion to continue the Public Hearing 2019-008 ZBA to 5:30pm next Thursday.
Member Lucy seconded.
So voted; 7-0-0, motion carries.**

**Respectfully Submitted,
Noelle L. Scoullar**