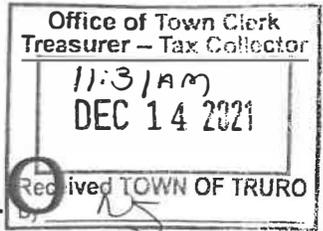




TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666

Tel: 508-349-7004 Fax: 508-349-5505



ZONING BOARD OF APPEALS

Agenda

DATE OF MEETING: Monday, December 20, 2021

TIME OF MEETING: 5:30 pm

LOCATION OF MEETING: Remote Meeting
www.truro-ma.gov

Open Meeting

This will be a remote public 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 by entering the meeting link; clicking on the Agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free at **1-877-309-2073** and entering the access code **728-431-501#** when prompted. 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 Barbara Carboni, Town Planner and Land Use Counsel, at bcarboni@truro-ma.gov.

Meeting link: <https://global.gotomeeting.com/join/728431501>

Public Comment Period

The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Public Hearing – Continued

2021-006/ZBA (SP, VAR) – Cape Rental LLC and Thomas P., Jr. and Kathleen C. Dennis for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 222128, Land Ct. Lot #1C, Plan #16182-E and Land Ct. Lot #1D, Plan #16182-F) and 133 South Pamet Road (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). Application for variance and/or special permit to relocate a second dwelling unit onto lot from adjacent lot.

Public Hearing

2021-007/ZBA (SP) – 32 Cooper Road LLC (Managing Agent Sarah L. Lutz) for property located at 21 Cooper Road (Atlas Map 58, Parcel 4; Certificate of Title Number: 204275, Land Ct. Lot # N/A, Plan #41832-A). The Applicant seeks a Special Permit under M.G.L. Ch. 40A, §6 and §30.7 of the Truro Zoning Bylaws for the reconstruction of a pre-existing, nonconforming dwelling.

Board Action/Review

- ◆ Election of Officers

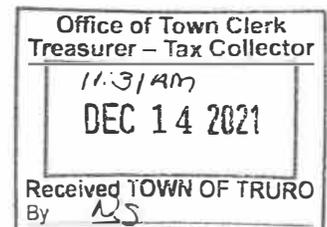
Approval of Minutes

- ◆ June 22, 2020
- ◆ July 27, 2020
- ◆ August 24, 2020
- ◆ September 21, 2020
- ◆ October 26, 2020
- ◆ November 23, 2020

Next Meeting

- ◆ Monday, January 24, 2022 at 5:30 p.m.

Adjourn



MEMORANDUM

To: Truro Zoning Board of Appeals
From: Barbara Carboni, Town Planner and Land Use Counsel
Date: December 16, 2021
Re: December 20, 2021 meeting – 127 South Pamet Road

The following is an expansion of previous memo and additional guidance as requested.

2021-006/ZBA (SP, VAR) – 127 South Pamet Road (Map 48, Parcel 12). CONTINUED PUBLIC HEARING:

Application of Cape Rental LLC, i/c/o James G. Whitelaw (127 South Pamet) and Thomas P. and Kathleen C. Dennis (133 South Pamet) for a Special Permit under G.L. c. 40A, s. 6 and Section 30.7 and 30.8 of the Truro Zoning Bylaw to increase the intensity of an existing nonconformity (undersized lot); a variance* under G.L. c. 40A, s. 10 to create a new nonconformity (second single-family residence on lot); and a variance for location of the dwelling within 38 feet from the front lot line, where 50 feet are required.

*Applicants had originally sought a special permit for relocation of the residence from 133 South Pamet to 127 South Pamet, on the theory that there were already two existing dwellings on 127 South Pamet and adding a third unit would expand an existing nonconformity, rather than create a new nonconformity. It has been confirmed that there is currently only one single-family residence on 127 South Pamet; the other structure is a studio. Applicant agrees that a variance is required for location of a second dwelling on the 127 South Pamet lot.

I. Existing Conditions and Proposed Project.

127 South Pamet Road, owned by Cape Rental, LLC is a 1.68 acre property with conforming frontage in the Seashore District, improved by a single-family house and a studio. The abutting 133 South Pamet Road is owned by Thomas P. Dennis Jr. and Kathleen Westhead-Dennis. The land at 133 South Pamet has eroded considerably, and the existing dwelling on this lot has already been moved once from a previous location pursuant to a 2010 variance. It is proposed that this dwelling be moved, pursuant to an agreement between the parties, from 133 South Pamet to a location on 127 South Pamet. The proposed location is 38 feet from the front lot line, where 50 feet are required (Seashore District).

II. Zoning Relief Required

The existing nonconformities of 127 South Pamet are:

- Lot area: 1.68 acres where 3 acres required
- Side setback: 23 feet to southern lot line, existing dwelling

The proposed addition of a dwelling to 127 South Pamet will:

- Increase the intensity of existing nonconformity of lot (lot area), requiring a special permit
- Create a new dimensional nonconformity (nonconforming front setback, 38 feet where 50 required), requiring a variance
- Create a new use nonconformity (two single-family dwellings on one lot), requiring a variance

A. Increasing intensity of lot nonconformity – Special Permit

The lot is nonconforming as to area. 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). In this case, the proposal is to relocate a dwelling onto the lot, rather than to expand or replace one already there. However, the impact of placing another dwelling on the lot (without removing the current one) necessarily increases the lot’s existing nonconformity, and the same standard must apply.

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.”

In this case, where the proposed site of the dwelling relocation is approximately the same distance from South Pamet Road as its current location, approximately 50-60 feet to the south, a finding might be made that the relocated structure does not significantly change the streetscape, and accordingly that the relocation is “not substantially more detrimental to the neighborhood” than the existing configuration. On the other hand, where the relocation will place a third residential structure on a single lot, approximately one-half the required size, a finding might be made that the relocation crowds the lot and would be “substantially more detrimental” to the neighborhood than the existing configuration. This and other considerations are of course entrusted to the Board’s judgment, based on its “intimate understanding of the immediate circumstances [and] of local conditions” Fitzsimonds v. Board of Appeals of Chatham, 21 Mass.App.Ct. 53, 55 (1985).

B. 38-foot front setback: Variance

While the expansion of an existing nonconformity on a nonconforming lot requires a special permit, the creation of a *new* nonconformity requires a variance. Deadrick v. Zoning Board of Appeals of Chatham, 85 Mass.App.Ct. 539, 553 (2014). Here, the application seeks to locate the second dwelling 38 feet from the front setback, where 50 feet are required.

G.L. Chapter 40A, Section 10 provides in part:

The permit granting authority shall have the power . . . to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the

applicable zoning ordinance or by-law where such permit granting authority 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 make an affirmative finding on all three requirements.

[1] “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”

The narrative states that the proposed site of the relocated dwelling (near South Pamet Road in the northern part of the property) is driven by the topography of the 127 lot and the locations of existing dwellings, septic system, and driveway. The narrative notes erosion on the northeast edge of this property; the existing septic system occupying the center of the property; and the existing driveway running along the southerly side of the property.

The application essentially argues that there is no other feasible location for the second dwelling on the 127 South Pamet lot, and that might be established to the Board’s satisfaction. Yet the Board might consider whether the lack of other feasible locations on the site is due at least as much to the lot’s existing improvements (dwelling, studio, septic system, driveway) as to the lot’s “soil conditions, shape or topography.” In addition, the application makes no showing that the soil conditions, shape or topography affecting the 127 South Pamet lot are unique to that lot – that is, that they do not “affect[] generally the zoning district in which it is located.” To make an affirmative finding on requirement [1], the Board must have some basis for concluding that the circumstances relating to soil conditions, shape or topography are not shared with neighboring lots.

[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”

This case presents an unusual set of facts: it is not the owners of the lot for which a variance is being sought (127 South Pamet) who will suffer hardship if the variance is denied, but rather the owners of the *abutting* lot (133 South Pamet) who will suffer such hardship. The narrative notes that the owners of 133 South Pamet Road will suffer substantial hardship if the variance is not granted, as they will be unable to occupy their home and will be forced to demolish or relocate it to another site. Applicant’s counsel has argued that because the owners of 133 South Pamet Road joined the application for zoning relief, they are “petitioners” as that term is used in G.L. c. 40A, s. 10, and therefore the hardship to them may be considered by the Board in its consideration of the variance request.

Neither the language of G.L. c. 40A, s. 10 nor case law supports the position that the “hardship” referenced in the statute may be to individuals other than the owners of the property that is the subject of the variance application.

First, the statute gives the Board authority to grant a variance “upon appeal or upon petition”. A logical explanation for this language is that a variance case may arrive at the ZBA either because the Building Commissioner would not grant the owner a building permit for a nonconforming structure (an appeal), or because the owner applied directly to the ZBA for relief (a petition). When the statute later references “hardship. . . to the petitioner or appellant,” it is simply referring back to these two avenues to the ZBA – appeal or petition – not creating a new category of individuals, other than the property owner, eligible to seek relief from the ZBA, through demonstration of hardship or otherwise.

Second, a review of variance cases finds no precedent for consideration of hardship to anyone other than the owner of the property for which the variance is sought. Cases reference hardship to “the landowner,” both in stating the law and in applying it to the facts of the case. Example: “[S]tatutory hardship is usually present when a landowner cannot reasonably make use of his property for the purposes, or in the manner, allowed by the zoning ordinance. . . Such a predicament could have been made out in this case by Wrightson's showing that utilization of his land for a single family residence would be economically unfeasible.” Kirkwood v. Board of Appeals of Rockport, 17 Mass.App.Ct. 423, 429 (1984).

[3] “relief may be granted without substantial detriment to the public good. . .and without substantially derogating from the intent or purpose of [the] bylaw”

The Board might consider this question narrowly, on the merits of the location itself – that is, looking only at whether allowing placement of the structure at 38 feet from the front lot line, rather than 50 feet, can be done without substantial detriment/derogation. As always, the Board’s determination on this factor is a matter entrusted to the Board’s “intimate understanding of the immediate circumstances, of local conditions, and of the background and purposes of the entire by-law.” Fitzsimonds v. Board of Appeals of Chatham, 21 Mass.App.Ct. at 55.

C. Second dwelling unit on lot: Variance

Relocation of the 127 South Pamet residence onto the 127 South Pamet lot would result in two single-family dwellings on a single lot. This is not a permissible use in the Seashore District (except where lawfully preexisting). The relief sought to allow a second dwelling on the lot is therefore a use variance.

G.L. c. 40A, s. 10 allows use variances only where expressly allowed by the municipality’s zoning regulations:

“Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.”

G.L. c. 40A, s. 5 (partial). The Truro Zoning Bylaw does not expressly permit “variances for use,” or use variances. In fact, the Bylaw expressly prohibits the Board from hearing use variances. The Bylaw provides:

§ 60.2 Board of Appeals A Board of Appeals consisting of five members and two associated members shall have the power conferred on it under Chapter 40A of the General Laws of Massachusetts and under this zoning bylaw, which powers shall include

the review of Special Permit and Variance applications, *except for Variances as to use*, and the appeal of decisions of the Building Commissioner.”

Bylaw Section 60.2 (emphasis added). Under this section of the Bylaw, it appears that the Board has no authority to hear or to grant the use variance sought for location of a second single-family house on 127 South Pamet Road.

Should the Board nevertheless conclude that it has authority to hear and grant a use variance, it would review the request as in **Section II.B** above (setback variance) to determine whether each of the required finding under G.L. c. 40A, s. 10 can be made.

III. Summary of suggested actions for the Board

The Board may review the three applications (special permit; setback variance; use variance) in any order desired, but it should address and make findings as to all three, even if it concludes that relief is unavailable under any of them. The sequence below is based on the order of discussion above.

1. Special permit. Make finding as to whether relocation of the 133 South Pamet Road house to the nonconforming 127 South Pamet Road lot “will not be substantially more detrimental to the neighborhood than the existing nonconformity” (G.L. c. 40A, s. 10 and Bylaw Section 30.7); and whether such relocation “will exist in harmony with the general purpose and intent of the Zoning Bylaw.” (Section 30.7)
2. Setback variance. Make findings on three requirements under G.L. c. 40A, s. 10: whether:

[1] owing to circumstances relating to the topography of the property, not affecting generally the zoning district in which it is located; [2] a literal enforcement of the provisions of the by-law would involve substantial hardship, financial or otherwise, to the petitioners; 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 the by-law.

3. Use variance. Determine whether Board may hear and grant use variance. If finding is that Board may hear and grant use variance, make findings on three requirements under G.L. c. 40A, s. 10, above.

MEMORANDUM

To: Truro Zoning Board of Appeals
From: Barbara Carboni, Town Planner and Land Use Counsel
Date: December 18, 2021
Re: December 20, 2021 meeting –21 Cooper Road

2021-007/ZBA (SP) – 32 Cooper Road LLC (Managing Agent Sarah L. Lutz) for property located at 21 Cooper Road (Map 58, Parcel 4). Applicant seeks a special permit under G.L. c. 40A, s. 6 and Section 30.7 and 30.8 of the Truro Zoning Bylaw to reconstruct a dwelling on a nonconforming lot (nonconforming frontage).

I. Existing Conditions and Proposed Project

21 Cooper Road is a 9.7 acre parcel in the Residential District with 561.95 feet of frontage on Cooper Road, a way which does not conform to the Zoning Bylaw’s definition of “street.” The existing dwelling is 33.5 feet from the front lot line (conforming), with ample side and rear setbacks; gross floor area of 2280 square feet; and a height of 22.3 feet. A shed is located 57.2 feet from Cooper Road, with a stockade fence enclosure. Neighboring properties include single-family residences on smaller parcels and land owned by the Truro Conservation Trust.

The Applicant proposes to build a new dwelling to replace the existing one. The proposed dwelling will be located 71.3 feet from the front lot line; with a gross floor area of 2314 square feet and height of 22.4 feet (peak elevation of 54.5’ – average grade elevation of 32.1 = 22.4 feet). No new nonconformities are created.

No construction will take place in areas subject to Conservation Commission jurisdiction. The Conservation Agent has advised that where the driveway will cross the outer edge of a 100-foot buffer zone; accordingly the contractor should follow best management practices, installing construction fencing long the driveway where it crosses through to prevent parking or material storage in that area.

II. Special Permit

The subject lot is nonconforming because Cooper Road, on which it has frontage, does not conform to the Bylaw definition of “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).

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.”

Where the new house will be only slightly larger than the existing one, located further from the road, and at the same general elevation of 32 feet, the Board may make such a finding. This and other considerations are of course entrusted to the Board’s judgment, based on its “intimate understanding of the immediate circumstances [and] of local conditions” Fitzsimonds v. Board of Appeals of Chatham, 21 Mass.App.Ct. 53, 55 (1985).



TOWN OF TRURO
HEALTH & CONSERVATION DEPARTMENT
24 Town Hall Road, Truro 02666
508-349-7004 x119

Memo to: Barbara Carboni, Town Planner

Date: November 18, 2021

From: Emily Beebe, Conservation Agent

Re: Plan Review for 127-133 South Pamet Road: DEP# SE 75-1128

The project described on the plans developed by Coastal Engineering for the relocation of the dwelling at 133 South Pamet Road was reviewed by the Commission at their hearing of August 2, and an Order of Conditions was developed. Subsequently, the applicant submitted additional information to the Commission as requested and reviewed at their meeting of September 13. As you are aware, the substantial erosion on the Ocean side of this property prompted retreat and elevation of the structure in 2010. The current proposal includes retreat to the west and North onto an adjacent site.

The project includes lifting the dwelling, moving it to the new location and resetting it on a new piling foundation. The pilings under the dwelling in its current location will be flush-cut and removed as the bank erodes to minimize disturbance to the bank that would occur if the piles were to be pulled. The landscape timber wall at the top of the bank will remain to hold the bank.

The dwelling is currently served by a Title 5 septic system and a private well, both of which will remain in place to serve the building in its new location, as will the existing utilities. The current septic system will be removed when the eroding bank edge is 15' from the nearest component. Conditions also include triggers for shifting utilities to the new site, site restoration and re-vegetation, and an ongoing condition that the owner shall reclaim/retrieve materials that may fall onto the beach due to erosion.

The Commissioners conducted a site visit prior to the hearing, and after a detailed presentation of the project, and upon review of the plans and protocols the Commissioner determined that relocating the structure in the manner described could be achieved with minimal impact.

MEMO ON BEHALF OF APPLICANTS

To: Truro Board of Appeals
From: Ben Zehnder
Date: December 15, 2021
Re: 2021-006/ZBA - 127 and 133 South Pamet Road, Truro

In its hearing of the above matter, the Board has asked whether in order to obtain a zoning variance for relocation of the dwelling at 133 South Pamet Road to 127 South Pamet Road, the required hardship must be related to the property at 127, or may be related to the applicants' property at 133.

G.L. c. 40A, Section 10, which authorizes the granting of variances, provides as follows

Section 10. The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that 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, 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 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. Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located; provided however, that such variances properly granted prior to January first, nineteen hundred and seventy-six but limited in time, may be extended on the same terms and conditions that were in effect for such variance upon said effective date.

The permit granting authority may impose conditions, safeguards and limitations both of time and of use, including the continued existence of any particular structures but excluding any condition, safeguards or limitation based upon the continued ownership of the land or structures to which the variance pertains by the applicant, petitioner or any owner.

If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty days of the date of application therefor, and upon the expiration of the original one year period, such

rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section. Underlining Added

The plain language of the statute states that the hardship must be to the applicant, two of whom are Tom and Kathleen Dennis, who own 133 South Pamet Road property suffering from significant erosion. Absent the grant of the variance, they will be unable to move the dwelling away from the eroding bank. The statute in no place states that the hardship must affect the property.

Massachusetts case law has held that the hardship must affect the property for which the variance is sought. Attached is the 1963 Supreme Judicial Court case of Sullivan v. Board of Appeals of Belmont. However, the Sullivan decision prohibited the grant of a variance to expand a gas station into a residential zoning district. This was based on use considerations. In the present matter, the continued use of the Dennis home on 133 South Pamet Road is for residential dwelling use, which is an allowed use in the Seashore District. As the existing case law regards uses of property and different zoning districts, the facts in that matter are distinguishable from the matter before the Board.

Additionally, the matter presents strong support for a showing that the relief may be granted without nullifying or substantially derogating from the spirit and intent of the zoning bylaw. The structure at 127 is a former United States Life-Saving Service station, and its retention in this neighborhood will serve to retain the neighborhood's historic characteristics. Neighborhood density will not increase, nor will use in the neighborhood. The total number of dwellings on the two lots will not change, nor will the appearance and construction of the Dennis home.

Finally, the application concerns and was titled and presented as relating to both properties. It involves removing the dwelling from 133 to move it away from the eroding dune, on to the property at 127. The final result is that 133 will no longer have a dwelling on it. The properties must be viewed together as they are a part of a common viewshed and together form a common solution to the erosion problem at 133. 133 will become open space and will contribute to the panorama and open portions of the area. It will become less used in the same degree that

127 becomes more used. The 133 land will operate as so-called "assemblage land" for 127.
END

Sullivan v. Board of Appeals

Supreme Judicial Court of Massachusetts

March 7, 1963, Argued ; May 7, 1963, Decided

No Number in Original

Reporter

346 Mass. 81 *; 190 N.E.2d 83 **; 1963 Mass. LEXIS 562 ***

Katherine E. R. Sullivan v. Board of Appeals of Belmont & another

Prior History: [***1] Middlesex.

Bill in equity filed in Superior Court on May 10, 1961.

The suit was heard by *Smith, J.*

Core Terms

variance, locus, service station, zoning, hardship, gasoline

Case Summary

Procedural Posture

Plaintiff, the owner of property adjacent to the applicant's property, appealed a decision in favor of defendants, a zoning board of appeals and a variance applicant, by the Middlesex Superior Court (Massachusetts) in an action to challenge the grant of a variance.

Overview

The applicant requested a variance to allow a residential area, the locus, to be used for purposes accessory to a gasoline service station in a local business district. The owner claimed that the variance adversely affected his

property interests. The applicant claimed that he would have suffered a hardship without the use of the locus for access and to operate the gas station. The court held that the variance should not have been granted. Pursuant to *Mass. Gen. Laws ch. 40A, § 15*, cl. 3, the issue was not whether the applicant suffered a hardship but whether the hardship related to the locus. The court reasoned that the loss of value of the locus would have been substantial and less than other properties not contiguous to the applicant's property. The court noted that the variance effectively and improperly widened the business district into a residential district. The fact that the locus was separated from other properties was insufficient to grant the variance. The board should not have used its variance power to allow commercial activity in the residential area because that could have been done through zoning amendments.

Outcome

The court reversed the decision and directed that a decree be entered that the board's decision exceeded its authority and was annulled.

LexisNexis® Headnotes

Administrative Law > Judicial

Review > Reviewability > Questions of Law

HNA Zoning, Variances

Environmental Law > Land Use & Zoning > Judicial Review

The substantial hardship required by Mass. Gen. Laws ch. 40A, § 15, cl. 3 must relate to the specific lot for which the variance is being sought and not to some other lot or to the person seeking the variance. Hardship caused by proximity to areas of commercial activity is not a sufficient basis to justify the exercise of the narrowly confined power of granting a variance. Regard must also be had to the property of others in the neighborhood which would be adversely affected by the granting of the variance. A district has to end somewhere. Care should be taken lest the boundaries of a residence district be pared down in successive proceedings granting variances to owners who from time to time through such proceedings find their respective properties abutting upon premises newly devoted to business purposes.

Real Property Law > Zoning > Judicial Review

Administrative Law > Judicial

Review > Reviewability > Factual Determinations

Administrative Law > Judicial Review > Standards of Review > Clearly Erroneous Standard of Review

Administrative Law > Judicial Review > Standards of Review > De Novo Standard of Review

HNA Reviewability, Questions of Law

In circumstances of appeals from a trial court's decision regarding the decision of a zoning board of appeal, all questions of law, fact, and discretion are open for review by the appellate court but the findings of fact will not be disturbed, unless they appear to be plainly wrong.

Business & Corporate Compliance > ... > Real Property Law > Zoning > Variances

Business & Corporate Compliance > ... > Real Property Law > Zoning > Variances

HNA Zoning, Variances

While the factor of the property over which a variance is sought is separated from other lots in the district is relevant in determining whether a variance should be granted, this factor alone is not enough to grant a variance.

Environmental Law > Land Use & Zoning > Conditional Use Permits & Variances

HNA Zoning, Variances

Facts necessary to meet the statutory requirements to grant a zoning variance cannot be satisfied by a mere repetition of the statutory words.

Business & Corporate Compliance > ... > Real Property Law > Zoning > Administrative Procedure

Business & Corporate Compliance > ... > Real Property Law > Zoning > Variances

Environmental Law > Land Use & Zoning > Conditional Use Permits & Variances

Environmental Law > Land Use & Zoning > Conditional Use Permits & Variances

Governments > Local Governments > Administrative Boards

Governments > Local Governments > Duties & Powers

Business & Corporate Compliance > ... > Real Property Law > Zoning > Variances

HNS Zoning, Administrative Procedure

It may well be that in the decision whether to grant a variance, permitting commercial activity would be a natural and logical extension of a general business district. Such a determination, however, is one not to be made by a board of appeals in the exercise of its variance power but is one for consideration and determination by the town under the procedures adopted for amendments to its zoning by-law. The board's limited and carefully restricted variance power may not be invoked for this purpose.

Headnotes/Summary

Headnotes

Zoning, Variance.

Syllabus

Respecting a locus situated at the southeast corner of two public ways, mostly in a residential zoning district extending to the west and in small part in a business district extending to the east, the facts that the locus was separated from the rest of the residential district by one of the ways and was adjacent to the business district, in which various business establishments were operated, that although physically possible it would be "economically impracticable" to erect a dwelling on the locus because of its proximity to a gasoline station on the next lot to the east, and that it was difficult to operate the gasoline station without using the locus in

connection therewith did not show "substantial hardship" "owing to conditions especially affecting" the locus within G. L. c. 40A, § 15 (3), nor support the granting of a zoning variance for use of the locus as an adjunct of the gasoline station.

Counsel: *Walter H. McLaughlin, Jr.* (*Arthur M. Gilman* with him) for the plaintiff.

Earle C. Parks, Town Counsel (*Owen P. Maher* with [***2] him), for the Board of Appeals of Belmont.

Daniel Needham, Jr., for Santoro's Service Station, Inc.

Judges: Wilkins, C.J., Spalding, Whittemore, Cutter, & Kirk, JJ.

Opinion by: KIRK

Opinion

[*82] [**84] This is a bill in equity under G. L. c. 40A, § 21, as amended, by way of an appeal from a decision of the zoning board of appeals of the town of Belmont granting a variance to Santoro's Service Station, Inc. (Santoro), allowing a lot of land (the locus) almost entirely within a general residence district to be used for purposes accessory to a gasoline service station in a local business district. The plaintiff is the owner of adjacent residential property, located principally in a single resident district, which would be affected by the variance. The judge entered a decree that the board did not exceed its authority in granting the variance and that no modification of the decision was required. The plaintiff appealed. The judge made a statutory report of material facts. The evidence is reported in condensed form. HNT In these circumstances all questions of law, fact, and discretion are open for review by us but

the findings of fact will not be disturbed unless they appear to [***3] be plainly wrong. *Rodenstein v. Board of Appeal of Boston*, 337 Mass. 333, 334.

The report of material facts may be summarized as follows: The locus, lot 80 A, is situated on the southeast corner of the intersection of Concord Avenue and Becket Road in Belmont. Concord Avenue runs in a generally easterly and westerly direction. On the south side of Concord Avenue and in a direction east of the locus are several small business establishments all within an area zoned for local business. The businesses thus located within 1,000 feet of the locus are three gasoline service stations, a building used for storage and sales, a cleaning establishment, and the service station owned by Santoro. The service station is located on lot 79 D which is adjacent to the locus. Santoro has exercised an option to buy lot 79 D and the locus from Queen's Trading Co. Inc. There has been a gasoline station [*83] in operation on these lots since 1926 except for a period of a few years during World War II. Since 1945 a service station has been located on lot 79 D. The locus has been used as a means of access to it by virtue of a variance granted in that year. The 1945 variance, according [***4] to its terms, was to expire upon the sale of the lot. Santoro brought a petition for a variance which would permit the use of the [*85] locus in connection with the service station. The variance was granted subject to certain conditions. ¹ *G. L. c. 40A, § 15*, as amended.

The plaintiff's property is a single family dwelling on Becket Road. Its north boundary abuts on the locus and

¹ Santoro would be required (a) to erect a suitable screening fence from the back line of the locus for forty feet north along the Becket Road boundary, (b) install a shrub border planting along the Becket Road line and along the entire back lot line of the locus, and (c) maintain all fences and landscaping in good and presentable repair.

part of lot 79 D. The judge found that it would be "physically possible" to erect a dwelling on the locus but that it would be "economically impracticable" due to the proximity to the gasoline station on lot 79 D. The judge in effect concluded, as the board had found, that there was substantial [***5] hardship to the owner and that desirable relief could be granted without substantial detriment to the public good and without derogating from the intent or purpose of the by-law. The judge adopted the language of the board as his own: "The hardship in this case arises by reason of conditions especially affecting Lot 80 A but not affecting generally the zoning district in which it is located."

It is apparent that a painstaking effort has been made to establish all the HN2 facts necessary to meet the statutory requirements. These requirements cannot be satisfied by a "mere repetition of the statutory words." *Brackett v. Board of Appeal of the Bldg. Dept. of Boston*, 311 Mass. 52, 54. We think, however, that the facts set forth in the record do not demonstrate substantial hardship "owing to conditions especially affecting such parcel . . . but not affecting generally the zoning district in which it is located . . ." *G. L. c. 40A, § 15*, cl. 3.

[*84] The evidence offered by Santoro as to the difficulty of operating a service station on lot 79 D without the use of the locus both as a means of access and for other necessary operations of a service station is irrelevant. HN3 The [***6] substantial hardship required by the statute must relate to the specific lot for which the variance is being sought and not to some other lot or to the person seeking the variance. *Hurley v. Kolligian*, 333 Mass. 170, 174.

The hardship found by the judge is that it would be "economically impracticable" to use the locus for residential purposes because it is contiguous to a gasoline station. It is well established that hardship caused by proximity to areas of commercial activity is

not a sufficient basis to justify the exercise of the narrowly confined power of granting a variance. *Real Properties, Inc. v. Board of Appeal of Boston*, 319 Mass. 180, 183. *Coolidge v. Zoning Board of Appeals of Framingham*, 343 Mass. 742, 745. It is obvious that residential property immediately adjacent to a district zoned for commercial use is likely to be less valuable for residential purposes than similar property which is not contiguous to a business area. However, regard must also be had to the property of others in the neighborhood which would be adversely affected by the granting of the variance. See *DiRico v. Board of Appeals of Quincy*, 341 Mass. 607, 610. In [***7] this connection this court has stated and frequently repeated that a district has to end somewhere. "Care should be taken lest the boundaries of a residence district be pared down in successive proceedings granting variances to owners who from time to time through such proceedings find their respective properties abutting upon premises newly devoted to business purposes." *Real Properties, Inc. v. Board of Appeal of Boston*, 319 Mass. 180, 184.

Both the board and the judge appear to have been strongly influenced by [**86] the additional fact that the locus is separated from the other lots in the general residence district by Becket Road. It is the only lot in the general residence district fronting on Concord Avenue east of Becket Road. (See diagram.) *HNA* [†] While this may be a factor in determining [**85] whether a variance should be granted, this factor alone is not enough to take the case out of the previously enunciated general rule. The land itself has no unique qualities, and in this respect the case is to be distinguished from *Dion v. Board of Appeals of Waltham*, 344 Mass. 547, in which there were factors peculiar to the land itself in

[SEE ILLUSTRATION [***8] IN ORIGINAL]

addition to the isolation of the locus from the rest of the district in which it was zoned. See *Rodenstein v. Board of Appeal of Boston*, 337 Mass. 333, 335 (large deposits of "pudding stone" on the land).

The granting of the variance appears to be supported solely by a determination that the boundary lines are not drawn [**87] in the most logical sequence in light of the now existing streets and roads. ² *HNA* [†] It may well be that permitting [**86] commercial activity of the kind envisioned would be a "natural and logical extension of the general business district to Becket Road." Such a determination, however, is one not to be made by the board of appeals in the exercise of the variance power but is one for consideration and determination by the town under the procedures adopted for amendments to its zoning by-law. The board's "limited and carefully restricted variance power, *Benjamin v. Board of Appeals of Swansea*, 338 Mass. 257, 261, may not be invoked for this purpose." *Shacka v. Board of Appeals of Chelmsford*, 341 Mass. 593, 595.

[***9] The final decree is reversed. A decree is to be entered that the decision of the board of appeals exceeded its authority and is annulled.

So ordered.

End of Document

²At the time the town of Belmont originally adopted the zoning by-law which established the districts involved in this controversy, January 19, 1925, Becket Road was not an accepted street.

From: [Barbara Carboni](#)
To: [Distribution list - ZBA](#)
Cc: [Elizabeth Sturdy](#)
Subject: FW: [EXTERNAL] RE: Letter for Nov 22 hearing - 127 & 133 So. Pamet Road, Truro ZBA
Date: Friday, December 17, 2021 12:20:02 PM
Attachments: [Truro ZBA - 2nd letter re 127 & 133 So Pamet proposal 12-17-21_001.pdf](#)
[133 and 127 South Pamet Road ZBA hearing letter Nov 2021.pdf](#)

Barbara Carboni
Town Planner and Land Use Counsel
(508) 214 0928

From: McKean, Lauren <Lauren_McKean@nps.gov>
Sent: Friday, December 17, 2021 12:10 PM
To: Barbara Carboni <bcarboni@truro-ma.gov>
Cc: Carlstrom, Brian <Brian_Carlstrom@nps.gov>; Benjamin E. Zehnder <BZehnder@latanzi.com>
Subject: Re: [EXTERNAL] RE: Letter for Nov 22 hearing - 127 & 133 So. Pamet Road, Truro ZBA

Barbara,

Please share with the ZBA Board members.

We submit this for the formal record in its entirety.

Sincerely,
Lauren

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

From: Benjamin E. Zehnder <BZehnder@latanzi.com>
Sent: Wednesday, December 15, 2021 8:34 PM
To: 'Barbara Carboni' <bcarboni@truro-ma.gov>
Cc: Carlstrom, Brian <Brian_Carlstrom@nps.gov>; McKean, Lauren <Lauren_McKean@nps.gov>
Subject: [EXTERNAL] RE: Letter for Nov 22 hearing - 127 & 133 So. Pamet Road, Truro ZBA

This email has been received from outside of DOI - Use caution before clicking on

links, opening attachments, or responding.

Hello Barbara:

I am attaching my brief memo on the legal question posed by the Board at its 11/22/21 first hearing of the above matter whether hardship must be tied to 127 South Pamet Road.

As always my regards,

Ben

Benjamin E. Zehnder
La Tanzi, Spaulding & Landreth
8 Cardinal Lane; P.O. Box 2300
Orleans, MA 02653
(508) 255-2133
(508) 255-3786 (fax)
(508) 246-4064 (mobile)
bzehnder@latanzi.com
Orleans/Provincetown/Barnstable



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United States Department of the Interior

NATIONAL PARK SERVICE
Cape Cod National Seashore
99 Marconi Site Road
Wellfleet, MA 02667

IN REPLY REFER TO:

A90

Tract No. 12-2760 and 2761

December 17, 2021

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

Dear Mr. Hultin:

This is a follow-up letter to our November 22, 2021 letter (attached) concerning the Zoning Board of Appeals (ZBA) hearing for the relocation of a single-family residence at 133 South Pamet Road to 127 South Pamet Road in Truro, MA.

Dwellings facing loss of land due to coastal erosion on the Outer Cape have been moved back as far as possible on the residential lot, demolished, or relocated for decades. Unfortunately, there are many properties with houses on the ocean and bay waterfront that will face a similar problem when the land they sit on erodes away; a significant exception by the ZBA at this location could create an unfortunate expectation by other landowners, and speculative property purchases with the intent to request similar treatment.

Zoning variances are to have very high standards and meet all three hardship criteria. There are numerous reasons that this proposal does not meet the criteria and is not eligible for such consideration.

- Two applicants of two different properties on the ZBA application does not confer more broad reading of the town bylaws that are to conform with state law.
- The sending property has the hardship, and the house will not be relocated on the sending lot; the receiving lot does not meet any of the three variance hardship criteria.
- This is a single-family zone; there is no room for a "condo" type ownership of a single-family lot in the bylaws so that multiple dwellings can be allowed.
- This proposal places two single-family residences on one single-family lot that already has an accessory guest rental cottage, increasing the intensity of zoning nonconformities.
- The applicants of 133 South Pamet Road own three residential properties within Truro, so this is not their sole residence.

- The receiving property owner is Cape Rental, LLC, a commercial entity in this residential district.

If a property owner wishes to relocate a residence and a historic building, there are suitable lots that would meet zoning requirements elsewhere within the Town of Truro.

The Seashore District is single-family residential conservation district, and we ask that high standards for variances and special permits be maintained. We urge denial of this application as it proposes zoning exceptions that increase the intensity of the nonconformity and creates new nonconformities that will be substantially more detrimental to the neighborhood than the existing nonconforming uses or structures and will not exist in harmony with the general purpose and intent of the Seashore District and other town bylaws.

Sincerely,



Brian T. Carlstrom
Superintendent

cc:
Town Planner
Town Administrator



United States Department of the Interior

NATIONAL PARK SERVICE
Cape Cod National Seashore
99 Marconi Site Road
Wellfleet, MA 02667

IN REPLY REFER TO:

A90

Tract No. 12-2760 and 2761

November 22, 2021

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

Dear Mr. Hultin:

This letter concerns the Zoning Board of Appeals (ZBA) hearing for the relocation of a single-family residence at 133 South Pamet Road to 127 South Pamet Road in Truro, MA; 127 South Pamet Road consists of a one-family residential property along with a guest house.

The Seashore District is single-family residential conservation district, with some allowed pre-existing multi-family uses or allowable accessory structures. In prior cases of coastal erosion threat, dwellings have been moved back as far as possible on the lot with zoning hardship exceptions, demolished, or relocated to a lot outside the seashore boundary.

Coastal erosion poses an ongoing threat to numerous properties along the ocean bluffs within Cape Cod National Seashore, so this not an isolated case. The hardship is to the Cape Rental, LLC as owners of 133 South Pamet Road and not the private landowners of 127 South Pamet Road, so this should also be a factor in the zoning considerations.

We are concerned that if the applicants are granted an exception via special permit and/or variance to the Town of Truro's Seashore District zoning bylaws, that it would not only be precedent setting, but potentially set up speculative acquisitions to create multi-family residential use on many properties along the coastal bluffs within the seashore districts of Truro, Wellfleet, and Eastham.

Accordingly, in relation to Section 30.7.A we believe that zoning exceptions to increase the intensity of the nonconformity or create a new nonconformity should not be granted as the alteration or extension will be substantially more detrimental to the neighborhood than the existing nonconforming uses or structures and that the alteration or extension will not exist in harmony with the general purpose and intent of this bylaw; we urge ZBA members to deny this proposal. Furthermore, if the ZBA approves the project and the applicants move forward with this project as proposed, we will follow through with revoking the Certificate Suspension of Condemnation.

Sincerely,

/s/

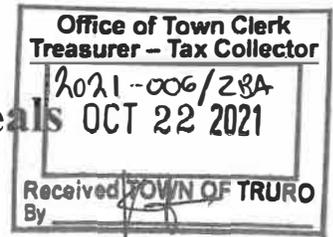
Brian T. Carlstrom
Superintendent



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 October 22, 2021

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(3) of the Truro Zoning Bylaw concerning *(describe)* Minimum front yard setback distance (50') from all streets in the Seashore District and for addition of dwelling to property at 127 South Pamet Road.

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 30.7(A) of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____
Extension of a lawfully begun non-conforming use (multiple dwellings on a single lot).

Property Address 127 South Pamet Road & 133 South Pamet Road Map(s) and Parcel(s) 48-12 & 48-8

Registry of Deeds title reference: Book 33550, Page 123, or Certificate of Title Number 222128 and Land Ct. Lot # 1C / 1D and Plan # 16182-E / 16182-F

Applicant's Name James G. Whitelaw Thomas P., Jr. & Kathleen C. Dennis

Applicant's Legal Mailing Address 275 Jack Boot Way Monument CO 80132 30 Colony Road Springfield MA 01106

Applicant's Phone(s), Fax and Email 719-229-7771 whitelaw6@aol.com 413-246-1096 dennis@dennisgrp.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 Cape Rental LLC i/c/o James G. Whitelaw 275 Jack Boot Way Monument CO 80132

Representative's Name and Address Benjamin E. Zehnder P.O. Box 2300 Orleans, MA 02653 (as to Dennis)

Representative's Phone(s), Fax and Email 508-255-2133 ext. 128; 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 P. Dennis & Kathleen C. Dennis
Owner(s) Printed Name(s) or written permission
(see attached authorization by James G. Whitelaw)
[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



**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

October 22, 2021

Town Clerk Kaci A. Fullerton
Truro Town Hall
24 Town Hall Road
P.O. Box 2012
Truro, MA 02666

Via hand delivery

Re: New Zoning Board of Appeals application for a Special Permit or a Variance /
127 South Pamet Road (48-12) & 133 South Pamet Road (48-8)

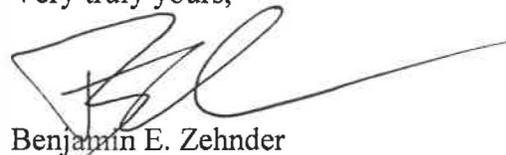
Dear Ms. Fullerton:

Please find enclosed for filing with the Zoning Board of Appeals one original and nine copies of a new application for a Special Permit, or, in the alternative, a Variance, for the properties at 127 South Pamet Road (Assessor's Parcel ID 48-12) and 133 South Pamet Road (Assessor's Parcel ID 48-8), to locate an additional single family dwelling at the 127 South Pamet Road property, which dwelling will be removed from the 133 South Pamet Road property.

Please also find enclosed payment in the amount of \$100.00 for the filing fee for the two forms of requested relief.

Thank you as always for your assistance. I remain –

Very truly yours,



Benjamin E. Zehnder

Enc.
cc. via email:
client
Barbara Carboni
Lauren McKean
John Schnaible
Kevin Whitelaw

+ BRIAN_CARLSTROM@NPS.GOV
+ ESTURDY@TRURO-MA.GOV

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 October 22, 2021

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(3) of the Truro Zoning Bylaw concerning *(describe)* Minimum front yard setback distance (50') from all streets in the Seashore District and for addition of dwelling to property at 127 South Pamet Road.

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 30.7(A) of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* Extension of a lawfully begun non-conforming use (multiple dwellings on a single lot).

Property Address 127 South Pamet Road & 133 South Pamet Road Map(s) and Parcel(s) 48-12 & 48-8

Registry of Deeds title reference: Book 33550, Page 123, or Certificate of Title Number 222128 and Land Ct. Lot # 1C / 1D and Plan # 16182-E / 16182-F

Applicant's Name James G. Whitelaw Thomas P., Jr. & Kathleen C. Dennis

Applicant's Legal Mailing Address 275 Jack Boot Way Monument CO 80132 30 Colony Road Springfield MA 01106

Applicant's Phone(s), Fax and Email 719-229-7771 whitelaw6@aol.com 413-246-1096 dennis@dennisgrp.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 Cape Rental LLC i/c/o James G. Whitelaw 275 Jack Boot Way Monument CO 80132

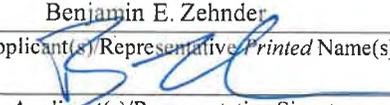
Representative's Name and Address Benjamin E. Zehnder P.O. Box 2300 Orleans, MA 02653 (as to Dennis)

Representative's Phone(s), Fax and Email 508-255-2133 ext. 128; 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)

 Applicant(s)/Representative Signature

Thomas P. Dennis & Kathleen C. Dennis
 Owner(s) Printed Name(s) or written permission
 (see attached authorization by James G. Whitelaw)
 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

127 & 133 South Pamet Road
Assessor's Parcel ID's 48-12 & 48-8

October 22, 2021

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

Applicants Cape Rental LLC i/c/o James G. Whitelaw and Thomas P. Dennis, Jr. and Kathleen C. Dennis are the owners, respectively, of the properties at 127 South Pamet Road (48-12) ("127") and 133 South Pamet Road (48-8) ("133") in the Seashore zoning district. 127 has 73,200 sq. ft. of lot area, 38' of frontage, and is improved with a one story wood framed 4 bedroom dwelling and a one story wood framed one bedroom dwelling, for a total building coverage of 2,742 sq. ft. (3.8%). 133 has 5,000 sq. ft. of lot area, no frontage, and is improved with a two story wood framed two bedroom dwelling and has a total building coverage of 1,277 sq. ft. (25.5%).

The land at 133 has dramatically eroded, and the dwelling has been relocated to the rear of the lot by previous variance grant by the ZBA. There is no further land area to relocate the dwelling further back on the lot.

The owners of 133 and 127 have reached an agreement to relocate the 133 dwelling to the northwesterly corner of 127, as shown on the site plan filed herewith.

127 is pre-existing and non-conforming under current zoning as to minimum lot size, frontage, and as to having multiple dwellings on one lot. The applicants therefore seek a special permit pursuant to Bylaws § 30.7(A) and M.G.L. c. 40A, § 6 to extend the existing multiple dwelling non-conformity at 127 (changing from two dwellings currently to three dwellings following the relocation of the dwelling from 133 there).

In the alternative, the applicants are seeking a variance to permit the location of an additional dwelling on 127.

The applicants also seek a variance pursuant to M.G.L. c. 40A, § 10 from Bylaws § 50.1(3) (50' front yard setback distance from all streets in the Seashore District) to allow the relocation at the proposed location, with a proposed 38' setback from South Pamet Road.

The proposed new house location is dictated by the topography of 127 and the locations of the two existing dwellings, driveway, and septic system and wells at the property. As shown on the site plan, the northeast edge of the property is the ocean side of the lot and is where erosion occurs. Additionally, the two existing dwellings are located there and there is not enough width along the bluff to located the dwelling from 133 there while maintaining required building separation. The septic system is located in the center of the lot, while the driveway serving the existing dwellings runs along the southerly side of the property. As a result, the only feasible locations to place the dwelling are towards the westerly South Pamet Road side of the property, however, even

with the structure turned with its long axis parallel to the way, it cannot be setback a full 50'.

The existing 133 dwelling will move but will not change in its outward appearance or construction, as it will be moved but not changed. The proposal will not change the number of dwellings on the two lots, and will not change the volume or area of the dwellings. It will not increase the total lot coverage for the two properties.

If the variances are not granted, the Dennis' will suffer a substantial hardship, as they will not be able to occupy their home any longer, and will be forced to demolish or relocate it to another site.

This hardship is directly owing to the topography of 133, as well as its soil conditions resulting from the coastal erosion.

Desirable relief may be granted since there will be no appearance of additional buildings or lot coverage on the two lots, and since the historically important and visually attractive 133 dwelling will be retained in the area. The proposal will also eliminate the requirement of demolishing the structure, or attempting to move it down South Pamet Road.

- END -

Cape Rental LLC
275 Jack Boot Way
Monument, CO 80132
719-229-7771
whitelaw6@aol.com

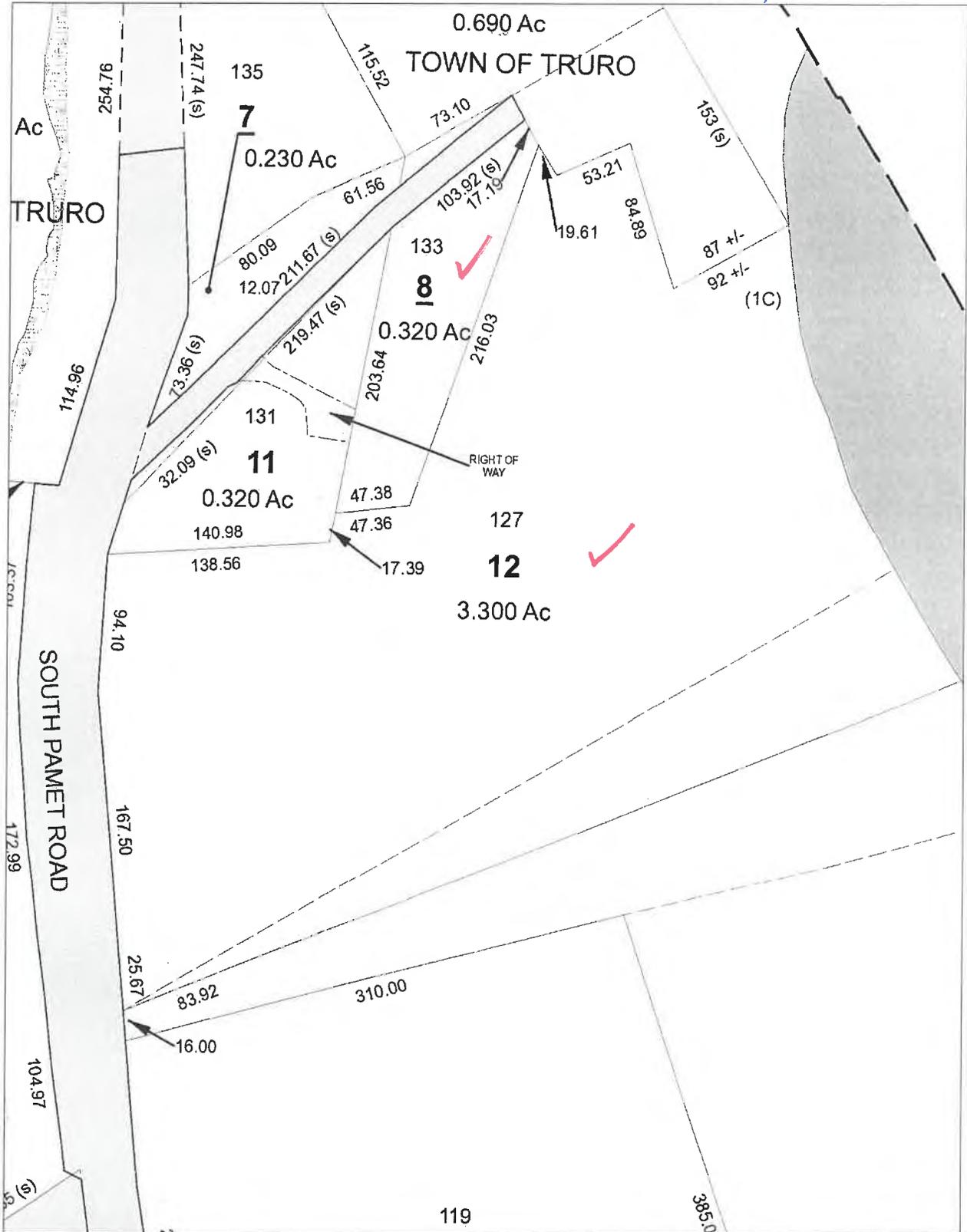
October 7, 2021

To whom it may concern:

On behalf Cape Rental LLC, a Colorado limited liability company which owns the land having at 127 South Pamet Road, Truro and being shown on Truro Assessor's Map 48 as Parcel 12, I hereby authorize Benjamin E. Zehnder and La Tanzi, Spaulding & Landreth to apply to the Town of Truro Zoning Board of Appeals for a special permit and a variance for the property, and to obtain from the Town of Truro certified Assessor's lists and any other documents necessary to prepare and file the ZBA application.


Kevin Whitelaw, Manager
Cape Rental LLC

TRURO ASSESSOR'S MAP 48 / DETAIL



Key: 2749

Town of TRURO - Fiscal Year 2022 Preliminary

6/15/2021 5:05 pm SEQ #: 2.817

LEGALS

CURRENT OWNER				PARCEL ID				LOCATION			
CAPE RENTAL LLC RES AGT: KEVIN WHITELAW 275 JACK BOOT WAY MONUMENT, CO 80132				48-12-0				127 SO PAMET RD			
TRANSFER HISTORY				DOS	T	SALE PRICE	BK-PG (Cert)				
CAPE RENTAL LLC				03/19/2020	F	1	(222128)				
WHITELAW KEVIN D				12/04/2018	A	10	(218068)				
WHITELAW JAMES G				05/31/2006	99		(180196)				

CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD	
1010	100	SINGLE FAMILY				1	1 of 2	
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
19-069X	03/11/2019	3	REPAIR/REMOD	11,000	05/23/2019	LG	100	100
06-286	12/07/2006	10	ALL OTHERS	140,000	06/05/2008	JH	100	100
06-287	12/07/2006	40	STUDIO	80,000	06/05/2008	JH	100	100
99-078	04/01/1999	10	ALL OTHERS	2,500	07/01/2000		100	100
92-063	06/08/1992	3	REPAIR/REMOD	1,000	06/18/1993		100	100

LAND

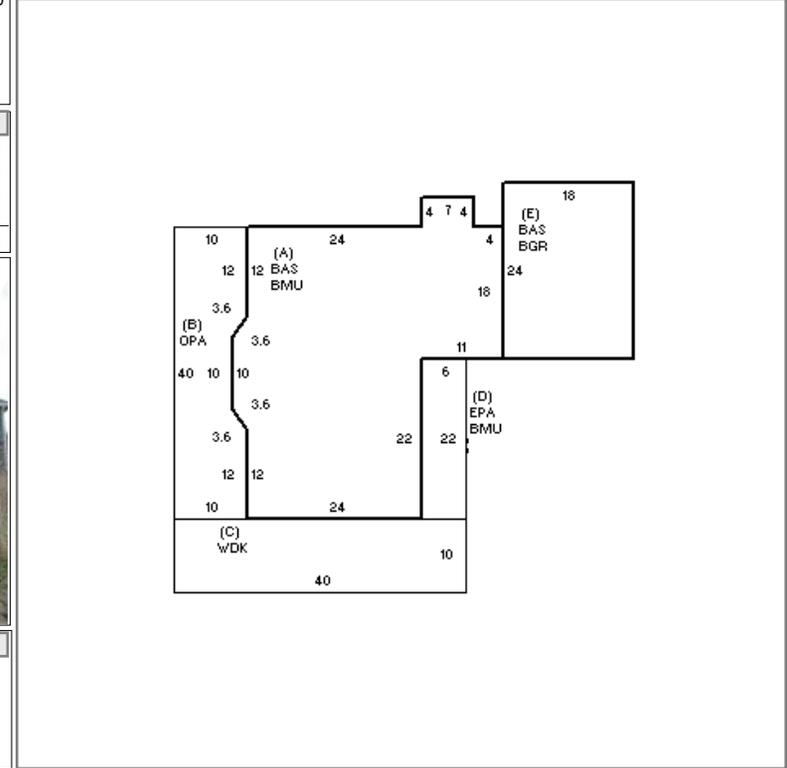
CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	Lpi	VC	CREDIT AMT	ADJ VALUE				
100	A	0.775	16	1.00	E25	0.75	RW5	0.90	1,366,369	1.00	1	1.00	SW1	7.50		1,058,940
300	A	2.525	16	1.00	1	1.00	1	1.00	154,500	1.00	1	1.00	SW1	7.50		390,110

DETACHED

TOTAL	3.300 Acres		ZONING	NSD	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	NAT'L SEASHORE						LAND	1,449,100	1,449,100
Infl1	EROSION						BUILDING	356,200	322,500
Infl2	RIGHT OF WAY						DETACHED	1,800	1,800
							OTHER	179,500	157,400
							TOTAL	1,986,600	1,930,800

ROW ADJ=PUBLIC HAS ACCESS TO BEACH (P/O PCL) GRANTED TO ABUTTER (TOWN OF TRURO PER DOC #113563.)

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD
UTB	A	1.00	D+ 0.30	12*21	252	17.80	1,300
WDK	A	1.00	A 0.75	6*12	72	10.00	500



BUILDING

BUILDING	CD	ADJ	DESC	MEASURE	9/5/2014	FC
MODEL	1		RESIDENTIAL	LIST	6/25/2010	JH
STYLE	7	1.20	OLD STYLE [100%]	REVIEW	12/15/2010	MR
QUALITY	+	1.10	GOOD-AVE+ [100%]			
FRAME	1	1.00	WOOD FRAME [100%]			

YEAR BLT	1892	SIZE ADJ	1.020
NET AREA	1,644	DETAIL ADJ	1.000
\$NLA(RCN)	\$344	OVERALL	1.150

ELEMENT	CD	DESCRIPTION	ADJ
FOUNDATION	4	BSMT WALL	1.00
EXT. COVER	1	WOOD SHINGLES	1.00
ROOF SHAPE	2	HIP	1.00
ROOF COVER	1	ASPHALT SHINGLE	1.00
FLOOR COVER	2	SOFTWOOD	1.00
INT. FINISH	3	WOOD PANEL	1.00
HEATING/COOLING	5	ELECTRIC	0.95
FUEL SOURCE	3	ELECTRIC	1.00

S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	565,412
+	BMU	N	BSMT UNFINISHED	1,344		53.36	71,712		
+	BAS	L	BAS AREA	1,644	1892	235.89	387,800		
B	OPA	N	OPEN PORCH	374		53.30	19,935		
C	WDK	N	ATT WOOD DECK	400		41.02	16,408		
D	EPA	N	ENCL PORCH	132		111.48	14,716		
E	BGR	N	SF BSMT GARAGE	432		76.60	33,092		
	WDK	N	ATT WOOD DECK	300		43.43	13,029		
	MST	O	MASONRY STACK	1		2,419.30	2,419		
	ODS	O	OUT DOOR SHOWER			0.00			

CONDITION ELEM	CD
EFF.YR/AGE	1972 / 48
COND	37 37 %
FUNC	0
ECON	0
DEPR	37 % GD 63
RCNLD	\$356,200

Key: 2749

Town of TRURO - Fiscal Year 2022 Preliminary

6/15/2021 5:05 pm SEQ #: 2.818

LEGAL

CURRENT OWNER		PARCEL ID	LOCATION			
CAPE RENTAL LLC RES AGT: KEVIN WHITELAW 275 JACK BOOT WAY MONUMENT, CO 80132		48-12-0	127 SO PAMET RD			
TRANSFER HISTORY		DOS	T	SALE PRICE	BK-PG (Cert)	

CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD
1010	100	SINGLE FAMILY				2	2 of 2
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st %

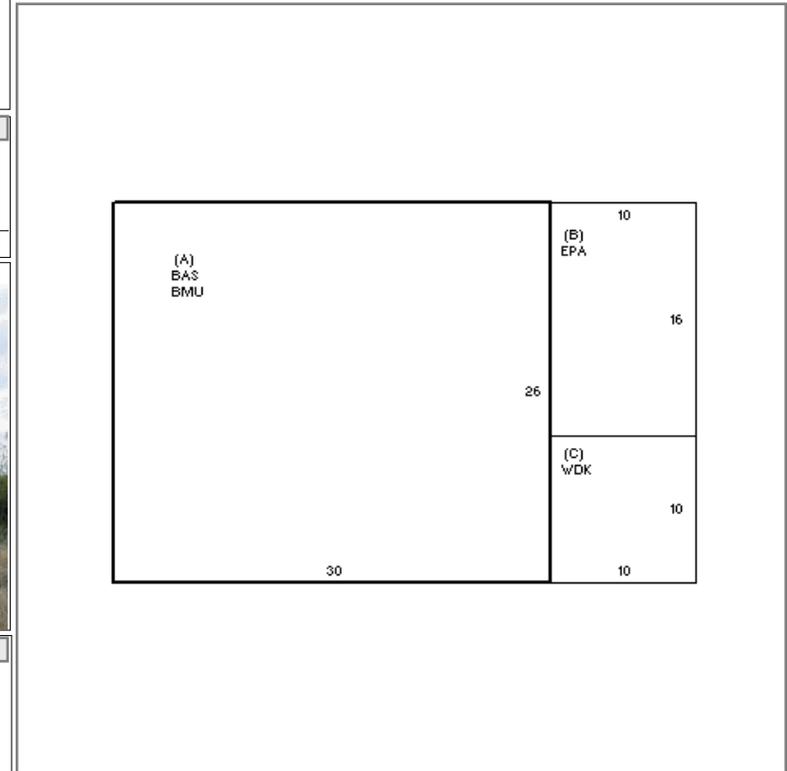
LAND

CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	Lpi	VC	CREDIT AMT	ADJ VALUE

TOTAL	ZONING	FRNT	ASSESSED	CURRENT	PREVIOUS
Nbhd	NOTE		LAND	179,500	
Infl1		BUILDING			
Infl2		DETACHED			
TOTAL			OTHER		

DETACHED

TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD



BUILDING

BUILDING	CD	ADJ	DESC	MEASURE	9/15/2014	FC
MODEL	1		RESIDENTIAL	LIST	6/25/2010	JH
STYLE	14	0.90	DET BLDG [100%]	REVIEW	12/15/2010	MR
QUALITY	A	1.00	AVERAGE [100%]			
FRAME	1	1.00	WOOD FRAME [100%]			

BLDG COMMENTS
HAS KITCH BUT NO STOVE.

G

YEAR BLT	2007	SIZE ADJ	1.050	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	206,325
NET AREA	780	DETAIL ADJ	1.000	FOUNDATION	4	BSMT WALL	1.00	A	BMU	N	BSMT UNFINISHED	780		46.30	36,114	CONDITION ELEM	CD
\$NLA(RCN)	\$265	OVERALL	0.930	EXT. COVER	1	WOOD SHINGLES	1.00	A	BAS	L	BAS AREA	780	2007	184.86	144,193		
CAPACITY		UNITS	ADJ	ROOF SHAPE	1	GABLE	1.00	B	EPA	N	ENCL PORCH	160		80.15	12,824		
STORIES(FAR)		1	1.00	ROOF COVER	1	ASPALT SHINGLE	1.00	C	WDK	N	ATT WOOD DECK	100		42.00	4,200		
ROOMS		3	1.00	FLOOR COVER	1	HARDWOOD	1.00	GFP	O	O	GAS FIREPLACE	1		5,493.80	5,494		
BEDROOMS		1	1.00	INT. FINISH	2	DRYWALL	1.00										
BATHROOMS		1.5	1.00	HEATING/COOLING	9	WARM/COOL AIR	1.03										
FIXTURES		5	\$3,500	FUEL SOURCE	2	GAS	1.00										
UNITS		0	1.00														
																EFF.YR/AGE	2007 / 13
																COND	13 13 %
																FUNC	0
																ECON	0
																DEPR	13 % GD 87
																RCNLD	\$179,500

Key: 2745

Town of TRURO - Fiscal Year 2022 Preliminary

6/15/2021 5:05 pm SEQ #: 2.812

LEGALS

CURRENT OWNER				PARCEL ID				LOCATION			
THOMAS P DENNIS JR REV TRUST & KATHLEEN C WESTHEAD-DENNIS REV C/O DENNIS GROUP 1537 MAIN ST SPRINGFIELD, MA 01103				48-8-0				133 SO PAMET RD			
TRANSFER HISTORY				DOS	T	SALE PRICE	BK-PG (Cert)				
THOMAS P DENNIS JR REV TR				12/08/2020	F	1	33550-123				
DENNIS THOMAS P JR &				03/25/2014	QS	825,000	28049-220				
LAVIN RICHARD R & LIPMAN				01/22/1996	K	248,140	10022-241				

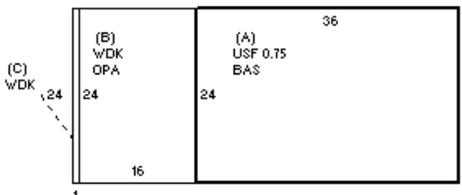
CLASS	CLASS%	DESCRIPTION		BN ID	BN	CARD	
1010	100	SINGLE FAMILY			1	1 of 1	
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st %
15-039	03/16/2015	3	REPAIR/REMOD	250,000	10/06/2015	FC	100 100
15-013	01/29/2015	5	DEMO	50,000	10/06/2015	FC	100 100
11-002	01/04/2011	90	BP NVC	14,000	03/02/2012	FC	100 100
05-157	09/20/2005	2	ADDITION	35,000	05/24/2007	JH	100 100
01-058	04/13/2001	2	ADDITION	25,000	03/14/2003	TG	100 100

LAND

CD	T	AC/SF/UN	Nbhd	Inf1	Inf2	ADJ BASE	SAF	Inf3	Lpi	VC	CREDIT AMT	ADJ VALUE
100	A	0.320 16	1.00	E50 0.50	RW5 0.90	910,913	1.85 1	1.00	SW1 7.50			538,330

TOTAL	13,939 SF	ZONING	NSD	FRNT	0	ASSESSED	CURRENT	PREVIOUS
Nbhd	NAT'L SEASHORE	NOTE	LAND	538,300	538,300			
Inf1	EROSION		BUILDING	247,900	224,200			
Inf2	RIGHT OF WAY		DETACHED	0	0			
			OTHER	0	0			
			TOTAL	786,200	762,500			

10/6/15: NO ACCESS TO MEASURE 2ND FLR REAR WDK'S

BLDG COMMENTS
UC=MEASURE 2ND FLR REAR DECKS+CHECK FOR 1ST FLR FRONT DECK.

DETACHED

BUILDING	CD	ADJ	DESC	MEASURE	10/1/2013	FC
MODEL	1		RESIDENTIAL	LIST	10/6/2015	EST
STYLE	7	1.20	OLD STYLE [100%]	REVIEW	12/15/2010	MR
QUALITY	A	1.00	AVERAGE [100%]			
FRAME	1	1.00	WOOD FRAME [100%]			

BUILDING

YEAR BLT	1850	SIZE ADJ	1.020	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	364,534
NET AREA	1,512	DETAIL ADJ	1.000	FOUNDATION	4	BSMT WALL	1.00	A	BAS	L	BAS AREA	864	1850	237.51	205,210	CONDITION ELEM	CD
\$NLA(RCN)	\$241	OVERALL	1.230	EXT. COVER	1	WOOD SHINGLES	1.00	A	USF	L	UP-STRY FIN	648	1850	185.04	119,907		
CAPACITY				ROOF SHAPE	1	GABLE	1.00	B	OPA	N	OPEN PORCH	384		51.83	19,902		
STORIES(FAR)	1.75	1.00		ROOF COVER	1	ASPHALT SHINGLE	1.00	+	WDK	N	ATT WOOD DECK	408		37.54	15,315		
ROOMS	4	1.00		FLOOR COVER	1	HARDWOOD	1.00										
BEDROOMS	2	1.00		INT. FINISH	1	PLASTER	1.00										
BATHROOMS	1.5	1.00		HEATING/COOLING	9	WARM/COOL AIR	1.03										
FIXTURES	6	\$4,200		FUEL SOURCE	1	OIL	1.00										
UNITS	1	1.00															
																EFF.YR/AGE	1980 / 40
																COND	32 32 %
																FUNC	0 UC
																ECON	0
																DEPR	32 % GD 68
																RCNLD	\$247,900

Doc. No. 1,392,759
Ctf. No. 222128

TRANSFER CERTIFICATE OF TITLE

From Certificate No. 218068, Originally Registered December 4, 2018
in the Registry District of Barnstable County.

THIS IS TO CERTIFY that CAPE RENTAL LLC, a Colorado limited liability company, of
275 Jack Boot Way, Monument, Colorado 80132,

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 1C
PLAN 16182-E

LOT 1D
PLAN 16182-F

The northerly part of the original Parcel one, of which Lot 1C is
a subdivision, is subject to easements as set forth in an Indenture between John H.
Rich et al and the United States of America dated July 19, 1902, duly recorded in
Book 255 Page 551, over land described in a deed given by John H. Rich to George A.
Thatcher, dated October 12, 1903, duly recorded in Book 268 Page 120, so far as the
same are in force and applicable.

Said Lot 1C and 1D are subject to the location of certain
telephone easements or rights of service corporations over the same located
approximately as shown on said plan.

There is appurtenant to the Northerly portion of the original Lot
1 a right to pitch a tent on the seashore as set forth in a deed given by Sheldon
W. Ball to Herbert B. Howard, dated September 1, 1896, duly recorded in Book 225
Page 232, Barnstable Registry District so far as the same is applicable.

There is appurtenant to said Lot 1D easements as set forth in
Certificate of Title No. 4254 insofar 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; and to any and all public rights legally existing in and over the same below mean high water mark in the Atlantic Ocean, and that said remainder interests are subject to the terms of the Will of Graham Whitelaw, Barnstable County Probate Docket 536311.

WITNESS GORDON H. PIPER, Chief Justice of the Land Court at Barnstable, in said County of Barnstable,

the nineteenth day of March in the year two thousand and twenty

at 2 o'clock and 12 minutes

Attest, with the Seal of said Court,

JOHN F. MEADE, Assistant Recorder.

Land Court Case No. 16182

MEMORANDA OF ENCUMBRANCES ON THE LAND DESCRIBED IN THIS CERTIFICATE

Ctf:222128

1,392,759

DOCUMENT NUMBER	KIND	RUNNING IN FAVOR OF	TERMS	DATE OF INSTRUMENT		DISCHARGE	SIGNATURE
				DATE AND TIME OF REGISTRATION			
9,245 1	N		DECREE & CTF 4254	03-18-1937 03-19-1937	9:30		<i>John H. Hensler</i>
113,563 1	ES	TOWN OF TRURO	SEE DOC	09-15-1966 07-06-1967	1:45		<i>John H. Hensler</i>
935,246 1	O	TRURO TOWN OF (CONSERVATION)	1C 16182-E	07-18-2003 08-15-2003	1:44		<i>John H. Hensler</i>
1,012,812 1	D		BK 255 PG 551	09-13-2005 09-13-2005	1:27		<i>John H. Hensler</i>
1,034,999 1	M	MORTGAGE ELECTRONIC REG SYSTEMS INC	1-C 16182-E & 1-D 16182-F \$1,250,000.00	05-25-2006 05-31-2006	3:10		<i>John H. Hensler</i>
1,048,042 1	O	TRURO TOWN OF (CONSERVATION)	1-C 16182-E & 1-D 16182-F	09-21-2006 10-31-2006	9:43		<i>John H. Hensler</i>
1,103,302 1	C/CP		1,048,042 001	12-09-2008 12-22-2008	1:05		<i>John H. Hensler</i>
1,103,303 1	C/CP		935,246 001	12-09-2008 12-22-2008	1:05		<i>John H. Hensler</i>
1,107,211 1	O	TRURO TOWN OF (CONSERVATION)	1C 16128-E & 1D 16128-F	01-12-2009 02-23-2009	2:21		<i>John H. Hensler</i>
1,116,105 1	C/CP		1,107,211 001	02-26-2009 06-11-2009	3:11		<i>John H. Hensler</i>
1,127,329 1	M	M GERALD MONTGOMERY	1-C 16182-E & 1-D 16182-F \$50,000.00	06-23-2009 11-03-2009	2:38		<i>John H. Hensler</i>

MEMORANDA OF ENCUMBRANCES ON THE LAND DESCRIBED IN THIS CERTIFICATE

Ctf:222128

1,392,759

DOCUMENT NUMBER	KIND	RUNNING IN FAVOR OF	TERMS	DATE OF INSTRUMENT		SIGNATURE
				DATE AND TIME OF REGISTRATION	DISCHARGE	
1,144,315 1	AS	CAPITAL ONE NA	1,034,999 001	06-25-2010 07-16-2010 11:55		<i>John H. Hendler</i>
1,149,291 1	O/N	CAPITAL ONE N A	1,034,999 001	09-09-2010 09-24-2010 11:36		<i>John H. Hendler</i>
1,212,099 1	O/N	CAPITAL ONE NA	1,034,999 001	12-26-2012 01-16-2013 1:06		<i>John H. Hendler</i>
1,287,149 1	ES	THOMAS P DENNIS JR (&O)	1-C 16182-E & 1-D 16182-F \$50,000.00	09-10-2015 01-27-2016 12:21		<i>John H. Hendler</i>
1,287,150 1	RS		1-C 16182-E & 1-D 16182-F	09-10-2015 01-27-2016 12:21		<i>John H. Hendler</i>
1,296,808 1	A		1,034,999 001	04-04-2016 06-16-2016 8:54		<i>John H. Hendler</i>
1,364,636 1	AS	MORTGAGE ELECTRONIC REG SYSTEMS INC	1,034,999 001	02-12-2019 02-22-2019 2:43		<i>John H. Hendler</i>

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 03-25-2014 @ 12:05pm
Ct#: 713 Doc#: 12143
Fee: \$2,821.50 Cons: \$825,000.00

Bk 28049 Pg 220 #12143
03-25-2014 @ 12:05p

PROPERTY ADDRESS: 133 South Pamet Road, Truro

QUITCLAIM DEED

We, **Richard R. Lavin**, of 2372 Northeast 212 Terrace, Miami, FL 33180 and **Rena B. Lipman**, of 11101 Heron Bay Blvd, # 4922, Coral Springs, FL 33706,

for consideration of **EIGHT HUNDRED TWENTY FIVE THOUSAND AND NO/100 (\$825,000.00) DOLLARS**, paid,

grant to **Thomas P. Dennis, Jr.** and **Kathleen C. Dennis**, husband and wife as Tenants by the Entirety, both of 30 Colony Road, Springfield, MA 01106,

with Quitclaim Covenants,

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 03-25-2014 @ 12:05pm
Ct#: 713 Doc#: 12143
Fee: \$2,227.50 Cons: \$825,000.00

That certain parcel of land and the improvements thereon located off South Pamet Road, Truro, Barnstable County, Massachusetts, commonly known as the Boathouse, and being more particularly described as follows:

Starting at a point on South Pamet Road as shown on the Plan hereinafter referenced then proceeding N 84° 37' 24" E for a distance of 140.98 feet to a point:

Then turning and running N 01° 52' 24" E 17.39 feet to the point of beginning;

Then from the point of beginning running N 07° 07' 30" E 203.64 feet;

Then turning and running N 57° 24' 30" E 73.06 feet;

Then turning and running S 34° 49' 56" E 33.69 feet;

Then turning and running S 15° 51' 54" W 216.03 feet to a point;

Then turning and running S 82° 45' 34" W 47.24 feet returning to the point of beginning.

Being the same land as that described in that certain "Plan of Land in Truro, MA made for Access America, Inc. dated September 17, 1993" by Slade Associates, Inc. recorded with the Barnstable Registry of Deeds, Plan Book 519, Page No. 31.

Together with a right of way over the "Bob White" land for ingress and egress by automobile to and from the property described above. Subject to the public right of way to the beach.

Meaning and intending to convey all the property conveyed by deed of La Jolla University dated October 22, 1991 recorded with the Barnstable Registry of Deeds, Book 7724, Page 63

described as follows:

BOUNDED on the North by land now or formerly of Ball, seventy-two and 76/100 (72.76) feet, more or less;

BOUNDED on the East by land now or formerly of the Town of Truro, thirty-three and 66/100 (33.66) feet, more or less;

BOUNDED on the Southeast by land now or formerly of Whitelaw, two hundred seventeen and 14/100 (217.14) feet, more or less;

BOUNDED on the South by land now or formerly of Whitelaw, forty-seven and 36/100 (47.36) feet, more or less;

BOUNDED on the West by lands now or formerly of Madelyn E. Strack, executrix under the will of Elsie Strack, and Thatcher, one hundred ninety-eight (198) feet, more or less;

The within conveyance is made with the benefit of and subject to all rights, easements, reservations and restrictions of record in so far as the same are now in force and applicable.

For title seed deed recorded with said Deeds Book 10022, Page 241

Executed as a sealed instrument this 27 day of March, 2014.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK

[Handwritten Signature]

Richard R. Lavin

Ohio
~~STATE OF FLORIDA~~

Franklin County:

On this 20th day of March, 2014, before me, the undersigned notary public, personally appeared Richard R. Lavin, and proved to me through satisfactory evidence of identification, which was MA Driver's License to be the person whose name is signed on the preceding or attached document, and who acknowledged to me that he signed it voluntarily for its stated purpose,

Deborah K. Harris
Notary Public
My Commission Expires: 3/20/2018

NOTARY STAMP OR SEAL:
(Required)



DEBORAH KAY HARRIS
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
March 20, 2018

R B Lipman

Rena B. Lipman

STATE OF FLORIDA

Broward County:

On this 20th day of March, 2014, before me, the undersigned notary public, personally appeared Rena B. Lipman, and proved to me through satisfactory evidence of identification, which was personally known to be the person whose name is signed on the preceding or attached document, and who acknowledged to me that she signed it voluntarily for its stated purpose,

Sheyenne Rodgers

Notary Public

My Commission Expires:

NOTARY STAMP OR SEAL:

(Required)

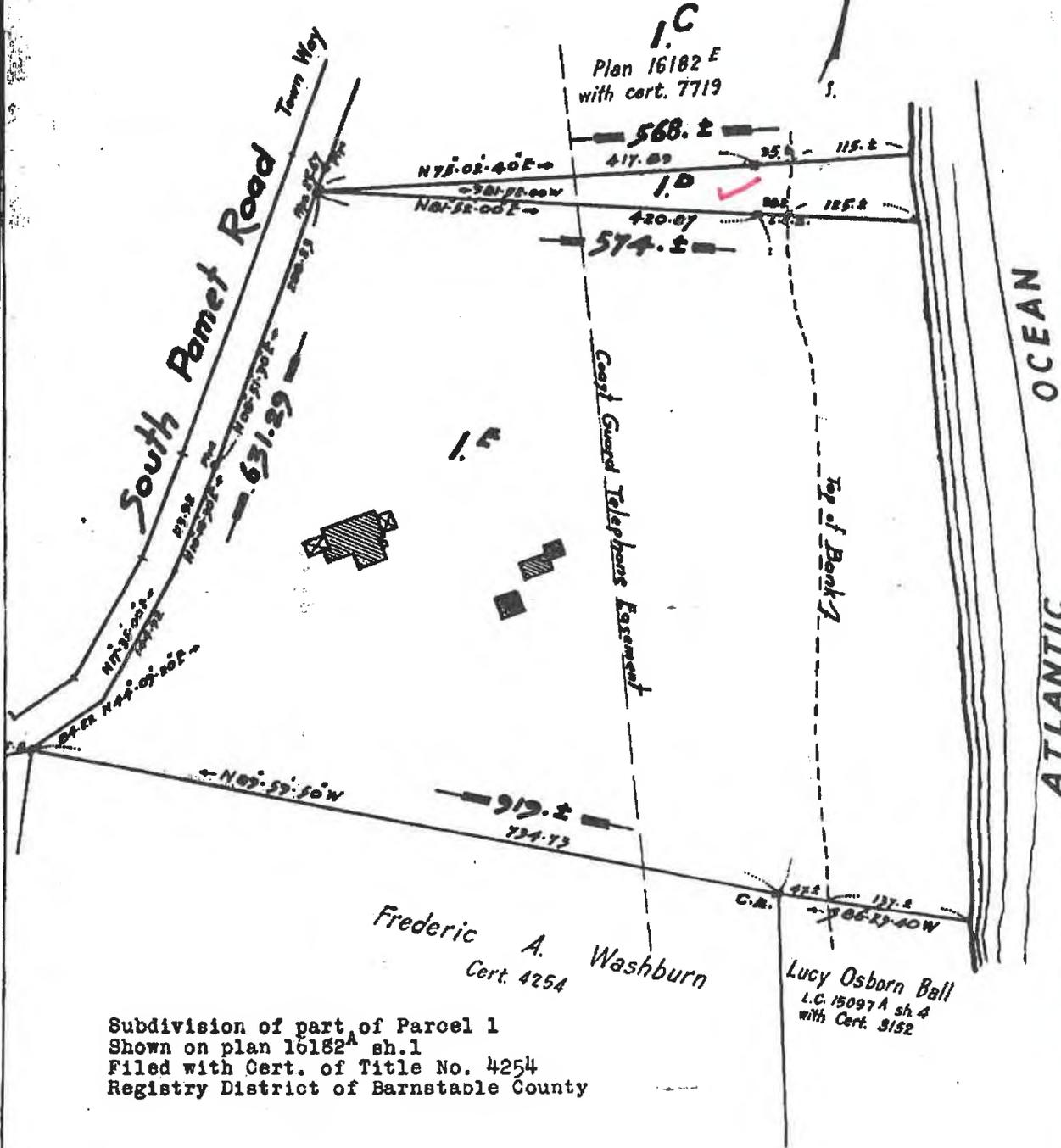
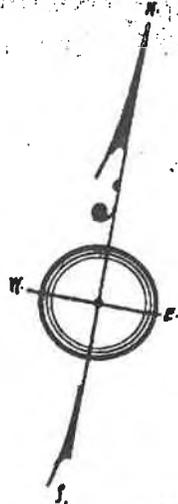


16182F

SUBDIVISION PLAN OF LAND IN TRURO

John R. Dyer, O. E.

May - 1949



I.C
Plan 16182 E
with cert. 7719

N75°05'40"E
417.89
S58°57'00"W
N48°52'00"E

568.2
115.2
I.B ✓
420.07
574.2
185.2

I.A

South Pamet Road
Town Way
631.29

Coast Guard Telephone Eastment

Top of Bank

ATLANTIC OCEAN

N109°57'50"W

919.2
724.73

C.B. 47.2 137.2
S85°27'40"W

Frederic A. Washburn
Cert. 4254

Lucy Osborn Ball
L.C. 15097A sh. 4
with Cert. 3152

Subdivision of part of Parcel 1
Shown on plan 16182^A sh. 1
Filed with Cert. of Title No. 4254
Registry District of Barnstable County

Separate certificates of title may be issued
for lots I.D and I.E as shown hereon
By the Court

John R. Dyer
Recorder

JUNE 1, 1949

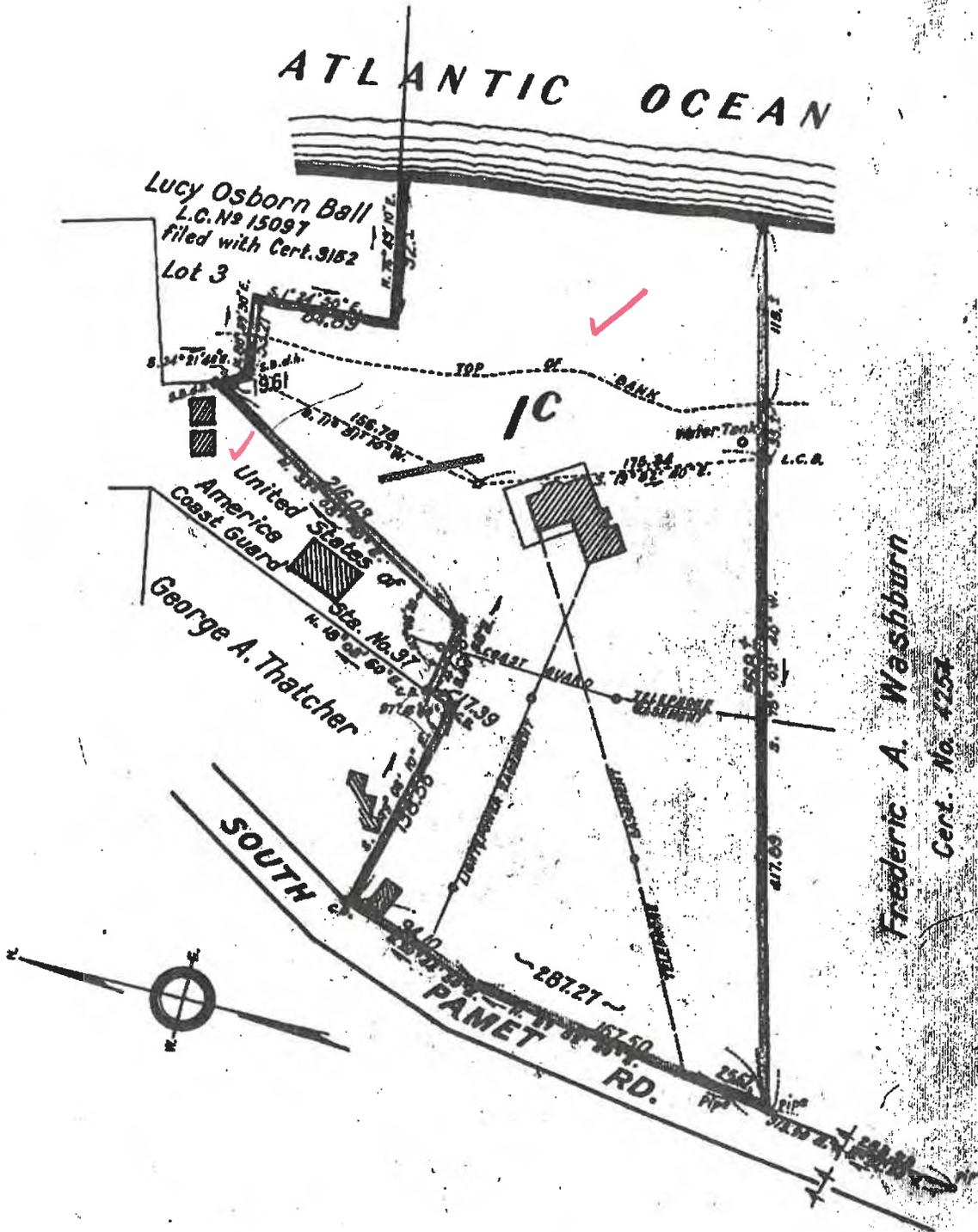
Copy of part of plan
filed in
LAND REGISTRATION OFFICE
JUNE 1, 1949
Scale of this plan 120 feet to an inch
W.T. Fairclough, Engineer for Court

Subdivision of part of Parcel 1 shown on plan 16182^A sh.1 **16182^E**
 Filed with Cert. of Title No. 4254 Registry District of Barnstable County

LAND IN TRUST

October 1945

John R. Dyer. Civil Eng'r.



Frederic A. Washburn
 Cert. No. 4254

Frederic A. Washburn, Owner, Cert. No. 4254

Separate certificates of title may be issued
 for Lot 1C as shown hereon
 By the Court
 Robert E. French
 Recorder.
 11/9/45

Copy of part of plan
 filed in
LAND REGISTRATION OFFICE
 NOV. 9 1945
 Scale of this plan 60 feet to an inch
 C. B. Humphrey, Engineer for Court











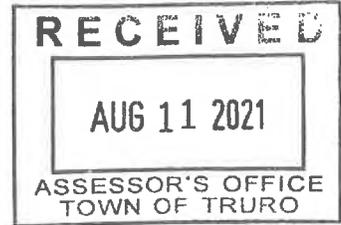
TOWN OF TRURO

Assessors Office

Certified Abutters List

Request Form

COPY



DATE: August 9, 2021

NAME OF APPLICANT: Cape Rental LLC by Kevin Whitelaw; Thomas P. Dennis, Jr. & Kathleen C. Dennis

NAME OF AGENT (if any): Benjamin E. Zehnder (for Mr. and Mrs. Dennis)

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

CONTACT: HOME/CELL (508) 255-2133 ext. 128 EMAIL bzehnder@latanzi.com

PROPERTY LOCATION: 127 South Pamet Road (street address)

PROPERTY IDENTIFICATION NUMBER: MAP 48 PARCEL 12 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)

- Board of Health⁵
- Cape Cod Commission
- Conservation Commission⁴
- Licensing
- Type: _____
- Other _____
- Planning Board (PB)
- Special Permit¹
- Site Plan²
- Preliminary Subdivision³
- Definitive Subdivision³
- Accessory Dwelling Unit (ADU)²
- Zoning Board of Appeals (ZBA)
- Special Permit¹
- Variance¹

(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: 8/11/2021

Date completed: 8/12/2021

List completed by: [Signature]

Date paid: 8/12/2021 Cash/Check \$13658

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: August 12, 2021

To: Benjamin E. Zehnder, Agent for Thomas P. Dennis, Jr. and Kathleen C. Dennis

From: Assessors Department

Certified Abutters List: 127 South Pamet Road

ZBA/ Special Permit

Attached is a combined list of abutters for the property located at 127 South Pamet Road.

The current owner is Cape Rental LLC, Resident Agent, Kevin Whitelaw.

The names and addresses of the abutters are as of August 6, 2021 according to the most recent documents received from the Barnstable County Registry of Deeds.

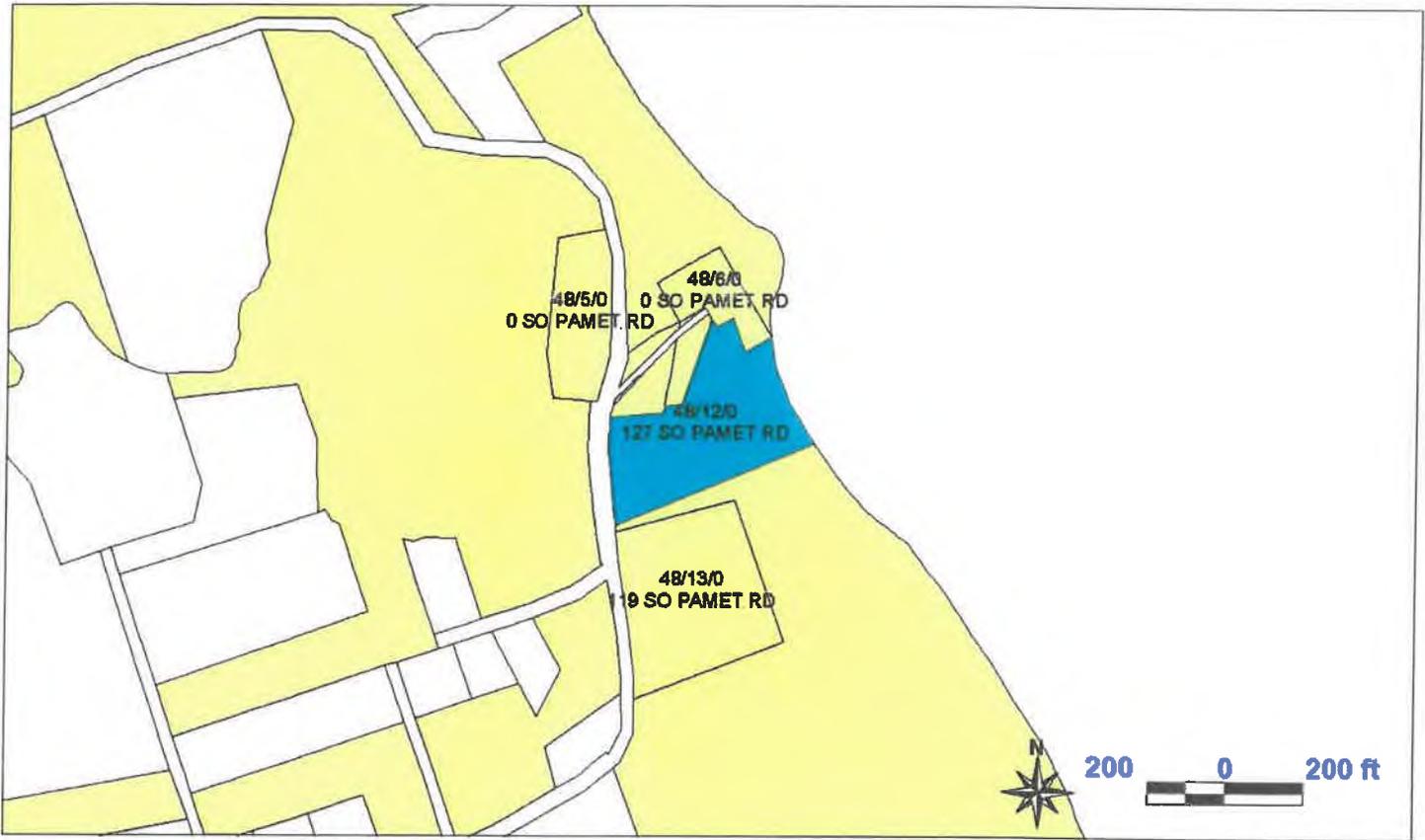
Certified by: _____

Olga Farrell
Assessing Clerk

127 South Pamet Road
 Map 48, Parcel 12
 ZBA/ Special Permit

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 Cd/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
2742	48-5-0-E	TOWN OF TRURO	0 SO PAMET RD	PO BOX 2030	TRURO	MA	02666-2030
2743	48-6-0-E	TOWN OF TRURO	0 SO PAMET RD	PO BOX 2030	TRURO	MA	02666-2030
2744	48-7-0-R	MUSNUFF BARBARA R	135 SO PAMET RD	739 GREENS	DALLAS	PA	18612-1864
2745	48-8-0-R	THOMAS P DENNIS JR REV TRUST & KATHLEEN C WESTHEAD-DENNIS REV	133 SO PAMET RD	C/O DENNIS GROUP 1537 MAIN ST	SPRINGFIELD	MA	01103
2748	48-11-0-R	SEAL OF APPROVAL LLC MGR. THOMAS ROCCO	131 SO PAMET RD	14 HAMMEL COURT	PORTSMOUTH	RI	02871
2750	48-13-0-R	WATSON CLYDE D QPR TRUST TRS: WATSON CLYDE D	119 SO PAMET RD	55 THREE MILE RD	ETNA	NH	03750-3809

Handwritten signature
 8/12/2021

40-999-0-E

USA-DEPT OF INTERIOR
Cape Cod National Seashore
99 Marconi Site Rd
Wellfleet, MA 02667

48-5-0-E

TOWN OF TRURO
PO BOX 2030
TRURO, MA 02666-2030

48-6-0-E

TOWN OF TRURO
PO BOX 2030
TRURO, MA 02666-2030

48-7-0-R

MUSNUFF BARBARA R
739 GREENS
DALLAS, PA 18612-1864

48-8-0-R

THOMAS P DENNIS JR REV TRUST &
KATHLEEN C WESTHEAD-DENNIS REV
C/O DENNIS GROUP
1537 MAIN ST
SPRINGFIELD, MA 01103

48-11-0-R

SEAL OF APPROVAL LLC
MGR: THOMAS ROCCO
14 HAMMEL COURT
PORTSMOUTH, RI 02871

48-13-0-R

WATSON CLYDE D QPR TRUST
TRS: WATSON CLYDE D
55 THREE MILE RD
ETNA, NH 03750-3809



TOWN OF TRURO

Assessors Office

Certified Abutters List

COPY Request Form



DATE: August 9, 2021

NAME OF APPLICANT: Cape Rental LLC by Kevin Whitelaw; Thomas P. Dennis, Jr. & Kathleen C. Dennis

NAME OF AGENT (if any): Benjamin E. Zehnder (for Mr. and Mrs. Dennis)

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

CONTACT: HOME/CELL (508) 255-2133 ext. 128 EMAIL bzehnder@latanzi.com

PROPERTY LOCATION: 127 South Pamet Road (street address)

PROPERTY IDENTIFICATION NUMBER: MAP 48 PARCEL 12 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 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"/> Other _____ | <input type="checkbox"/> Accessory Dwelling Unit (ADU) ² | |
- (Please Specify) (Fee: Inquire with Assessors)

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

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TRURO ASSESSORS OFFICE

PO Box 2012 Truro, MA 02666

Telephone: (508) 214-0921

Fax: (508) 349-5506

Date: August 12, 2021

To: Benjamin E. Zehnder, Agent for Thomas P. Dennis, Jr. and Kathleen C. Dennis

From: Assessors Department

Certified Abutters List: 127 South Pamet Road

ZBA/ Variance

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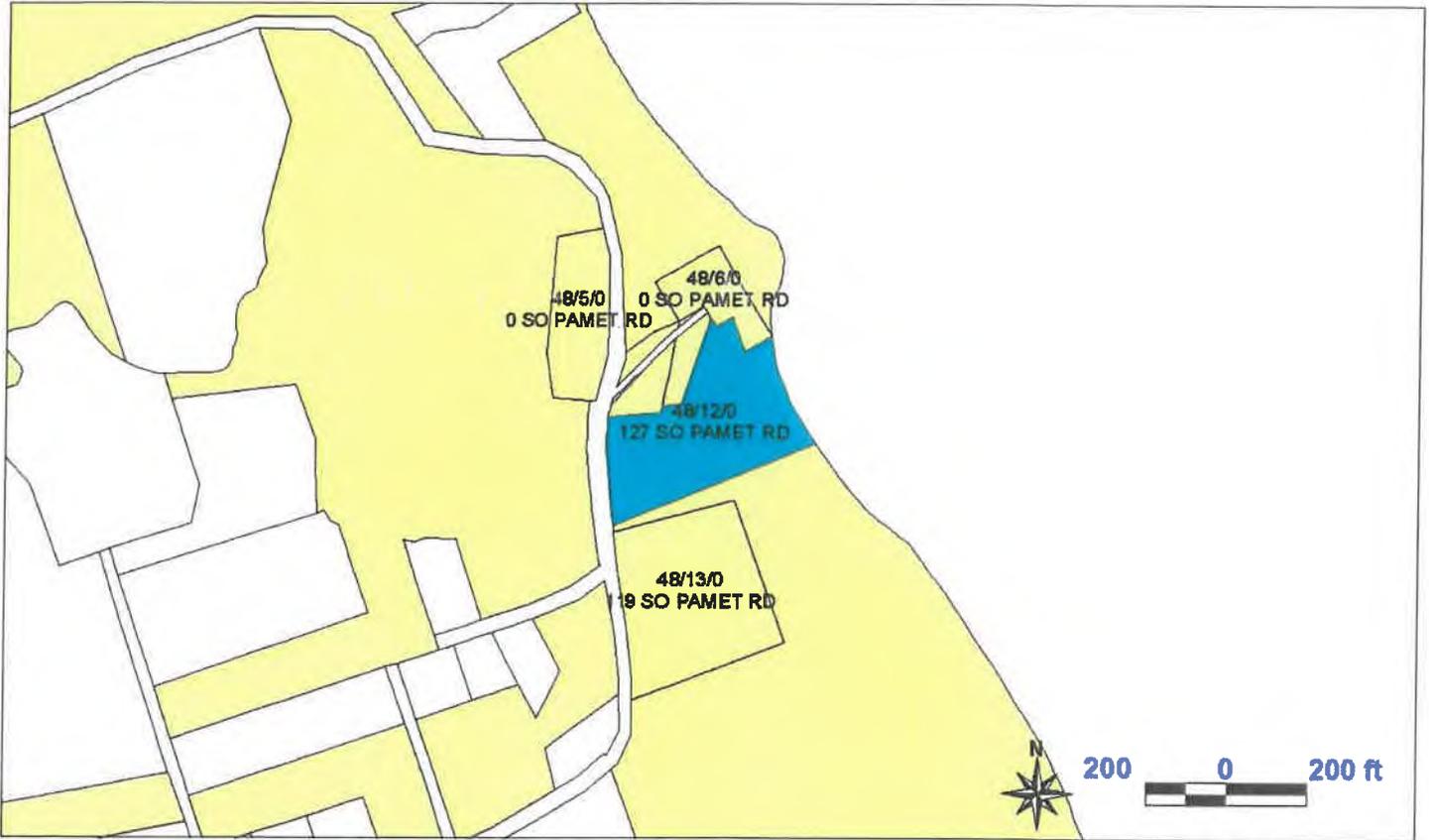
Certified by: _____

Olga Farrell
Assessing Clerk

127 South Pamet Road
 Map 48, Parcel 12
 ZBA/ Variance

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

Custom Abutters List



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 8/12/2021

40-999-0-E

USA-DEPT OF INTERIOR
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48-13-0-R

WATSON CLYDE D QPR TRUST
TRS: WATSON CLYDE D
55 THREE MILE RD
ETNA, NH 03750-3809



TO:

Barbara Carboni
Town of Truro
Planning Department
24 Town Hall Road
Truro, MA 02666

RE: Application for
Hearing

Nov. 19, 2011

TRANSMITTAL

Enclosed please find the following documents submitted for the Truro Zoning Board of Appeals Hearing on December 20, 2021

10 Packets containing :

- 1 Application for Hearing with attached Narrative
 - 1 Abutter's List
 - 1 Existing Conditions Plan – 20 scale
 - 1 Site Plan, Proposed Dwelling – 20 scale
 - 1 Overall Site Plan, Proposed Conditions – 40 scale
 - 1 Architectural Drawing Set - 9 sheets
-
- 1 Filing Fee Check



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 Nov, 19, 2021

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 30.1 of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning (describe) the reconstruction of a pre-existing nonconforming dwelling. Please see attached narrative.

Property Address 21 Cooper Road, Truro, MA Map(s) and Parcel(s) 58/4

Registry of Deeds title reference: Book _____, Page _____, or Certificate of Title Number 204275 and Land Ct. Lot # N/A and Plan # 41832-A

Applicant's Name 32 Cooper Road LLC by it's Managing Agent: Sarah L. Lutz

Applicant's Legal Mailing Address PO Box 515, Germantown, NY 12526

Applicant's Phone(s), Fax and Email 917-432-7220 sarlutz@gmail.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 See above

Representative's Name and Address Studio For, 32 Old Slip, 15th FL, New York, NY 10005

Representative's Phone(s), Fax and Email (0) 212-260-1345 (M) 917-601-2415 scott@studiofor.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)

Scott Phillips, Principal, Studio For
Applicant(s)/Representative Printed Name(s)

Applicant(s)/Representative Signature

Sarah L. Lutz on behalf of 32 Cooper Rd, LLC
Owner(s) Printed Name(s) or written permission

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

Cooper Road appears to be a nonconforming street under the Truro Zoning Bylaw (“bylaw”) because it does not meet the bylaw’s definition of “street”, as it is less than forty feet wide on the ground. Pursuant to G.L. c. 40A, § 6 (“Section 6”) and section 30.7 of the bylaw, pre-existing nonconforming structures may be altered, reconstructed, extended, or structurally changed if the board finds that it will not be substantially more detrimental to the neighborhood. The current bylaw definition of “street” was adopted in April 1989, and the structure on 21 Cooper Road was built in 1962; it is therefore a pre-existing nonconforming structure. (See also G.L. c. 40A, § 7, ¶ 3 (granting Section 6 status to structures that have been in existence for ten years)). Given its age and exposure to the elements, the existing home is in significant need of both repair and modernization.

As the board knows, often homeowners request special permits pursuant to Section 6 in order to build much larger structures than the existing one. To the contrary here, the proposed new home is virtually the same size or smaller by all measurables: The gross floor area (as defined in the bylaw) is 2280 to 2314 sf existing to proposed; the garage is 900 to 700 sf existing to proposed; and the height is 22.3 to 22.4 feet existing to proposed. Also, the proposed house is compliant with the bylaw in all respects – it is only the nonconformity of Cooper Road itself that creates the nonconformity.

For this, and the following other reasons, not only will the proposed new home not be at all detrimental to the neighborhood, it will be a significant improvement:

- The new home will be further away from the road, and less visible.
- The design of the new home will be aesthetically pleasing and modest in size, in keeping with the character of Cooper Road.
- The new home will eliminate the need for extensive repairs to the existing home.
- The new septic system will be updated and moved away from the protected wetlands.
- The new house will be more energy efficient and environmentally sustainable than the original construction.

From: [Emily Beebe](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Cc: [David Lyttle](#)
Subject: 21 Cooper Road
Date: Wednesday, December 8, 2021 1:54:30 PM

Good afternoon,

The proposed project at 21 Cooper Road is located within proximity to wetland resources, but construction activities associated with the project are not within any areas that the Conservation Commission has jurisdiction.

However, as the driveway does cross through the outward edge of the 100 buffer zone, we will ask the contractor to follow best management practices and install construction fencing long the driveway where it crosses through to prevent parking or material storage in that area. This will not require a hearing with the Conservation Commission.

The proposed dwelling is of modest size and will not trigger use of an Innovative/Alternative septic system; no variances will be required.

Thank you for the opportunity to provide comment.

Sincerely,

Emily

Emily Beebe, RS
Truro Health & Conservation Agent
24 Town Hall Road
Truro, MA 02666

From: [Sarah Lutz](#)
To: [Barbara Carboni](#); [Elizabeth Sturdy](#)
Cc: [sarah lutz](#); [John van Rens](#)
Subject: 21 Cooper Road
Date: Thursday, December 2, 2021 12:48:19 PM
Attachments: [21 Cooper Rd-Letters of Support.docx](#)
[12773 Proposed Site Plan - 40 scale.pdf](#)

Dear Barbara and Elizabeth,

We hope you each had a lovely Thanksgiving!

We wanted to share with you the letter that we wrote to all of our neighbors on Cooper Road regarding our proposal to rebuild our house at 21 Cooper and the upcoming ZBA hearing. We received a number of emails back in support that I am also combining and attaching below. I have also asked each of them to write a note of support to you directly, I hope they will do so.

Thank you so much and Happy Holidays,

Sarah & John

Sarah Lutz & John van Rens
21& 32 Cooper Road
Truro, MA 02666
917. 432. 7220

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Friends and Neighbors,

We hope this finds each of you safe and well!

Many of you who are our abutters are about to receive official notice of our plans to fully renovate the house/studio at 21 Cooper Road. Because so many of you are personal friends and regular walkers of the beach path, we wanted to explain our plans and hopefully put your minds at ease.

While it has served us well for over 25 years, the house was built by Carl Benson in 1962 and has had very little work done since. We decided that instead of trying to renovate the existing structure, which is moldy and in terrible shape, it would make much more sense to tear it down and rebuild a new, clean, energy efficient house. Our plan is to build a new structure that is the same size (actually a bit smaller) than the existing one. We plan to build in almost the same place just set back a bit further from the road and away from the wetland to the North. Our plan is to keep the beach path for the Cooper Road community to use, just divert it away from our driveway so everyone can continue to use it throughout the construction process and so that when completed, we can have some privacy from the noise and foot traffic to and from

the beach so everyone can continue to use it long into the future.

The public ZBA hearing is scheduled for Monday, December 10 at 5:30PM. The link to the notice and to join the zoom hearing is [HERE](#).

You may contact town hall to request to see the complete application and plans but we are also attaching a site plan below.

We are happy to answer any questions or concerns you may have. Our hope is that while this project may cause some disruption in the short term, it will be a welcome addition and vast improvement to what is there now.

We wish you all a Happy Thanksgiving and beginning of the Holiday Season.

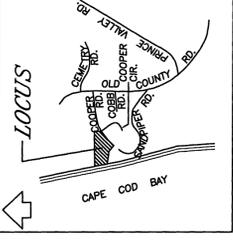
Warmly,

Sarah & John

Sarah Lutz
www.sarah-lutz.com
@sarahlutzstudio
917.432.7220

SITE PLAN
1" = 40'

LOCATION MAP
Not to Scale



Reference:
Assr's Map 58, Vol. 4
L.C.P. 4832A (1985)

ZONING COMPLIANCE TABLE		
REQUIRED	EXISTING	PROPOSED
AREA	33,790 SF	422,800 S.F.
FRONTAGE	150'	561.95'
SETBACK FRONT	25' MIN.	33.5'
SETBACK REAR	25' MIN.	90.6'
SETBACK SIDE	25' MIN.	310.4'
BLDG. HEIGHT	23'	22.4'

EXISTING PROPOSED	
GROSS FLOOR AREA	2280 SF * 2314 SF**

**PER ARCHITECT'S CALCULATIONS

BUILDING HEIGHT CALCULATIONS
PROPOSED DWELLING
FINISH FLOOR ELEV. = 64.1'
AVERAGE GRADE ELEV. = 32.7'
BUILDING HEIGHT = 22.4'

ABUTTERS
OWNER: CONSERVATION TRUST
TRURO CONSERVATION TRUST
ALAN SOLOMONY
MARY ANNE CASTIGLIONE & JOANNA LIND
DAVID K. & JULIE A. GREINER
MARTY & LORRAINE ROSENBAUM
EILEEN McDONAGH & ROBERT E. DAVOLI
MORTON DEAN DUBITSKY

LEGEND

- TEST HOLE LOCATION
- EXISTING CONTOUR
- PROPOSED CONTOUR
- SEPTIC TANK
- LEACHING PIT
- DISTRIBUTION BOX
- 40' x 10' x 2' ABSORPTION CHAMBER SYSTEM
- CONCRETE BOUND
- CB
- FND

DATUM
NAVD 88



OVERALL SITE PLAN ~ PROPOSED CONDITIONS

Prepared for: Sarah Lutz & John Van Rens
21 Cooper Road, Truro, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
9 Giddis Hill Rd.
P.O. Box 459
So. Orleans, MA 02662

Scale 1" = 40'
Drawn by: SMW/DJC/AMA
Date - November 16, 2021
Tel: (508) 255-8972
Fax: (508) 240-2906
www.ryder-wilcox.com



Stephanie Sequin
11/16/21

Sarah,

good news! your plans sound great!

good luck with it all, hugs, Eileen

Prof. Eileen McDonagh
Dept of Political Science
Renaissance Park 919
Northeastern University
Boston, MA 02115
781-259-0714

Associate IQSS
Harvard University

Sarah, congratulations on the exciting project. Can't wait to see it! If we can help in any way, just come knocking...

kind regards and a Happy Thanksgiving to all-
Paul (14 Cooper)

Sarah & John:

Thank you so much for the "heads up" on your plans, and thank you for the continued generous use of the beach path.
A renovation sounds great; I must confess often times when I pass by the studio, I wondered how it must look inside. It's a tough environment for any structure; one that receives little use is bound to have problems. It sounds like the shift in the route of the path will be better for all involved. We are lucky to be the beneficiaries of your continued generosity,
I think it's great that we will be able to use it in the future without invading your privacy.

Julie and I wish you a Happy Thanksgiving and upcoming holiday season.

Dave & Julie Greiner

Sarah and John,

ditto -- Bob and I are also here to assist in any way that would be helpful to you

this is a very exciting plan!!

good luck!!!

Eileen and Bob

Prof. Eileen McDonagh
Dept of Political Science
Renaissance Park 919
Northeastern University
Boston, MA 02115
781-259-0714

Associate IQSS
Harvard University

We second everything Paul says. You have our full support.

Let us know if we can do anything to help.

Liz & Bob

Looks like a very cool project and I totally get the need to re-build the 60's house, having been chipping away at N^o 17 for what seems an age..(built by Carl at about the same time!) Much more sensible to start again from scratch. Good luck with the work youse two and I hope there are no 'surprises' lurking in the old place... I'm in and out but mostly in this winter and happy to be helpful if you need it. Swing away!

Best,
Mary D'A.

This sounds great Sarah! So glad you will able to start from scratch. Hope you all are well, Happy Turkey!

[See More from sarah lutz](#)

--

Cynthia Frank | cfrank67@gmail.com
CYNTHIA FRANK DESIGN WEB PORTFOLIO AT | www.cynthiafrankdesign.com

From Wendy Horwitz, daughter of Dorothy Horwitz:

Sarah,
This sounds like a wonderful plan for you both! And I imagine the '62 house not only lacks energy efficiency, but other desirable qualities. Thanks so much for your generous consideration of us all — that path is a convenience, but also, filled with memories of tromping to the beach over the years. How kind to take that into account in your plans. Best wishes for the holidays and for the building process,
Wendy

Sarah--Thanks so much for keeping us up-to-date. I'm sure we'll have no objection to what you're planning and

appreciate your keeping the path accessible from Cooper Road. Please add me to your email list. Enjoy your turkey!

Michael

mofinkelstein@hotmail.com

--

Michael O. Finkelstein
General Editor
RSCR Publications LLC
212-876-1715

From: [Karen Tosh](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Subject: 32 Cooper LLC for 21 Cooper
Date: Thursday, December 2, 2021 12:56:37 PM

Dear Barbara and Liz,

I am writing to ask that you include this letter of support in the file concerning the 21 Cooper project.

My home at 24 Cooper is directly across the road from the land comprising 21 Cooper and is less than 180 feet from the existing dwelling, making my house also the closest to the site of the proposed new residence.

I have seen the plans for the new house. It will greatly improve the neighborhood and is in keeping with the character of the homes on our road.

I sincerely hope that the ZBA will act favorably on the application. Please let me know if there is anything further I can do to support Sarah and John.

Karen Tosh
Attorney-at-Law
P.O. Box 693
Truro MA 02666
Cell: 617-314-3617
Email: ktosh.law@gmail.com

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [Robert Davoli](#)
To: [Elizabeth Sturdy](#)
Subject: Sarah and John's studio renovation project.
Date: Thursday, December 2, 2021 12:27:04 PM

Hi Elizabeth,

We are Bob and Eileen from 33 Cooper road. We have seen Sarah and John's plans and we very much support this project.

Best,

Bob

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [Robert Shapiro](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Subject: 21 Cooper - Renovation Project
Date: Thursday, December 2, 2021 1:44:07 PM

Ms. Sturdy and Ms. Carboni:

I reside at 2 Cooper Road in Truro. I write to let you know that Sarah Lutz and John van Rems have shared their plans to renovate the old studio on that property.

As a Cooper Road neighbor and as a Truro resident (and land use lawyer), I write to inform you that their renovation project has my full support. Their plan is modest, sensibly located, and it will be even less detrimental than the existing nonconforming use to the neighborhood. Therefore, it more than meets the applicable Truro zoning standards under the circumstances.

We hope the Town and the ZBA approves this process.

Thank you.

Robert Shapiro
2 Cooper Road

--

Robert Shapiro
Elizabeth Nessen (of Counsel)
Law Office of Robert Shapiro
94 Green Street
Jamaica Plain, MA 02130
Phone: 617-522-7597
Mobile: 617-290-2196
Fax: 617-249-1877
E-mail: comlawjp@gmail.com

The information contained in this communication is confidential, is intended only for the use of the recipient named above, and may be legally privileged. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please resend this communication to the sender and delete the original message or any copy of it from your computer system.
Thank you.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [Wendy Horwitz](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Subject: Fwd: 21 Cooper Road
Date: Thursday, December 2, 2021 1:44:35 PM

Begin forwarded message:

From: Wendy Horwitz <horwitzw@gmail.com>
Subject: Re: 21 Cooper Road
Date: November 22, 2021 at 6:46:09 PM EST
To: Sarah Lutz <sarlutz@gmail.com>

Sarah,

This sounds like a wonderful plan for you both! And I imagine the '62 house not only lacks energy efficiency, but other desirable qualities. Thanks so much for your generous consideration of us all — that path is a convenience, but also, filled with memories of tromping to the beach over the years. How kind to take that into account in your plans. And I also trust, given your 'track record,' that you will be particularly vigilant in protecting the delicate environment and landscape as you plan and build — the natural surroundings are a major reason we all value the Cooper Rd. and Truro area.

Best wishes for the holidays and for the building process,
Wendy

On Nov 22, 2021, at 6:04 PM, Sarah Lutz <sarlutz@gmail.com> wrote:

Dear Friends and Neighbors,

We hope this finds each of you safe and well!
Many of you who are our abutters are about to receive official notice of our plans to fully renovate the house/studio at 21 Cooper Road. Because so many of you are personal friends and regular walkers of the beach path, we wanted to explain our plans and hopefully put your minds at ease.

While it has served us well for over 25 years, the house was built by Carl Benson in 1962 and has had very little work done since. We decided that instead of trying to renovate the existing structure, which is moldy and in terrible shape, it would make much more sense to tear it down and rebuild a new, clean, energy efficient house. Our plan is to build a new structure that is the same size (actually a bit smaller) than the existing one. We plan to build in almost the same place just set back a bit further from the road and away from the wetland to the North. Our plan is to keep the beach path for the Cooper Road community to use, just divert it away from our

driveway so everyone can continue to use it throughout the construction process and so that when completed, we can have some privacy from the noise and foot traffic to and from the beach so everyone can continue to use it long into the future.

The public ZBA hearing is scheduled for Monday, December 10 at 5:30PM. The link to the notice and to join the zoom hearing is [HERE](#).

You may contact town hall to request to see the complete application and plans but we are also attaching a site plan below.

<12773 Proposed Site Plan - 40 scale.pdf>

We are happy to answer any questions or concerns you may have. Our hope is that while this project may cause some disruption in the short term, it will be a welcome addition and vast improvement to what is there now.

We wish you all a Happy Thanksgiving and beginning of the Holiday Season.

Warmly,

Sarah & John

Sarah Lutz
www.sarah-lutz.com
@sarahlutzstudio
917.432.7220

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [Mary D'Astugues](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Cc: [Sarah Lutz](#)
Subject: N° 21 Cooper RD: Lutz/Van Rens Re-building Plans
Date: Thursday, December 2, 2021 1:50:06 PM

Hello,

I understand that there will be a hearing on the proposed plan to re-build N° 21 Cooper Road in Truro by the owners: Sarah Lutz and John van Rens.

I am a long-time resident and neighbour on the road and would like to encourage a favourable outcome for them. Their current house and my in-laws house (N° 17) were both built in the 60's by Carl Benson (who lived in N° 21) and I can agree completely with the decision to re-build as I have been restoring N°17 for 10 years thus far and its an uphill climb!

They have been kind enough to give us all a heads up about their intentions and sent out a site-plan and some details about the project to give us ample time to take it all in and comment if wished.

It looks good to me and I have nothing but a positive reaction to it. For my part, I wish them all the best with it and hope the Town can give its permission to proceed.

Thanks for your kind attention.

Regards,

Mary D'Astugues
13 Cooper Road
P.O. Box 647
Truro
MA 02666

508 349 6415

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [Paul Rennert](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Subject: Fwd: 21 Cooper Road
Date: Thursday, December 2, 2021 4:11:26 PM

Dear Ms Sturdy and Ms Carboni,

I am forwarding an email I had sent to Sarah and John Lutz a few weeks ago. It conveys my enthusiastic support for their project at 21 Cooper Road.

kind regards,
Paul Rennert
14 Cooper Rd, Truro

On Nov 22, 2021, at 6:30 PM, Paul Rennert <rennertp@gmail.com> wrote:

Sarah, congratulations on the exciting project. Can't wait to see it! If we can help in any way, just come knocking...

kind regards and a Happy Thanksgiving to all-
Paul (14 Cooper)

On Nov 22, 2021, at 3:39 PM, Sarah Lutz <sarlutz@gmail.com> wrote:

Dear Friends and Neighbors,

We hope this finds each of you safe and well!
Many of you who are our abutters are about to receive official notice of our plans to fully renovate the house/studio at 21 Cooper Road. Because so many of you are personal friends and regular walkers of the beach path, we wanted to explain our plans and hopefully put your minds at ease.

While it has served us well for over 25 years, the house was built by Carl Benson in 1962 and has had very little work done since. We decided that instead of trying to renovate the existing structure, which is moldy and in terrible shape, it would make much more sense to tear it down and rebuild a new, clean, energy efficient house. Our plan is to build a new structure that is the same size (actually a bit smaller) than the existing one. We plan to build in almost the same place just set back a bit further from the road and away from the wetland to the North. Our plan is to keep the beach path for the Cooper Road community to use, just divert it away from our driveway so everyone can continue to use it throughout the

construction process and so that when completed, we can have some privacy from the noise and foot traffic to and from the beach so everyone can continue to use it long into the future.

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We are happy to answer any questions or concerns you may have. Our hope is that while this project may cause some disruption in the short term, it will be a welcome addition and vast improvement to what is there now.

We wish you all a Happy Thanksgiving and beginning of the Holiday Season.

Warmly,

Sarah & John

Sarah Lutz
www.sarah-lutz.com
@sarahlutzstudio
917.432.7220

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [David](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Subject: 21 Cooper Rd.
Date: Thursday, December 2, 2021 10:55:35 PM

Ms. Sturdy:
Ms. Carboni:

I wanted to write in support of the reconstruction of the property located at 21 Cooper Rd. in Truro. My wife Julie and I own the property located at 1 Cooper Circle, just across and up the road from 21 Cooper Rd. As such, we will be among the neighbors most affected by this project. Never-the-less, we are in full support of Sarah and John to update their property. Sarah and John have been generous neighbors, making available to our entire community a path transiting their property running from Cooper Rd. down to the beach. They have been very open and upfront with our community about their plans for this property, about their commitment for continued access to the beach, and, in the reconstruction of their property, to maintaining the character of the area.

As I told them when they first notified us of their plans, many times as I walked by 21 Cooper Rd., I wondered what it must look like inside. This environment is so hard on dwellings, so I could only imagine. I firmly believe they are correct in their desire to start the rebuild with a clean slate. Julie and I offer no objection, and are in full support of their plans.

Dave & Julie Greiner
1 Cooper Circle
Truro

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

From: [M Dean](#)
To: [Elizabeth Sturdy](#)
Cc: [Barbara Carboni](#)
Subject: 21 Cooper Road project
Date: Tuesday, December 7, 2021 10:14:40 AM

I am a neighbor, residing at 2 Cooper Road, and wholeheartedly endorse the proposal.
Thank you & Happy Holidays.
Morton Dubitsky Dean

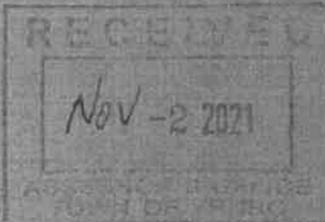
Sent from my iPhone

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form



DATE: 11/1/2021

NAME OF APPLICANT: Sarah Lutz

NAME OF AGENT (if any): _____

MAILING ADDRESS: P.O. Box 515, Germantown, NY 12526

CONTACT: HOME/CELL 917 432 7220 EMAIL sarlutz@gmail.com

PROPERTY LOCATION: 21 Cooper Rd, Truro, MA 02666
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 58 PARCEL 4 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 type="checkbox"/> Site Plan ² | <input 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: 11/2/2021 Date completed: 11/2/2021
List completed by: Laura Geiges Date paid: 11/2/2021 Cash/Check 915

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 2, 2021

To: Sarah Lutz

From: Assessors Department

Certified Abutters List: 21 Cooper Road (Map 58 Parcel 4)

Special Permit

Attached is a combined list of abutters for 21 Cooper Road (Map 58 Parcel 4).

The current owner is 32 Cooper Road LLC.

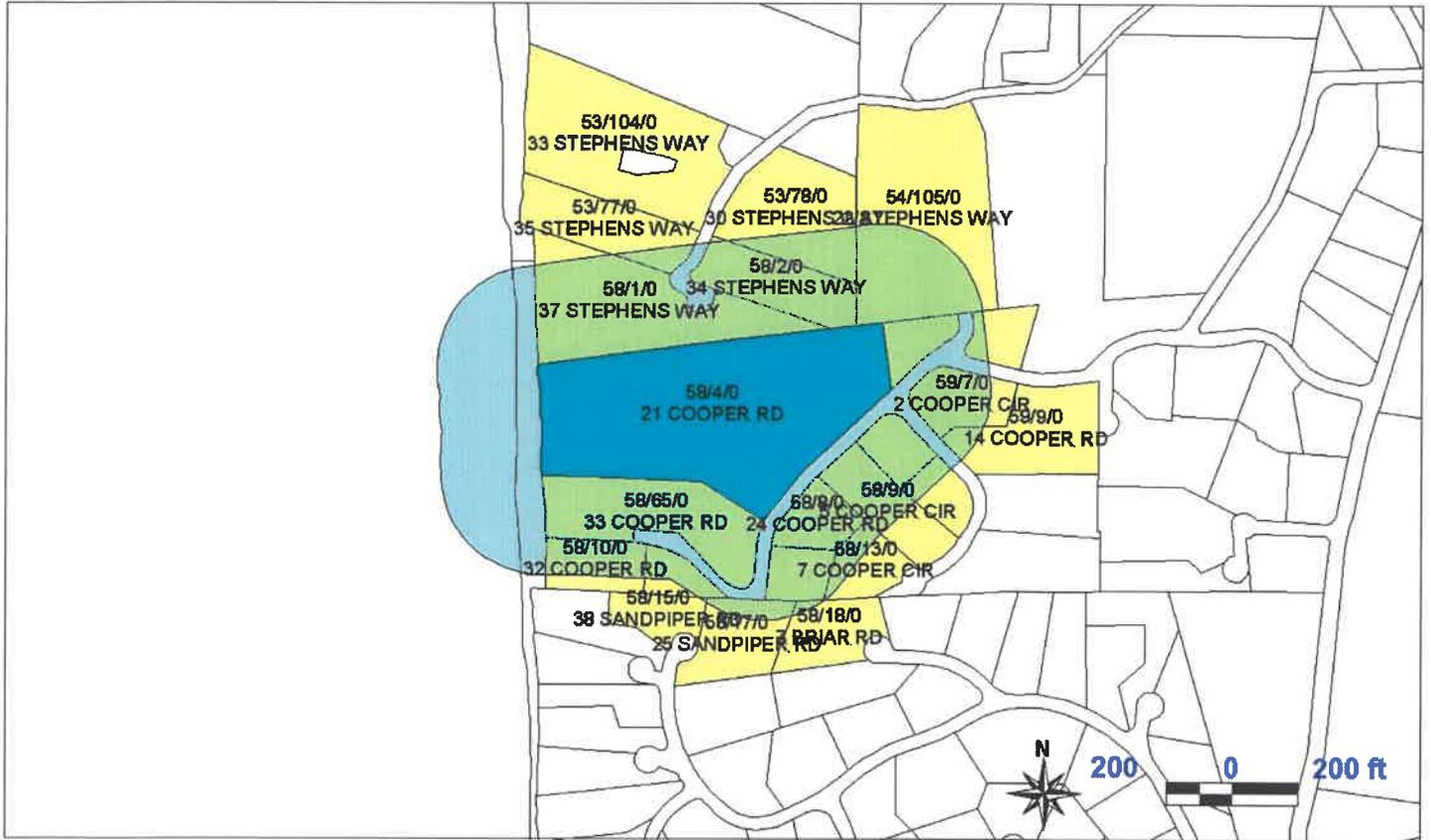
The names and addresses of the abutters are as of October 29, 2021 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: 

Laura Geiges
Assistant Assessor / Data Collector

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

Abutters List Within 300 feet of Parcel 58/4/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
3218	53-77-0-R	SOLOMONT ALAN	35 STEPHENS WAY	60 BEAVER RD	WESTON	MA	02493
3219	53-78-0-R	HOPPER HOUSE LLC	30 STEPHENS WAY	PO BOX 718	WELLFLEET	MA	02667
6583	53-104-0-R	HOPPER HOUSE LLC	33 STEPHENS WAY	PO BOX 718	WELLFLEET	MA	02667
3334	54-105-0-E	TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL	22 STEPHENS WAY	PO BOX 327	NO TRURO	MA	02652-0327
3391	58-1-0-E	TRURO CONSERVATION TRUST TRS: BRIAN BOYLE, TOM BOW ET AL	37 STEPHENS WAY	PO BOX 327	NORTH TRURO	MA	02652
3392	58-2-0-R	SOLOMONT ALAN	34 STEPHENS WAY	60 BEAVER RD	WESTON	MA	02493
3393	58-3-0-R	DASTUGUES MARY JANE & LIND JOANNA	17 COOPER RD	PO BOX 647	TRURO	MA	02666-0647
3394	58-4-0-R	32 COOPER ROAD LLC MGR: SARAH L LUTZ	21 COOPER RD	PO BOX 515	GERMANTOWN	NY	12526-0515
3395	58-5-0-R	GREINER DAVID K & JULIE A	1 COOPER CIR	23 HORIZON DR	GOFFSTOWN	NH	03045
3397	58-7-0-R	HORWITZ DOROTHY G NOM TRUST TRS: ABBIE SALT & LAURIE BAYER	3 COOPER CIR	c/o ABBIE SALT 710 NE 126TH ST	NORTH MIAMI	FL	33161
3398	58-8-0-R	TOSH KAREN	24 COOPER RD	PO BOX 693	TRURO	MA	02666
3399	58-9-0-R	ROSENBAUM MARTY & LORRAINE	5 COOPER CIR	PO BOX 3003	WELLFLEET	MA	02667
3400	58-10-0-R	32 COOPER ROAD, LLC MGR: SARAH L LUTZ	32 COOPER RD	PO BOX 515	GERMANTOWN	NY	12526-0515
3401	58-11-0-R	COOPERHOUSE LLC MGRS: PAUL & SUSAN SCHEUFELE	30 COOPER RD	PO BOX 352	TRURO	MA	02666
3402	58-12-0-R	WEEKS MARGARET	26 COOPER RD	320 BROADWAY PO BOX 45373	SOMERVILLE	MA	02145

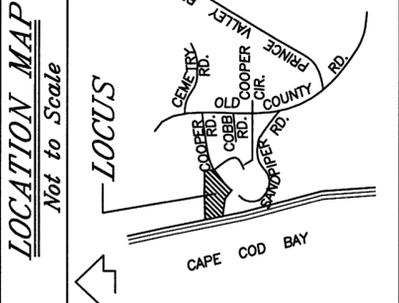
LG 11/2/2021

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	Zip/Cd/Country
3403	58-13-0-R	ALICE A STEERE TRST & ANTHONY W STEERE LIVING TRUST	7 COOPER CIR	14 PINECREST DR	SIMSBURY	CT	06070
3405	58-15-0-R	PAUL G SCHEUFELE REVOC TRUST TRS: PAUL & SUSAN SCHEUFELE	38 SANDPIPER RD	PO BOX 352	TRURO	MA	02666
3407	58-17-0-R	SUSAN E SCHEUFELE REVOC TRST TRS: PAUL & SUSAN SCHEUFELE	25 SANDPIPER RD	PO BOX 352	TRURO	MA	06883
3408	58-18-0-R	BRIAR ROAD LLC MGRS: JAMES & MARCIA SIMON	7 BRIAR RD	139 VAN HOUTEN FIELDS	WEST NYACK	NY	10994
3452	58-65-0-R	MCDONAGH EILEEN & DAVOLI ROBERT E	33 COOPER RD	C/O SIGMA PRIME VENTURES 50 MILK ST. 16TH FL	BOSTON	MA	02109
3460	59-1-0-R	DASTUGUES MARY JANE	13 COOPER RD	PO BOX 647	TRURO	MA	02666
3464	59-7-0-R	DUBITSKY MORTON DEAN	2 COOPER CIR	618 ORLEANS RD	NO CHATHAM	MA	02650
3465	59-9-0-R	RENNERT PAUL D & CULLEN MAGDALENE A	14 COOPER RD	205 UNDERWOOD ST	HOLLISTON	MA	01746

LG 11/2/2021

53-77-0-R	SOLOMONT ALAN 60 BEAVER RD WESTON, MA 02493	53-78-0-R	HOPPER HOUSE LLC PO BOX 718 WELLFLEET, MA 02667	53-104-0-R	HOPPER HOUSE LLC PO BOX 718 WELLFLEET, MA 02667
54-105-0-E	TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL PO BOX 327 NO TRURO, MA 02652-0327	58-1-0-E	TRURO CONSERVATION TRUST TRS: BRIAN BOYLE, TOM BOW ET AL PO BOX 327 NORTH TRURO, MA 02652	58-2-0-R	SOLOMONT ALAN 60 BEAVER RD WESTON, MA 02493
58-3-0-R	DASTUGUES MARY JANE & LIND JOANNA PO BOX 647 TRURO, MA 02666-0647	58-4-0-R	32 COOPER ROAD LLC MGR: SARAH L LUTZ PO BOX 515 GERMANTOWN, NY 12526-0515	58-5-0-R	GREINER DAVID K & JULIE A 23 HORIZON DR GOFFSTOWN, NH 03045
58-7-0-R	HORWITZ DOROTHY G NOM TRUST TRS: ABBIE SALT & LAURIE BAYER c/o ABBIE SALT 710 NE 126TH ST NORTH MIAMI, FL 33161	58-8-0-R	TOSH KAREN PO BOX 693 TRURO, MA 02666	58-9-0-R	ROSENBAUM MARTY & LORRAINE PO BOX 3003 WELLFLEET, MA 02667
58-10-0-R	32 COOPER ROAD, LLC MGR: SARAH L LUTZ PO BOX 515 GERMANTOWN, NY 12526-0515	58-11-0-R	COOPERHOUSE LLC MGRS: PAUL & SUSAN SCHEUFELE PO BOX 352 TRURO, MA 02666	58-12-0-R	WEEKS MARGARET 320 BROADWAY PO BOX 45373 SOMERVILLE, MA 02145
58-13-0-R	ALICE A STEERE TRST & ANTHONY W STEERE LIVING TRUST 14 PINECREST DR SIMSBURY, CT 06070	58-15-0-R	PAUL G SCHEUFELE REVOC TRUST TRS: PAUL & SUSAN SCHEUFELE PO BOX 352 TRURO, MA 02666	58-17-0-R	SUSAN E SCHEUFELE REVOC TRST TRS: PAUL & SUSAN SCHEUFELE PO BOX 352 TRURO, MA 06883
58-18-0-R	BRIAR ROAD LLC MGRS: JAMES & MARCIA SIMON 139 VAN HOUTEN FIELDS WEST NYACK, NY 10994	58-65-0-R	MCDONAGH EILEEN & DAVOLI ROBERT E C/O SIGMA PRIME VENTURES 50 MILK ST. 16TH FL BOSTON, MA 02109	59-1-0-R	DASTUGUES MARY JANE PO BOX 647 TRURO, MA 02666
59-7-0-R	DUBITSKY MORTON DEAN 618 ORLEANS RD NO CHATHAM, MA 02650	59-9-0-R	RENNERT PAUL D & CULLEN MAGDALENE A 205 UNDERWOOD ST HOLLISTON, MA 01746		

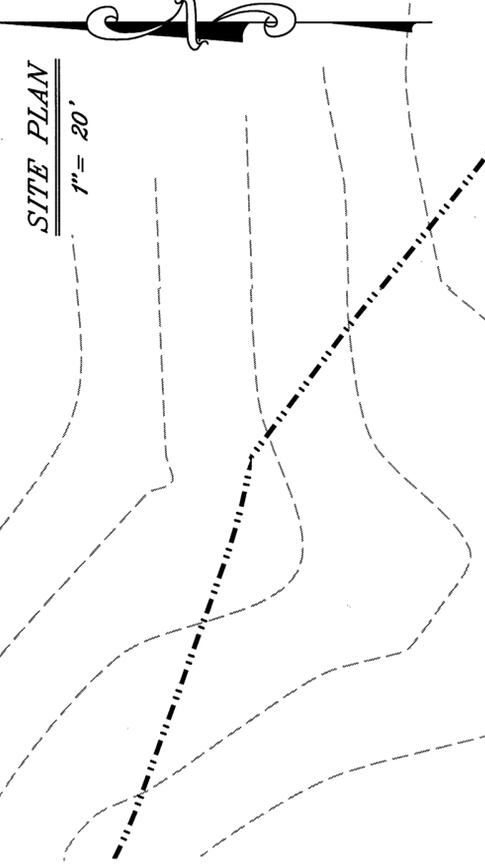
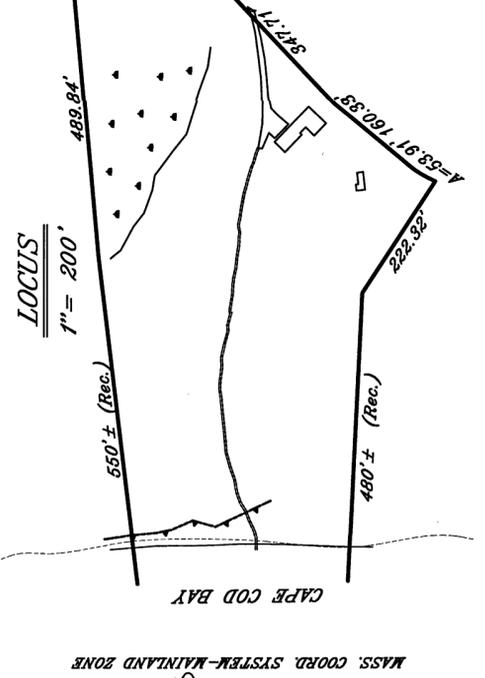
LG 11/2/2021



Reference:
Assn's Map 58, Pbl. 4
L.C.P. 41832A (1985)

ABUTTERS

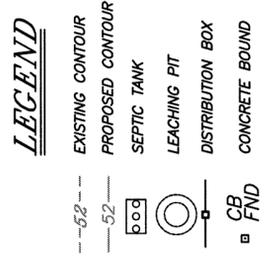
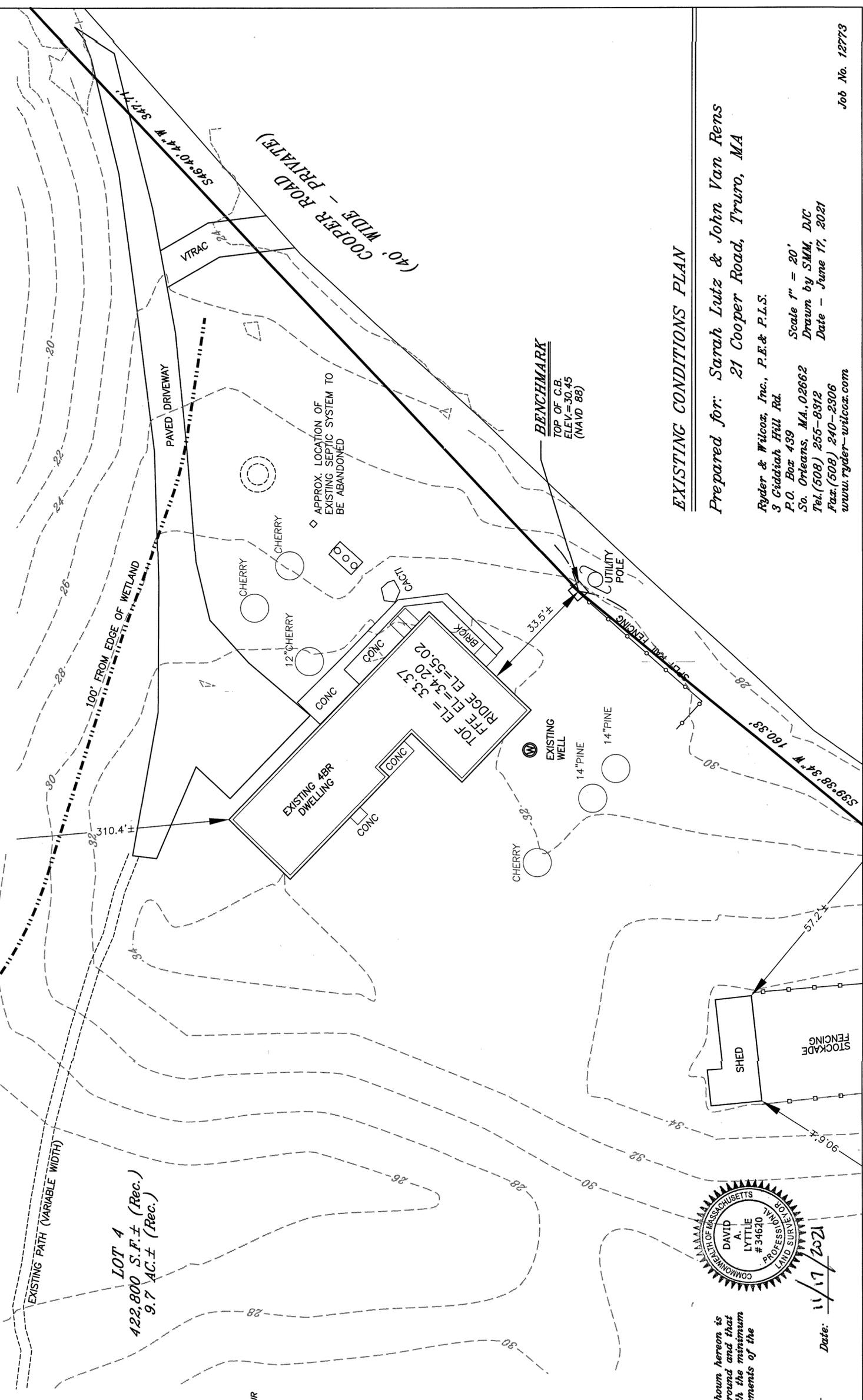
OWNER	PARCEL
TRURO CONSERVATION TRUST	54-105
TRURO CONSERVATION TRUST	58-1
ALAN SOLOMONT	58-2
MARY JANE DASTUGUES & JOANNA LIND	58-3
DAVID K. & JULIE A. GREINER	58-5
KAREN TOSH	58-8
MARTY & LORRAINE ROSENBAUM	58-9
EILEEN MCDONAGH & ROBERT E. DAVOLI	58-65
MORTON DEAN DUBITSKY	59-7



ZONING COMPLIANCE TABLE (RES.)

REQUIRED	EXISTING
AREA	422,800 S.F.
FRONTAGE	150'
SETBACK FRONT	25' MIN.
SETBACK SIDE	25' MIN.
SETBACK REAR	25' MIN.
BLDG. HEIGHT	30'

GROSS FLOOR AREA: 2280 SF*
*PER ASSESSED AREA

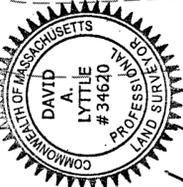


EXISTING CONDITIONS PLAN

Prepared for: Sarah Lutz & John Van Rens
21 Cooper Road, Truro, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Ciddiah Hill Rd.
P.O. Box 439
St. Orleans, MA, 02662
Tel. (508) 265-8312
Fax: (508) 240-2306
www.ryder-wilcox.com

Scale 1" = 20'
Drawn by SMM, DJC
Date - June 17, 2021



I certify that the dwelling shown hereon is located as it exists on the ground and that as so located it complies with the minimum property line setback requirements of the Town of Truro.

David Lytle
Professional Land Surveyor

Date: 11/17/2021

ZONING COMPLIANCE TABLE		
REQUIRED	EXISTING	PROPOSED
AREA	33,750 SF	422,800 S.F.
FRONTAGE	150'	561.95'
SETBACK FRONT	25' MIN.	33.5'
SETBACK SIDE	25' MIN.	90.6'
SETBACK REAR	25' MIN.	310.4'
BLDG. HEIGHT	23'	22.3'

EXISTING	PROPOSED
GROSS FLOOR AREA	2280 SF*
	2314 SF**

*PER ASSESSED AREA
**PER ARCHITECT'S CALCULATIONS

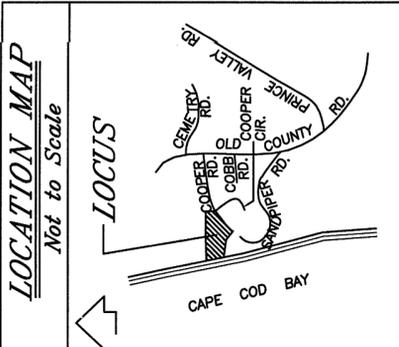
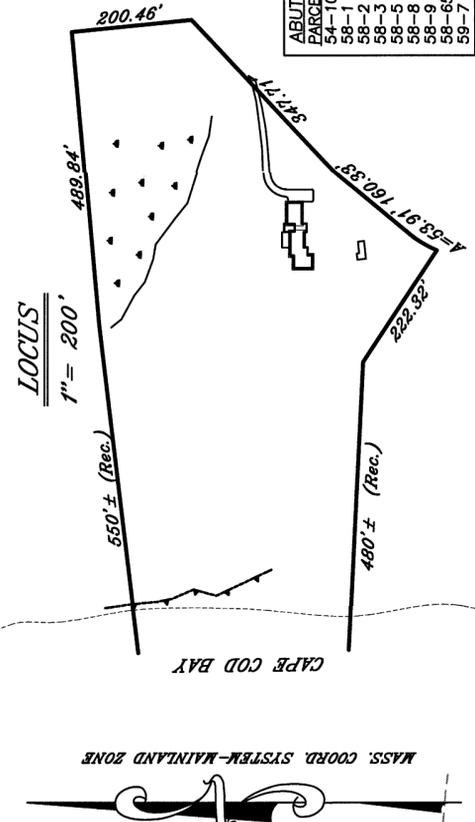
BUILDING HEIGHT CALCULATIONS

PROPOSED DWELLING = 54.5'
PEAK ELEV. = 52.1'
AVERAGE GRADE ELEV. = 32.1'
BUILDING HEIGHT = 22.4'

LEGEND

- TEST HOLE LOCATION
- EXISTING CONTOUR
- PROPOSED CONTOUR
- SEPTIC TANK
- LEACHING PIT
- DISTRIBUTION BOX
- 40' x 10' x 2' ABSORPTION CHAMBER SYSTEM
- CONCRETE BOUND
- CB FND

SITE PLAN
1" = 20'



ABUTTERS

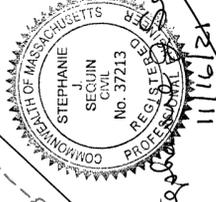
PARCEL	OWNER
54-105	TRURO CONSERVATION TRUST
58-1	TRURO CONSERVATION TRUST
58-2	ALAN SOLOMONT
58-3	MARY JANE DASTUGUES & JOANNA LIND
58-5	DAVID K. & JULIE A. GREINER
58-8	KAREN TOSH
58-9	MARTY & LORRAINE ROSENBAUM
58-65	EILEEN McDONAGH & ROBERT E. DAVOLI
59-7	MORTON DEAN DUBITSKY

Reference:
Assr's Map 58, Plat. 4
L.C.P. 41832A (1985)

SITE PLAN ~ PROPOSED DWELLING

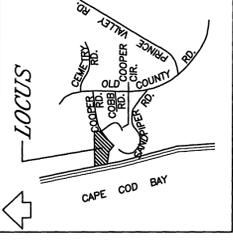
Prepared for: Sarah Lutz & John Van Rens
21 Cooper Road, Truro, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Ciddiah Hill Rd.
P.O. Box 439
So. Orleans, MA, 02662
Tel. (508) 255-8312
Fax. (508) 240-2306
www.ryder-wilcox.com



SITE PLAN
1" = 40'

LOCATION MAP
Not to Scale



Reference:
Assr's Map 58, Vol. 4
L.C.P. 4832A (1985)

ZONING COMPLIANCE TABLE			
	REQUIRED	EXISTING	PROPOSED
AREA	33,790 SF	422,800 S.F.	422,800 S.F.
FRONTAGE	150'	561.95'	561.95'
SETBACK FRONT	25' MIN.	33.5'	71.3'
SETBACK REAR	25' MIN.	90.6'	153.2'
SETBACK SIDE	25' MIN.	310.4'	315.8'
BLDG. HEIGHT	23'	22.3'	22.4'

EXISTING PROPOSED	
GROSS FLOOR AREA	2280 SF * 2314 SF**

*PER ASSESSED AREA
**PER ARCHITECT'S CALCULATIONS

BUILDING HEIGHT CALCULATIONS
PROPOSED DWELLING
FINISH FLOOR ELEV. = 64.1'
AVERAGE GRADE ELEV. = 32.7'
BUILDING HEIGHT = 22.4'

ABUTTERS
OWNER: CONSERVATION TRUST
PARCEL: 54-105 TRURO CONSERVATION TRUST
54-106 ALAN SOLOMAN
58-2 MARY ANNE CASTIGLIONE & JOANNA LIND
58-3 DAVID K. & JULIE A. GREINER
58-4 MARY ANNE CASTIGLIONE & JOANNA LIND
58-5 MARTY & LORRAINE ROSENBAUM
58-6 EILEEN McDONAGH & ROBERT E. DAVOLI
58-7 MORTON DEAN DUBITSKY

LEGEND

- TEST HOLE LOCATION
- EXISTING CONTOUR
- PROPOSED CONTOUR
- SEPTIC TANK
- LEACHING PIT
- DISTRIBUTION BOX
- 40' x 10' x 2' ABSORPTION CHAMBER SYSTEM
- CONCRETE BOUND
- CB
- FND

DATUM
NAVD 88



OVERALL SITE PLAN ~ PROPOSED CONDITIONS

Prepared for: Sarah Lutz & John Van Rens
21 Cooper Road, Truro, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
9 Giddis Hill Rd.
P.O. Box 459
So. Orleans, MA 02662

Scale 1" = 40'
Drawn by: SMW/DJC/AMA
Date - November 16, 2021
Tel: (508) 255-8972
Fax: (508) 240-2906
www.ryder-wilcox.com



Stephanie Sequin
1116 171

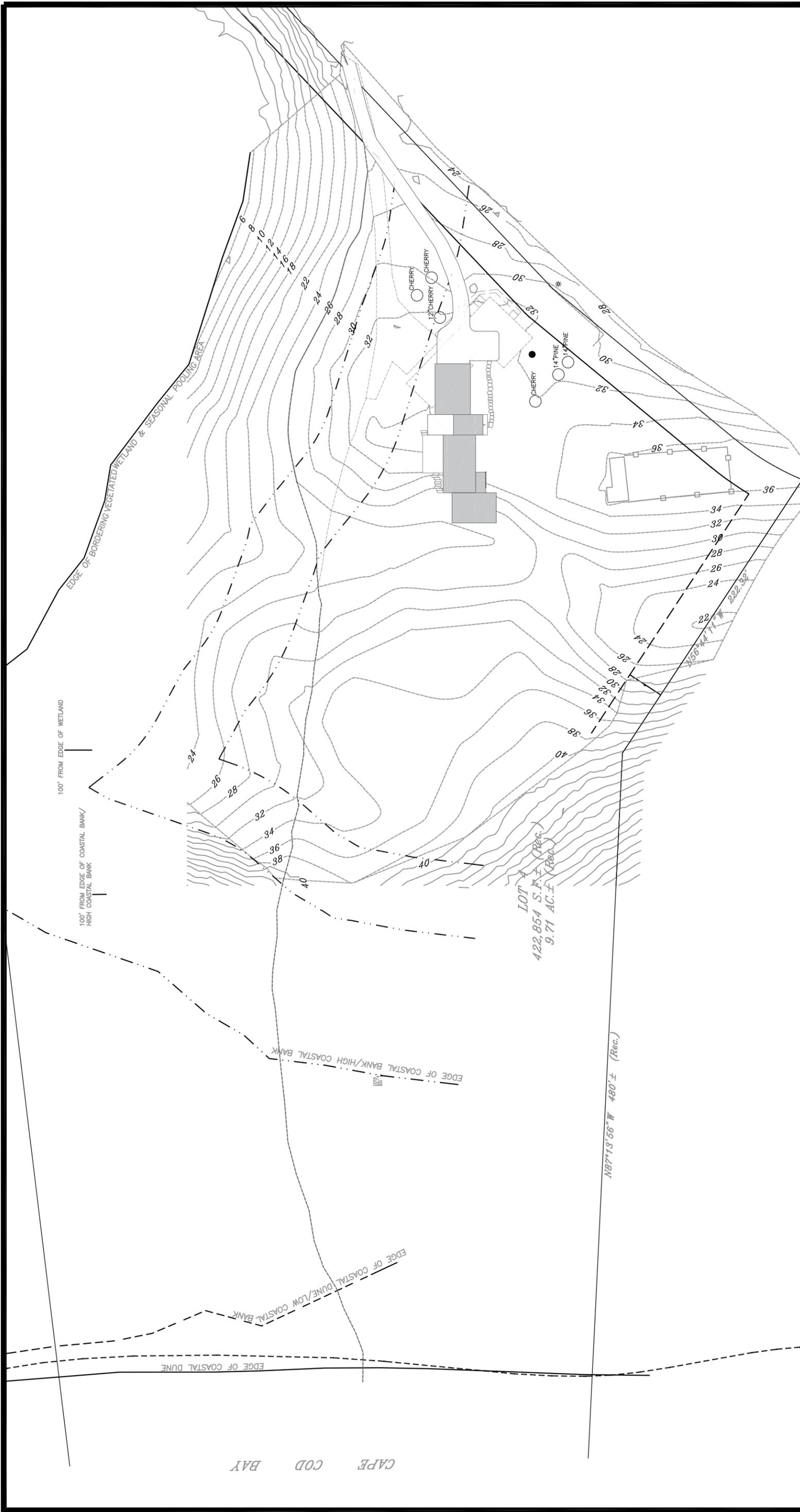
TRURO ZONING BOARD OF APPEALS
DRAWINGS FOR LUTZ - VAN RENS RESIDENCE
21 COOPER ROAD

NOVEMBER 19, 2021



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info@studioformy.com
32 Old Slip, 15th Floor
New York, NY 10005
studioformy.com

Lutz - van Rens Residence
21 Cooper Road
Truro, Massachusetts



CAPE COD BAY

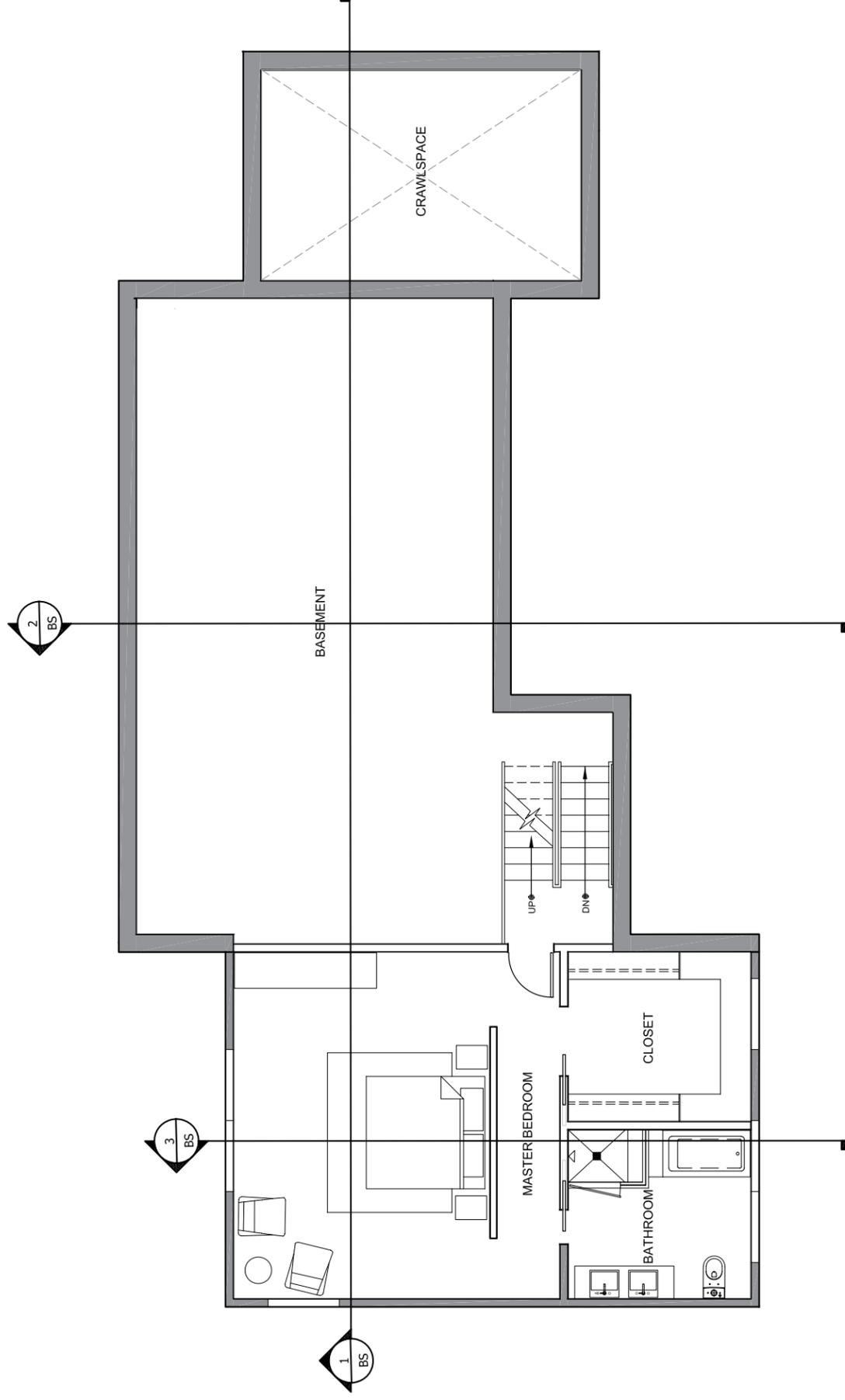
PROJECT NO	2108
REVISION	
DATE	11/19/2021

PROJECT	Lutz - van Rens Residence, 21 Cooper Road
TITLE	Site Plan
SCALE	1/64" = 1'-0"
NOTES	

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 studiofory.com



LOWER LEVEL AREA
INTERIOR OF DWELLING AREA 5665 SF



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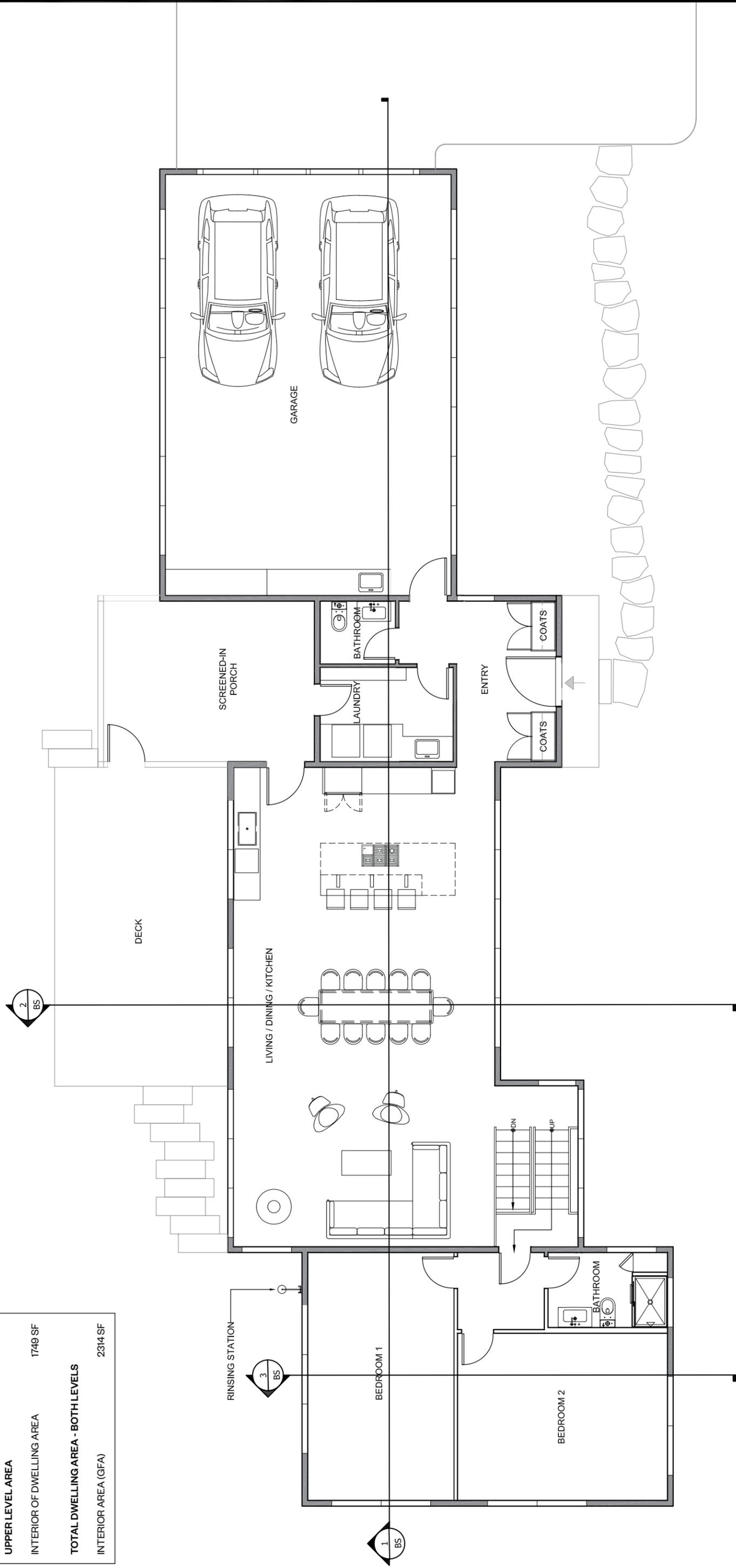
PROJECT Lutz - van Rens Residence, 21 Cooper Road
TITLE Master Suite Level + Basement Level
SCALE 1/8" = 1'-0"
NOTES

PROJECT NO 2108
REVISION
DATE 11/19/2021



DWG NO
**LOWER LEVEL
PLAN**

UPPER LEVEL AREA	
INTERIOR OF DWELLING AREA	1749 SF
TOTAL DWELLING AREA - BOTH LEVELS	
INTERIOR AREA (GFA)	2314 SF



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PROJECT
 TITLE
 SCALE
 NOTES

Lutz - van Rens Residence, 21 Cooper Road
 Main Level + Second Level
 1/8" = 1'-0"

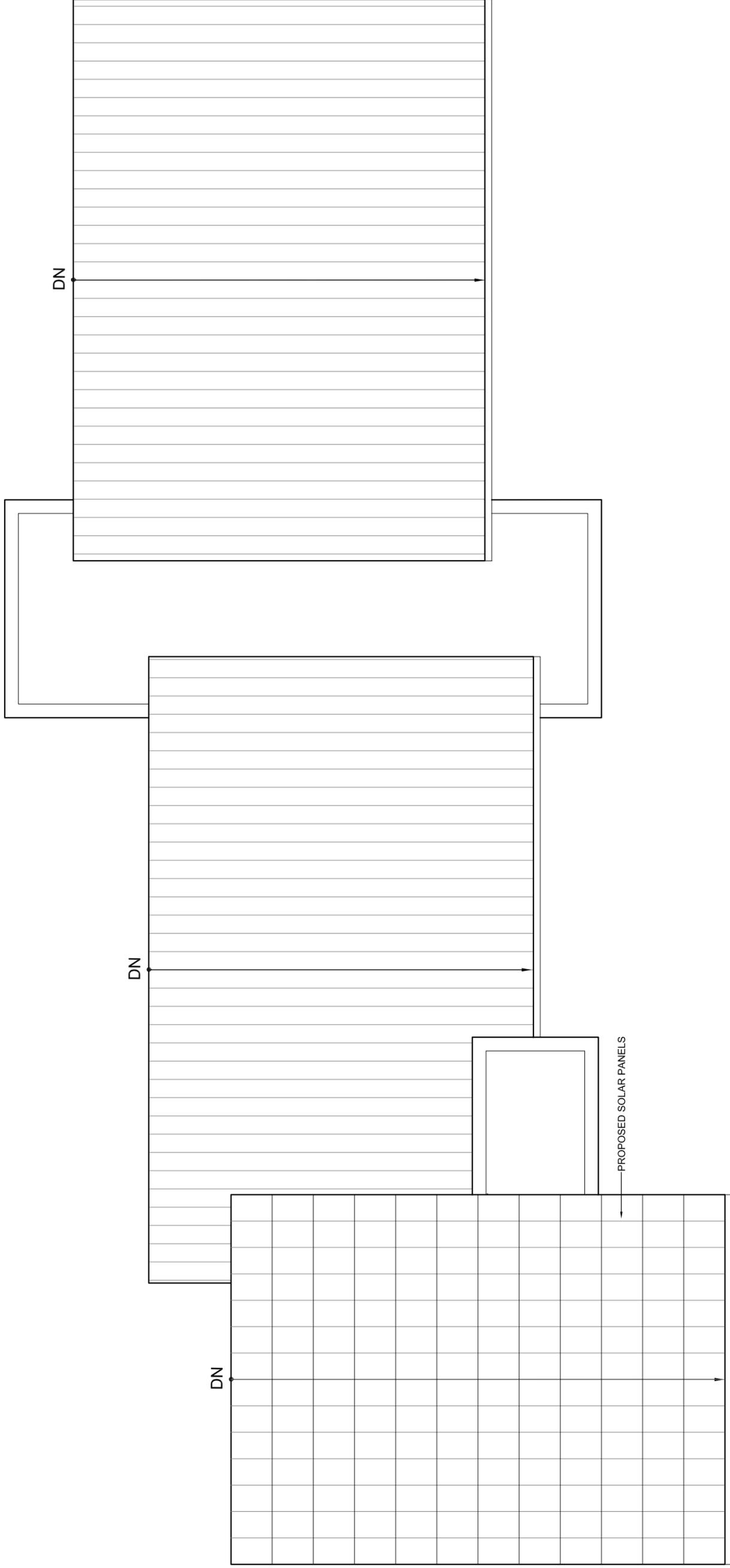
PROJECT NO
 REVISION
 DATE

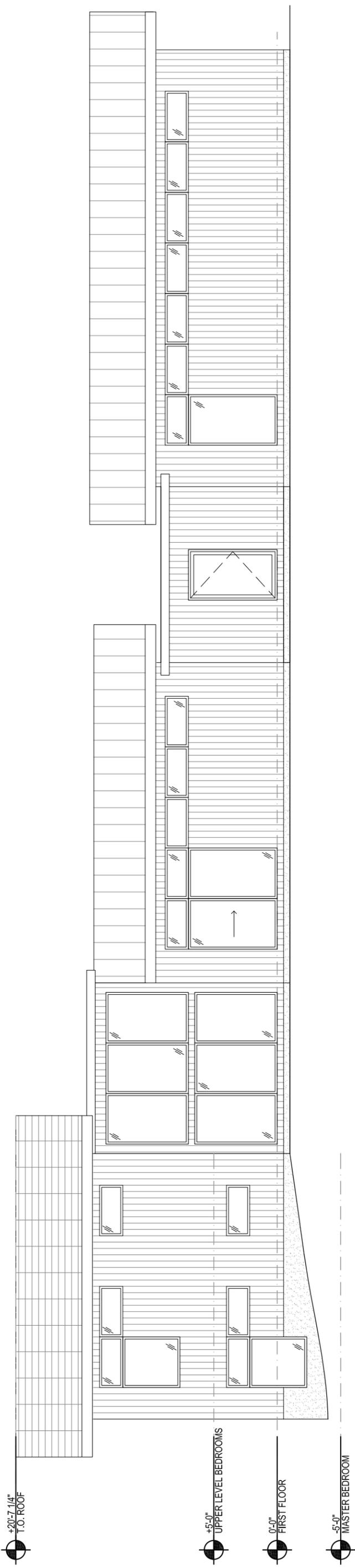
2108
 11/19/2021

DWG NO



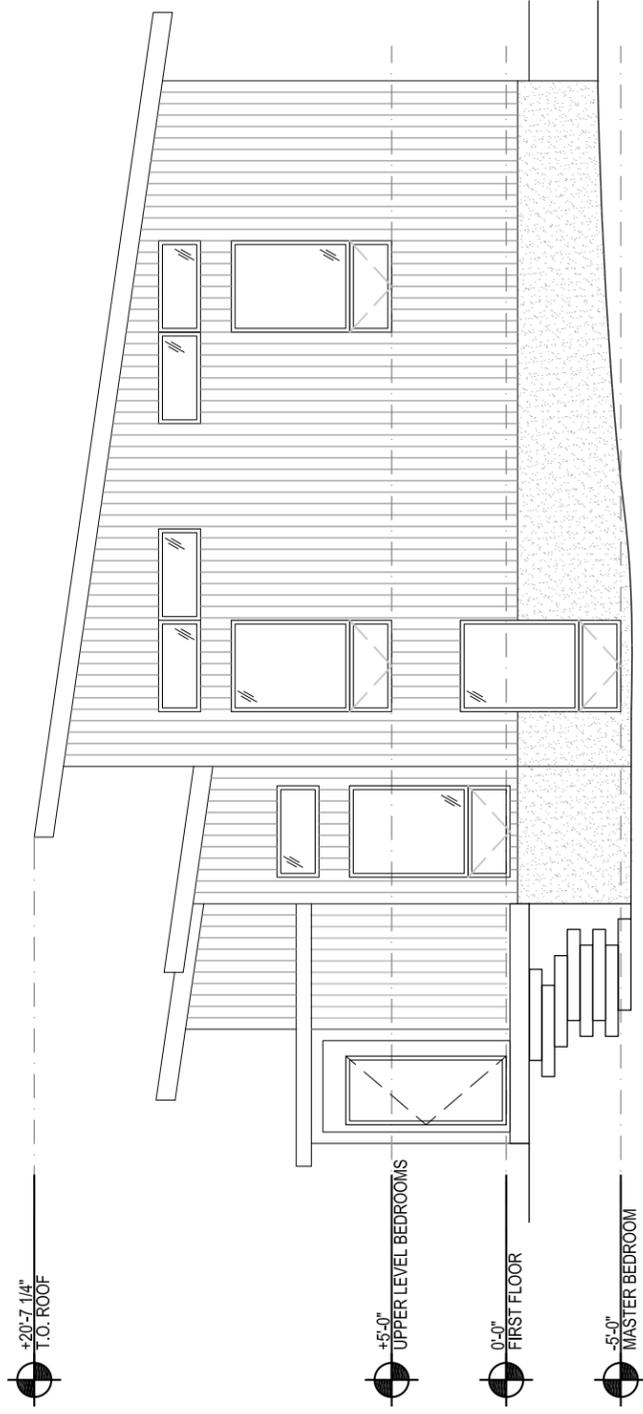
UPPER LEVEL PLAN





1 SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



2 WEST ELEVATION

SCALE: 1/8" = 1'-0"

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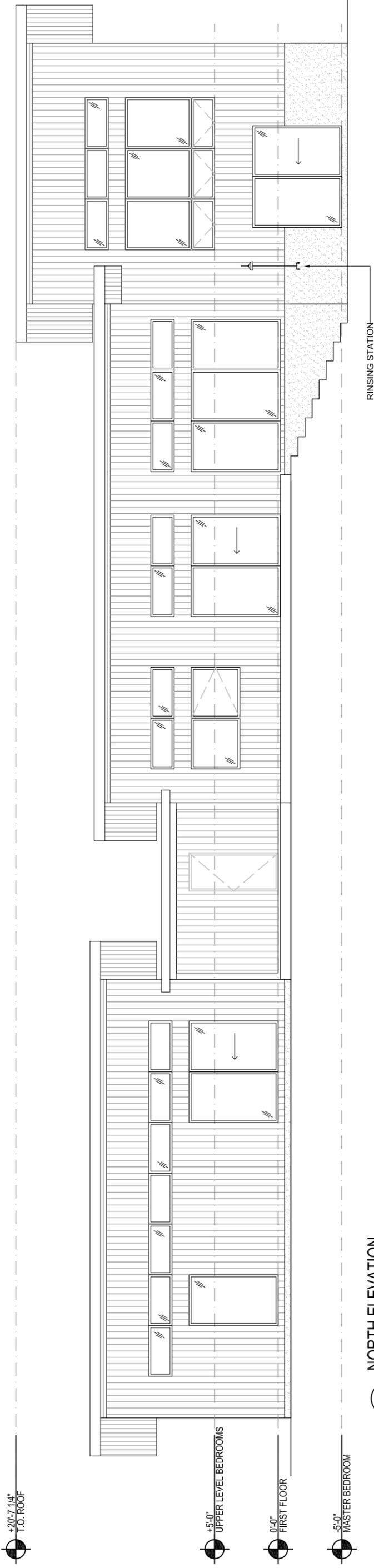
Lutz - van Rens Residence, 21 Cooper Road
 South and West Elevations
 1/8" - 1'-0"

PROJECT NO 2108
 REVISION
 DATE 11/19/2021

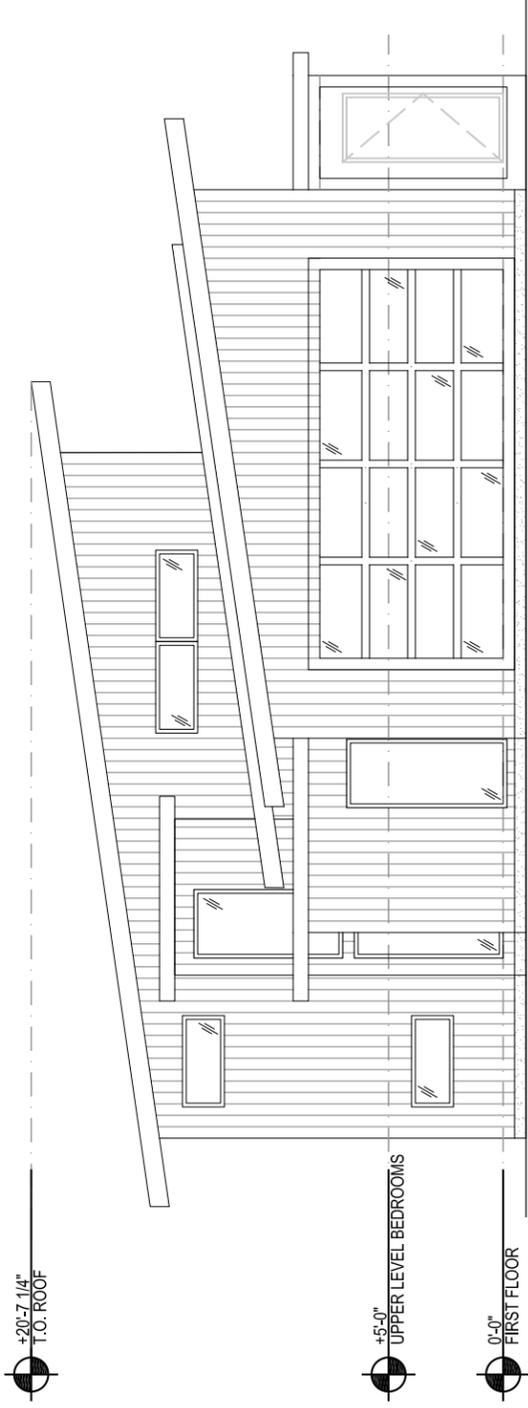
DWG NO

**EXTERIOR
 ELEVATIONS**





3 NORTH ELEVATION
SCALE: 1/8" = 1'-0"



4 EAST ELEVATION
SCALE: 1/8" = 1'-0"

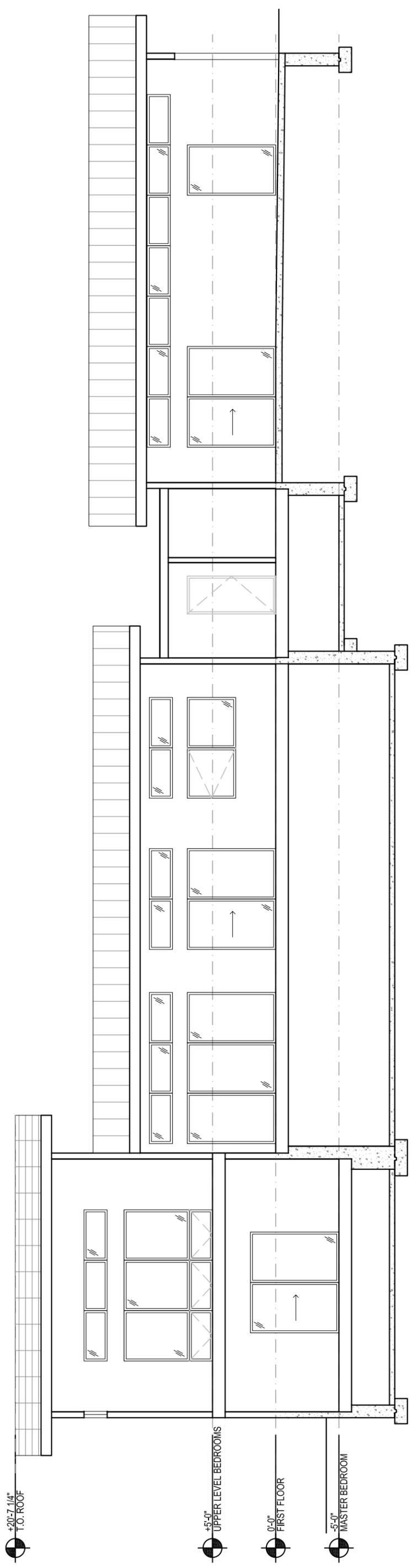


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PROJECT Lutz - van Rens Residence, 21 Cooper Road
TITLE North and East Elevations
SCALE 1/8" - 1'-0"

PROJECT NO 2108
REVISION
DATE 11/19/2021

DWG NO
**EXTERIOR
ELEVATIONS**



1 E-W SECTION
SCALE: 1/8" = 1'-0"



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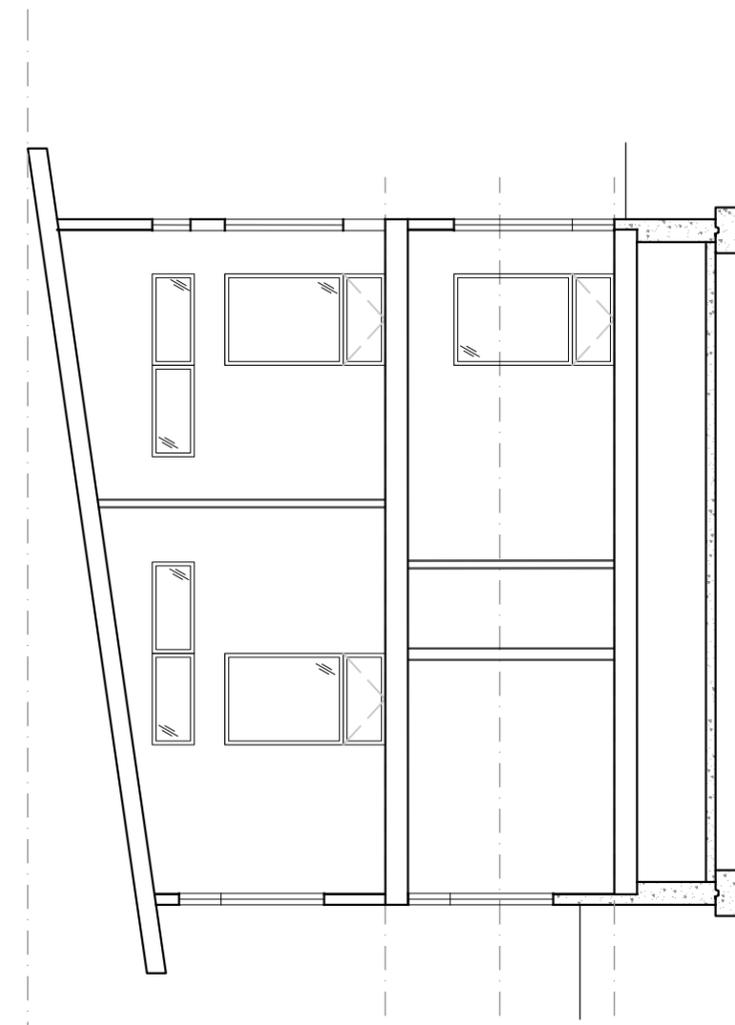
Lutz - van Rens Residence, 21 Cooper Road
 Building Sections
 1/8" - 1'-0"

PROJECT
 TITLE
 SCALE
 NOTES

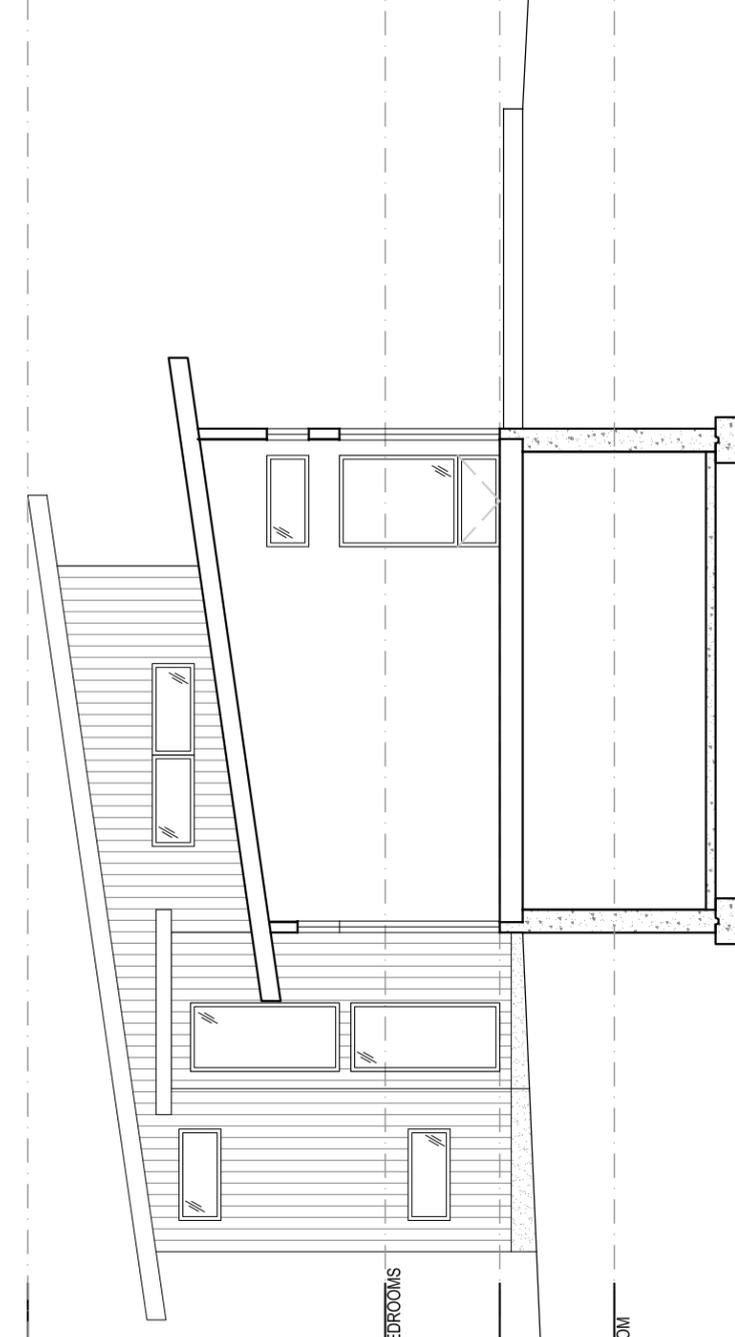
PROJECT NO 2108
 REVISION
 DATE 11/19/2021

DWG NO
**BUILDING
 SECTIONS**

+20'-7 1/4"
T.O. ROOF



3 N-S SECTION AT BEDROOM WING
SCALE: 1/8" = 1'-0"



2 N-S SECTION AT LIVING AREA
SCALE: 1/8" = 1'-0"

+5'-0"
UPPER LEVEL BEDROOMS

0'-0"
FIRST FLOOR

-5'-0"
MASTER BEDROOM



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Lutz - van Rens Residence, 21 Cooper Road
Building Sections
1/8" - 1'-0"

PROJECT
TITLE
SCALE
NOTES

PROJECT NO 2108
REVISION
DATE 11/19/2021

DWG NO

BUILDING
SECTIONS



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

June 22, 2020 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); Chris Lucy (Clerk); John Dundas; Darrell Shedd (Alt.); Heidi Townsend (Alt.)

Members Absent: John Thornley

Other Participants: Jeff Ribeiro - Town Planner; Liz Sturdy – Truro Office Assistant; Charles Silva (Applicant)

Remote meeting convened at 5:30 pm, Monday, June 22, 2020, by Town Planner Ribeiro who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Town Planner Ribeiro also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Public Hearing

2020-001/ZBA – Charles Silva for property located at 379 Shore Road, Truro, MA (Atlas Map 10, Parcel 10, Registry of Deeds title reference: Book 24602, Page 48). Applicant seeks a Special Permit under Section 30.7.A of the Truro Zoning Bylaw for the demolition and reconstruction of a pre-existing, non-conforming cottage. Chair Hultin invited Mr. Silva to present the background and information on the application. Mr. Silva also noted that he had received approval from the Conservation Commission. Member Lucy commented that this project was previously permitted in 2009 and Mr. Silva stated that due to personal reasons the project didn't move forward. Mr. Silva also commented that the flood plain changed in 2014 and the coastal engineer had updated the plan and stamped the plan. Members and Mr. Silva discussed features of the project. Vice Chair Todd noted that the Applicant may need to receive permission from the Truro Historical Commission due to the demolition of the structure. Town Planner Ribeiro invited Caller #2 to provide comment or ask any questions. Caller #2 identified himself as Sean Parnley and he made no comments.

Chair Hultin made a motion to grant the Special Permit in the matter of 2020-001/ZBA as per plans submitted to the ZBA dated 12/17/2019 from Coastal Engineering along with plans submitted to the ZBA dated 3/13/2020 from McKinsey Engineering Consultants and Architectural Plans from Peter Coleman dated 12/18/2019 pages 1-4.

Vice Chair Todd seconded the motion.

So voted, 6-0-1, motion carries.

Chair Hultin announced the approval of the Special Permit to Mr. Silva. Mr. Silva thanked the Members and departed the meeting.

Board Action/Review

Town Planner Ribeiro let the Members know of the upcoming proposed meeting dates of July 9, 2020, and July 16, 2020. Town Planner Ribeiro asked Members to let him know of any concerns for those dates. There was a brief discussion about public meetings held in a public venue and Town Planner Ribeiro said that it was up to Governor Baker, so in the meantime, remote meetings will continue. Chair Hultin asked Town Planner Ribeiro how to maximize public input as connectivity may be an issue with some residents. Town Planner Ribeiro replied that residents may provide comments by mail, dropping off written comments at Town Hall, or by emailing him directly with comments prior to the next ZBA meeting. Town Planner Ribeiro added that ZBA meeting packets will be posted on the Truro website prior to the meeting so the public may access those as well.

Approval of Minutes

Chair Hultin opened the review for the approval of the minutes from the November 5, 2018, meeting, that dealt with Timsneck LLC. Chair Hultin stated that he had read them twice and they were complete.

Chair Hultin made a motion to approve the minutes from the meeting on November 5, 2018, as written.

Vice Chair Todd seconded the motion.

So voted, 5-0-2 (Member Townsend was not present at the meeting and abstained), motion carries.

Chair Hultin opened the review for the approval of the minutes from the November 26, 2018, meeting, and noted that Member Lucy was not present at that meeting.

Chair Hultin made a motion to approve the minutes from the meeting on November 26, 2018, as written.

Member Dundas seconded the motion.

So voted, 3-0-4 (Members Townsend, Lucy, and Shedd abstained), motion carries.

Chair Hultin opened the review for the approval of the minutes from the May 18, 2020, meeting, that included a continuance for Charles Silva and the approval of old meeting minutes. Chair Hultin also thanked Truro Office Assistant Sturdy for her hard work and thoroughness on the minutes.

Chair Hultin made a motion to approve the minutes from the meeting on May 18, 2020, as written.

Vice Chair Todd seconded the motion.

So voted, 6-0-1, motion carries.

Prior to a motion to adjourn, Town Planner Ribeiro reminded Members to look for their next meeting packets and provide feedback for proposed meeting dates in July.

**Chair Hultin made a motion to adjourn at 5:59 pm.
Vice Chair Todd seconded the motion.
So voted, 6-0-1, motion carries.**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alexander O. Powers". The signature is fluid and cursive, with a large initial "A" and a distinct "P" at the end.

Alexander O. Powers
Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

July 27, 2020 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); Chris Lucy (Clerk); John Dundas; John Thornley; Darrell Shedd (Alt.); Heidi Townsend (Alt.)

Members Absent:

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Trevor Pontbriand – Architect for William J. Marsh (Applicant); Diane Tillotson – Attorney from Hemenway & Barnes LLP representing Donald and Gail Nogueira (Applicants); Richard Caron of 12 Pilgrims Path (Abutter)

Remote meeting convened at 5:31 pm, Monday, July 27, 2020, by Interim Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Public Hearing

2020-006/ZBA – William J. Marsh for property located at 30 Longnook Road, Truro, MA (Atlas Map 43, Parcel 121, Registry of Deeds title reference: Book 32127, Page 302). Applicant seeks a Special Permit under Section 30.7.A of the Truro Zoning Bylaw for demolition and reconstruction of a pre-existing single-family residence with a slightly enlarged footprint. At the invitation of Chair Hultin, Mr. Pontbriand provided background for the application. The applicant will keep the residence a one-story and he is adding 390 square feet to the footprint for a bathroom and to increase the size of a couple of rooms. Member Lucy inquired as to the completeness of the notification of the abutters to the abutter in this matter. Interim Town Planner and Counsel Carboni recommended a continuance of this matter to verify that the notification process was properly completed. Chair Hultin asked for a motion to continue this matter to properly notify the abutters to the abutter within 300' of the Applicant's property with a date certain of August 24, 2020.

Member Dundas made a motion to continue this matter to August 24, 2020.

Member Lucy seconded the motion.

So voted, 7-0, motion carries.

Chair Hultin apologized to Mr. Pontbriand for the unanticipated continuance and Mr. Pontbriand left the hearing.

Board Action/Review

Administrative Action – Approval request by Diane C. Tillotson, Esq., Hemenway & Barnes LLP, for 10 Pilgrim’s Path, Donald and Gail Nogueira, Trustees of the Pilgrims Path Nominee Trust, Atlas Sheet 35, Parcel 112, pursuant to ZBA 2009-016 Decision. The Applicants request approval of the addition of three small windows to the second story of the north elevation of their home as required by condition 12 of the Amended Decision after Remand as filed with the Town Clerk on December 21, 2011, and recorded, a copy of which is enclosed herewith. As required, the north and south abutters have been notified by certified mail. Chair Hultin provided background on this matter to include information that the applicants had already begun installation of the small windows and were stopped. During the stoppage, the Applicants applied for and received a building permit for the installation of the small windows. Chair Hultin stated that the installation of the small windows was now completed. Ms. Tillotson identified herself as counsel for the Applicants and apologized for not reapplying to the ZBA for a special permit and not notifying the abutters of the abutter after the property changed hands in 2017 from Mr. Ward Cromer to Mr. and Mrs. Nogueira following Mr. Cromer’s death. Ms. Tillotson further added that she didn’t send notifications registered mail to the abutters to the abutter as she had some issues with that during COVID-19. Mr. Caron expressed concern that the building started without a building permit and now is completed so this is a case of asking for forgiveness. Mr. Caron further stated that the process should have been followed and his family feels that their privacy has been violated. Mr. Caron recommended that the windows be frosted to allow natural light in the Applicant’s home and restore his family’s privacy. Interim Town Planner and Counsel Carboni stated that if the ZBA didn’t want to approve the request, she would recommend a continuance until she has spoken to Town Counsel Jonathan Silverstein to see what he had in mind in this matter. Mr. Caron thanked the ZBA for listening to his concerns. Chair Hultin added the administrative action on this matter to the agenda for the ZBA meeting on August 24, 2021.

Chair Hultin added the approval of minutes for the ZBA meeting on June 25, 2018, and June 25, 2020 (on this evening’s agenda) to the agenda for the ZBA meeting on August 24, 2020, at 5:30 pm.

Chair Hultin then asked for a motion to adjourn the meeting.

Vice Chair Todd made a motion to adjourn at 6:50 pm.

Member Dundas seconded the motion.

So voted, 7-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

August 24, 2020 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); Chris Lucy (Clerk); John Dundas; John Thornley; Heidi Townsend (Alt.)

Members Absent: Darrell Shedd (Alt.)

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; William J. Marsh (Applicant); Trevor Pontbriand – Architect for William J. Marsh (Applicant); Diane Tillotson – Attorney from Hemenway & Barnes LLP representing Donald and Gail Nogueira (Applicants); Richard Caron of 12 Pilgrims Path (Abutter); Michele Jolin (Applicant); Matt Cole – Builder for Michele Jolin (Applicant); Mark Hammer – Architect for Michele Jolin (Applicant)

Remote meeting convened at 5:30 pm, Monday, August 24, 2020, by Interim Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Board Action/Review

Administrative Action – Approval request by Diane C. Tillotson, Esq., Hemenway & Barnes LLP, for 10 Pilgrims Path, Donald and Gail Nogueira, Trustees of the Pilgrims Path Nominee Trust, Atlas Sheet 35, Parcel 112, pursuant to ZBA 2009-016 Decision. The Applicants request approval of the addition of three small windows to the second story of the north elevation of their home as required by condition 12 of the Amended Decision after Remand as filed with the Town Clerk on December 21, 2011, and recorded, a copy of which is enclosed herewith. As required, the north and south abutters have been notified by certified mail. Chair Hultin opened this discussion by announcing that an agreement had been reached by both parties of 10 and 12 Pilgrims Path respectively in this matter. Interim Town Planner and Counsel Carboni stated that a copy of the agreement prepared by Ms. Tillotson was forwarded to her and that she had forwarded it to the Members of the ZBA. Interim Town Planner and Counsel Carboni opined that the ZBA had two choices: 1. the ZBA could approve the windows as installed or 2. approve the windows subject to the parties' agreement. Ms. Tillotson commented that the agreement was the Applicants would install privacy film along the lower 40% of each window to guarantee the Abutters' privacy. Additionally, a copy of the agreement would be submitted along with the building permit application and the agreement is enforceable by both parties in civil court as well as the Building

Commissioner. Interim Town Planner and Counsel Carboni also noted that the ZBA was required to decide in this matter under the condition of the Remand of the Superior Court. Mr. Caron expressed his thanks and appreciation to the ZBA.

Chair Hultin made a motion to approve the windows subject to the parties' agreement.

Member Thornley seconded the motion.

So voted, 7-0, motion carries.

Ms. Tillotson and Mr. Caron thanked the Members and left the meeting.

Public Hearing (Continued)

2020-002/ZBA – William J. Marsh for property located at 30 Longnook Road, Truro, MA (Atlas Map 43, Parcel 121, Registry of Deeds title reference: Book 32127, Page 302). Applicant seeks a Special Permit under Section 30.7.A of the Truro Zoning Bylaw for demolition and reconstruction of a pre-existing single-family residence with a slightly enlarged footprint. Trevor Pontbriand identified himself as the Applicant's representative and provided background information along with plans. After Chair Hultin led a discussion among the Applicant, Members, Interim Town Planner and Counsel Carboni noted that the ZBA wanted to move forward on this Special Permit but condition it based upon the determination of the legality of a potential second residence on the property.

Vice Chair Todd made a motion to approve the Special Permit under G.L. Chapter 40A Section 6 and Zoning Bylaw 37A with the finding that the demolition and reconstruction is not detrimental and the following condition that existing kitchen facilities located above the garage be removed upon completion of the single-family residence.

Chair Hultin seconded the motion.

So voted, 6-0-1, motion carries.

Mr. Marsh thanked the ZBA for the Special Permit approval and Mr. Marsh departed the meeting with Mr. Pontbriand.

Public Hearing

Before the ZBA considered the matter of **2020-003/ZBA**, Member Lucy announced that he would recuse himself from the matter.

2020-003/ZBA – Michele Jolin and Kevin Downey for property located at 92 South Pamet Road, Truro, MA (Atlas Map 51, Parcel 58, Registry of Deeds Certificate of Title Number 192759, and Plan Number 16182H). Applicants seek a Special Permit under G.L. c. 40A, Section 6 and Truro Zoning Bylaw Section 30.7 for extension or alteration of nonconforming structure, where lot area, frontage, and setbacks are nonconforming. Mr. Hammer identified himself as the architect on the project and provided background on the project and application. Chair Hultin noted that the square footage calculations are needed and must be verified on the submitted plan, so Mr. Hammer agreed to submit that information. Chair Hultin also noted that the existing square footage is also missing from the plan and that a Septic Plan will be required by the Planning Board.

Vice Chair Todd made a motion to continue the matter of 2020-003/ZBA to September 21, 2020.
Chair Hultin seconded the motion.
So voted, 6-0-2, motion carries.

Ms. Jolin reviewed the required documents for the next meeting, thanked the ZBA Members, and left the meeting with Mr. Hammer. Member Lucy rejoined the ZBA meeting.

Approval of Minutes

Interim Town Planner and Counsel Carboni shared the minutes from the ZBA meeting on June 25, 2018, for ZBA approval.

Chair Hultin made a motion to approve the minutes from June 25, 2018, as written.
Member Thornley seconded the motion.
Member Townsend recused as she was not on the ZBA at that time.
Member Lucy recused as he was not on the ZBA at that time.
So voted, 4-0-3, motion carries.

Interim Town Planner and Counsel Carboni shared the minutes from the ZBA meeting on May 28, 2020, for ZBA approval.

Member Thornley made a motion to approve the minutes from May 28, 2020, as written.
Chair Hultin seconded the motion.
Member Lucy recused as he was not on the ZBA at that time.
So voted, 5-0-2, motion carries.

Interim Town Planner and Counsel Carboni shared the minutes from the ZBA meeting on June 25, 2020, for ZBA approval.

Member Lucy made a motion to approve the minutes from June 25, 2020, as written.
Chair Hultin seconded the motion.
So voted, 6-0-1, motion carries.

Chair Hultin reviewed the ZBA calendar and then asked for a motion to adjourn the meeting.

Chair Hultin made a motion to adjourn at 7:09 pm.
Member Dundas seconded the motion.
So voted, 6-0-1, motion carries.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

September 21, 2020 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Chris Lucy (Clerk); John Dundas; John Thornley; Heidi Townsend (Alt.); Darren Shedd (Alt.)

Members Absent: Fred Todd (Vice Chair)

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Michele Jolin (Applicant); Matt Cole – Builder for Michele Jolin (Applicant); Mark Hammer – Architect for Michele Jolin (Applicant)

Remote meeting convened at 5:30 pm, Monday, September 21, 2020, by Interim Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Public Hearing (Continued)

Before the ZBA considered the matter of **2020-003/ZBA**, Member Lucy recused himself from the matter.

2020-003/ZBA – Michele Jolin and Kevin Downey for property located at 92 South Pamet Road, Truro, MA (Atlas Map 51, Parcel 58, Registry of Deeds Certificate of Title Number 192759, and Plan Number 16182H). Applicants seek a Special Permit under G.L. c. 40A, Section 6 and Truro Zoning Bylaw Section 30.7 for extension or alteration of nonconforming structure, where lot area, frontage, and setbacks are nonconforming. Chair Hultin recapped the continuance of this matter from the previous ZBA meeting and noted that the information requested has now been received. Mr. Hammer reviewed the newly submitted information to include the new total square footage that is conforming and under the maximum allowance for a lot of this size. After a brief discussion and a couple of questions, Chair Hultin asked if there were members of the public on the call who were in favor, or opposition, of this application. Truro Office Assistant Sturdy commented that there was no one on the call so Chair Hultin asked for a motion to approve the application for Special Permit in this matter.

Member Dundas made a motion to grant a Special Permit for the application of 2020-003/ZBA and find that the alteration or extension will not be substantially detrimental to the neighborhood and that the alteration or extension will exist in harmony with the general purpose and the intent of the Bylaw.

Member Thornley seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin announced the approval of the Special Permit and Ms. Jolin and Mr. Hammer thanked the Members before departing the meeting. Member Lucy joined the meeting.

Board Action/Review

Chair Hultin led the review of proposed ZBA meeting dates for 2021 and asked Members for input to which there was none.

Chair Hultin made a motion to approve the proposed ZBA meeting dates for 2021 as indicated.

Member Shedd seconded the motion.

So voted, 6-0-1, motion carries.

Chair Hultin opened the review for the approval of the minutes from the July 9, 2020, meeting when there were technical issues. It was a remote meeting regarding the Cloverleaf Project. Chair Hultin asked for a motion to approve the minutes as written.

Member Shedd made a motion to approve the minutes from July 9, 2020, as written.

Member Townsend seconded the motion.

So voted, 6-0-1, motion carries.

Although not on the agenda, Chair Hultin reviewed Section 3 of the ZBA's application packet that didn't ask if the application adhered to the Town's Bylaw for square footage allowance. Chair Hultin brought this topic up since the matter decided upon earlier this evening was continued for 30 days as that information was not previously submitted and the Applicant's architect said that he was unaware that it was required. After a discussion with the Members, Chair Hultin commented that this information should be part of the application and Member Dundas will draft an addition for Section 3 of the ZBA's application packet that will be voted upon at the next meeting.

Chair Hultin reviewed the upcoming meetings for the next week to include the Cloverleaf Project.

Chair Hultin made a motion to adjourn at 5:55 pm.

Member Thornley seconded the motion.

So voted, 6-0-1, motion carries.

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

October 26, 2020 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Chris Lucy (Clerk); John Dundas; John Thornley; Heidi Townsend (Alt.)

Members Absent: Fred Todd (Vice Chair); Darrell Shedd (Alt.)

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant

Remote meeting convened at 5:30 pm, Monday, October 26, 2020, by Interim Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Board Action/Review

Chair Hultin reviewed and discussed with Members the clarification of lot coverage/square footage (reference Bylaw sections) regarding the ZBA Application and Procedure for Hearing that was last modified in July 2019. Chair Hultin commented that there have been recent applications which did not include gross floor area square footage nor dimensions on either the primary or secondary buildings. This is critical information as it is necessary to determine if the new construction exceeds maximum allowable square footage for the size of the lot as determined under the Bylaw. Member Dundas reviewed with the Members the language that he proposed could be added to Section 3 of the Application for Special Permit via Smartsheet (subject to approval and implementation by the Town) and stored on the Town's network. This action would ensure that Applicants confirm that they have accomplished all the requirements and their proposed projects adhere to local Bylaws 50.1 and 50.2. Member Townsend suggested that the addition of a ZBA checklist like the Planning Board checklist may be helpful. Member Dundas commented that the Smartsheet would keep all the information and reviewer information across multiple departments in one place which would be beneficial to Applicants and ZBA Members. Truro Office Assistant Sturdy added that a checklist would be helpful as not all Applicants may understand what is being requested. Member Townsend asked Members if there was a "cheat sheet" that shows an Applicant, based upon their project and desired outcome, the steps which must be taken, and Member Dundas stated this information was available online at the Town's website along with links. Member Dundas commented that Provincetown had a very useful artificial intelligence (AI)-based online form that creates the necessary pathway for Applicants based upon the Applicant's

project. Chair Hultin asked if there were members of the public who were on the call and who would like to offer comment on this topic and Caller #3 didn't identify themselves nor provide comment. Without objection from the Members, Chair Hultin asked Member Dundas to continue his work on a solution and report back to the Members.

Approval of Minutes

Before leading the review of the minutes, Chair Hultin commented the minutes to be voted upon were exclusively regarding the Cloverleaf Project.

Chair Hultin opened the review for the approval of the minutes from the July 16, 2020, meeting followed by a motion to approve the minutes as written.

Chair Hultin made a motion to approve the minutes from July 16, 2020, as written.

Member Townsend seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin opened the review for the approval of the minutes from the July 30, 2020, meeting followed by a motion to approve the minutes as written. Prior to the motion, Chair Hultin highlighted the Board of Health letter, a Planning Board letter that was submitted and discussed, the Energy Committee letter that was reviewed and submitted, the Climate Action Committee letter that was reviewed and submitted and discussed input from various people from the public.

Member Thornley made a motion to approve the minutes from July 30, 2020, as written.

Member Lucy seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin opened the review for the approval of the minutes from the August 20, 2020, meeting followed by a motion to approve the minutes as written. Prior to the motion, Chair Hultin highlighted that there was ample public comment, a review that was presented by DPW Director Cabral, a discussion with the Applicant about a modified roof structure to make the roofline lower.

Chair Hultin made a motion to approve the minutes from August 20, 2020, as written.

Member Thornley seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin opened the review for the approval of the minutes from the September 3, 2020, meeting followed by a motion to approve the minutes as written. Prior to the motion, Chair Hultin highlighted that the meeting was procedural only and to continue the meeting to a future date.

Chair Hultin made a motion to approve the minutes from September 3, 2020, as written.

Member Thornley seconded the motion.

So voted, 4-0-3 (Member Lucy abstained), motion carries.

Chair Hultin opened the review for the approval of the minutes from the September 10, 2020, meeting followed by a motion to approve the minutes as written. Prior to the motion, Chair Hultin highlighted a review of a Planning Board letter submittal, a discussion of wastewater and storm water treatment, a discussion of the Planning Board's recommendations regarding waivers, a discussion of the peer review

questions, a discussion of the revised roofline plans submitted for review along with public comment, and a review of the Rental Housing Property Management Plan.

Chair Hultin made a motion to approve the minutes from September 10, 2020, as written.

Member Lucy seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin opened the review for the approval of the minutes from the September 24, 2020, meeting followed by a motion to approve the minutes as written. Prior to the motion, Chair Hultin highlighted the letter of clarification from the Town Manager, a review of the responses to the peer review, a further discussion over sewage treatment system, a review of updated building plans, and introduced a discussion on the topic of moving waivers along with public comment.

Chair Hultin made a motion to approve the minutes from September 24, 2020, as written.

Member Lucy seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin opened the review for the approval of the minutes from the October 1, 2020, meeting followed by a motion to approve the minutes as written. Prior to the motion, Chair Hultin highlighted that the meeting was procedural only and only attended by Chair Hultin, Vice Chair Todd and Member Dundas. Chair Hultin noted that nothing substantial was discussed and they voted to move the meeting to a future date.

Chair Hultin made a motion to approve the minutes from October 1, 2020, as written.

Member Lucy seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin then asked Members for any other topics which they wanted to discuss. Member Thornley recognized Truro Office Assistant Sturdy and Noelle Scoullar for their work on the ZBA's minutes. Chair Hultin commented that they should be commended for their efforts.

Chair Hultin reviewed the upcoming meetings for the next couple of weeks and prior to Thanksgiving.

Chair Hultin made a motion to adjourn at 6:22 pm.

Member Lucy seconded the motion.

So voted, 5-0-2, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

November 23, 2020 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); John Dundas; John Thornley; Darrell Shedd (Alt.)

Members Absent: Chris Lucy (Clerk); Heidi Townsend (Alt.)

Other Participants: Barbara Carboni – Interim Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Patrick Coffey of Pratt Construction (Representative of Daniel F. Roche, Jr. - Applicant); Louise Briggs (Applicant); Bruce Bierhans (Attorney for Ms. Briggs); Dave Lajoie of Felco Engineering (Representative of Ms. Briggs); Elton Elperin (Architect and Representative of Ms. Briggs); Pam and Ross Blair (Abutters to Ms. Briggs – Letter of Opposition); Kevin Shea (Friend of Ms. Briggs – Letter of Support)

Remote meeting convened at 5:30 pm, Monday, November 23, 2020, by Interim Town Planner and Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Comment Period

No members of the public offered comment.

Public Hearing

2020-004/ZBA – Daniel F. Roche, Jr. for property located at 7 Coast Guard Road, Truro, MA (Atlas Map 14, Parcel 5, Registry of Deeds title reference: Book 13174, Page 117). Applicant seeks a Special Permit under Section 30.3.A.2 of the Truro Zoning Bylaw for a 2-story addition to an existing 3,018 net square foot residence on a lot located in the Seashore District containing three acres. Mr. Coffey presented the background and information on the application. Mr. Coffey commented that the unfinished basement should not have counted towards habitable space in the gross floor area calculation, and that for the last 17 years, the Applicant has incorrectly overpaid assessment fees for inhabitable space. Mr. Coffey then added that the dimensions in the previously submitted documentation had now changed. Chair Hultin asked Interim Town Planner and Counsel Carboni if a Special Permit application was necessary. Interim Town Planner and Counsel Carboni stated that since the proposed project at completion would now bring the residence to 4,330 square feet gross floor area and that would exceed the Bylaw standard of 3,600 square feet gross floor area (for the lot size) so a Special Permit could be granted. Interim Town Planner and Counsel Carboni further commented that the Planning Board had granted Site Plan and the draft decision that she prepared but instructed the Applicant to submit an updated Site Plan with a revised Zoning Table and dimensions. Interim Town Planner and Counsel Carboni stated that an updated Site Plan with the revised dimensions should be submitted by the Applicant to the Planning Board and

the ZBA. Interim Town Planner and Counsel Carboni opined that the ZBA could grant the Special Permit this evening and approve a decision subject to the Applicant's submission of the updated Site Plan. Interim Town Planner and Counsel Carboni further recommended that the basement space shall not be converted to habitable space. Interim Town Planner and Counsel Carboni, at Chair Hultin's request, then reviewed the Planning Board's draft decision that referenced the necessary submission of the updated Site Plan by the Applicant as well as the ZBA's draft decision that she prepared for tonight's meeting. Chair Hultin then asked for anyone who opposed this project to speak, and Truro Office Assistant Sturdy asked Kevin Shea if he was only listening to the hearing or would like to participate. Mr. Shea stated that he was on the line for the 8 Castle Road hearing. There was no stated opposition to this Special Permit by the public.

Vice Chair Todd made a motion to approve the Special Permit as drafted with the additional condition that the basement is not to be finished and used as habitable space and subject to the submission of updated Site Plan that is to be submitted to the Planning Board.

Member Shedd seconded the motion.

So voted, 5-0-2, motion carries.

Chair Hultin advised the Mr. Coffey of the approval of the Special Permit and Mr. Coffey thanked the ZBA Members upon departing the meeting.

Prior to the opening of the hearing regarding **2020-005/ZBA**, Member Shedd announced that he was recusing himself in this matter but stay on as a listener and private citizen only. Chair Hultin then asked Ms. Briggs if she a quorum of four ZBA Members was acceptable to her for a vote on this matter or if she would prefer a continuance. Ms. Briggs stated in the affirmative that the hearing could move forward this evening. Chair Hultin further added that he would be agreeable to conduct a poll vote prior to a roll call vote so Ms. Briggs would be given the opportunity to react based upon the hearing. Mr. Bierhans stated that this was acceptable.

2020-005/ZBA – M. Louise Briggs, TTE for property at 8 Castle Road, Truro, MA (Atlas Map 50, Parcel 145, Registry of Deeds title reference: Book 31161, Page 258). Applicant seeks a Special Permit under Section 30.7.A of the Truro Zoning Bylaw for construction of a 224 square foot 2nd floor addition over a pre-existing, nonconforming dwelling. The existing dwelling is 20.6' from the property line. The proposed addition would maintain the 20.6' setback. Mr. Bierhans presented the background and information on the application. Mr. Bierhans then asked Mr. Elperin and Mr. Lajoie to describe the project. Mr. Elperin described the project and addressed a previously stated objection from a neighbor regarding small windows facing the neighbor's property. Mr. Lajoie confirmed that the Cape Cod Commission approved the plan with condition for planting to deal with water remediation. Chair Hultin opened the discussion for Members to comment or ask questions of the Applicant. Vice Chair Todd stated that he was interested in hearing from the Abutters who are in opposition of the project. Member Thornley asked the Applicant why she proceeded with the project after learning about the opposition to which Mr. Elperin replied that the construction was on the same exact footprint and didn't reduce the existing setback of 20.6'. Chair Hultin then asked Mr. Shea for his input. Mr. Shea stated that he was a longtime friend of Ms. Briggs and that he fully supported Mr. Elperin's sensitive design for an antique Cape Cod home. Mr. Shea stated that this was not detrimental to the neighborhood. Chair Hultin thanked Mr. Shea for his comments and confirmed the ZBA's receipt of Mr. Shea's letter of support.

Chair Hultin then asked Pam and Ross Blair for their input. Mrs. Blair commented that she and her husband want to support Ms. Briggs' improvement of her property, but it is an issue of increasing the

intensity of what already exists such as the additional 7' on the gable as well as the preservation of a 65' Norway Maple tree that is adjacent to the property. Chair Hultin asked Mr. Lajoie about any considerations which were made and approved by the Cape Cod Commission regarding screening and the preservation of existing vegetation. Mr. Lajoie stated that there were no concerns, and the Cape Cod Commission was agreeable with the excavation plan. Interim Town Planner and Counsel Carboni stated that she had seen the Truro Conservation Commission video and there was a draft Order of Conditions. Chair Hultin asked Mr. Lajoie if he had any information about the draft Order of Conditions and Mr. Lajoie said that he did. Mr. Lajoie said that he had a copy of the Order of Conditions, and they were limited. Mr. Lajoie reviewed the Order of Conditions with the Members, the Applicant, and the Abutters. Chair Hultin asked if anyone on the call wanted to add additional comments or have any other questions and there were none. Mr. Elperin reiterated that the project is modest and will conform to other historical Truro homes. Member Dundas asked if there were other concerns other than the Norway Maple tree or two locust trees. In response, and as a compromise, Mrs. Blair suggested a slight movement of the position of the porch and gable but wanted Ms. Briggs to get the kitchen that she wanted in her home. Chair Hultin asked Mrs. Blair and Ms. Briggs if there was an agreement as to what would happen when the Norway Maple tree collapses. Ms. Briggs stated that the licensed arborist that she hired had suggested that 20% of the canopy that was across the Blair's property could be cut back and keep the tree balanced. Ms. Briggs said that Mrs. Blair would have her permission to do that at Mrs. Blair's expense. Chair Hultin stated that would be something the Applicant and Abutters could mediate later. Chair Hultin stated that the project design was very nice and reiterated that Special Permit allows for historical homes to be improved. Chair Hultin further stated that after all that he has heard and reviewed, he would be in favor of approving the Special Permit application. At this point, Chair Hultin took an informal poll as to how Members would vote, and all Members present (not including Member Shedd who had recused himself) indicated that they would be in favor of approving the Special Permit. Chair Hultin then asked Interim Town Planner and Counsel Carboni to review the Findings of Fact and Conditions with the Members, the Applicant, and the Abutters. After this review, Chair Hultin suggested that the two parties could discuss an agreement about screening and impact which Interim Town Planner and Counsel Carboni supported.

Chair Hultin made a motion to close the public meeting in the matter of 2020-005/ZBA.

Member Dundas seconded the motion.

So voted, 4-0-3, motion carries.

After the vote, Ms. Briggs as well as Mr. and Mrs. Blair departed the meeting.

Chair Hultin then recessed the meeting for five minutes at 7:35 pm and reconvened the meeting at 7:40 pm with the Members present.

Chair Hultin stated the allowance of a Special Permit issuance gives owners of pre-existing non-conforming homes a way to overcome that encumbrance through Special Permit. Chair Hultin and the Members discussed the Conditions for the Special Permit with Interim Town Planner and Counsel Carboni who added the Members' Conditions to the Special Permit.

Member Dundas made a motion to grant the Special Permit in the matter of 2020-005/ZBA as requested, approve the decision as drafted, and subject to the Architectural Plan dated November 6, 2020, and the revised Site Plan submitted November 18, 2020.

Chair Hultin seconded the motion.

So voted, 4-0-3, motion carries.

Chair Hultin announced that the Special Permit was granted with the conditions and findings as discussed and thanked everyone for their time and input. All other participants departed the meeting and Member Shedd rejoined the meeting as a Member.

Approval of Minutes

Before leading the review of the minutes, Chair Hultin commented the minutes to be voted upon were exclusively regarding the Cloverleaf Project and that he had read them previously. Chair Hultin added that the minutes were thorough and complete.

Chair Hultin opened the review for the approval of the minutes from the October 8, 2020, meeting, and the minutes from the October 22, 2020, meeting, followed by a motion to approve the minutes as written.

Member Dundas made a motion to approve the minutes from October 8, 2020, and October 22, 2020, as amended by the Members of the ZBA.

Chair Hultin seconded the motion.

So voted, 5-0-2, motion carries.

Board Action/Review

Due to time, and input from Interim Town Planner and Counsel Carboni, Chair Hultin and the Members decided to defer the review and discussion on the clarification of lot coverage/square footage (reference Bylaw sections) regarding the ZBA Application and Procedure for Hearing.

Chair Hultin made a motion to adjourn at 8:05 pm.

Member Thornley seconded the motion.

So voted, 5-0-2, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff