



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, February 28, 2022
TIME OF MEETING: 5:30 pm
LOCATION OF MEETING: Remote Meeting
www.truro-ma.gov

Open Meeting

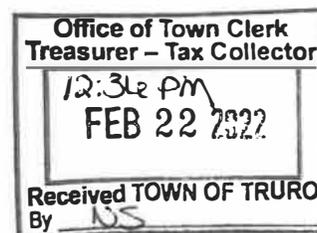
This will be a remote public meeting. Citizens can view the meeting on Channel 18 in Truro and on the web on the "Truro TV Channel 18" button under "Helpful Links" on the homepage of the Town of Truro website (www.truro-ma.gov). Click on the green "Watch" button in the upper right corner of the page. 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 **1-866-899-4679** and entering the access code **998-335-069#** 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/998335069>

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

2021-008/ZBA – Ivan J. and Kevin Becica for property located at 38 Longnook Road (Atlas Map 43, Parcel 120, Registry of Deeds title reference: Book 33638, Page 171). Applicant seeks a Special Permit under M.G.L. Ch. 40A, §6 and §30.7 and §50.1 of the Truro Zoning Bylaws for reconstruction of dwelling and garage on a lot nonconforming as to area. [Material in 1/24/2022 packet] and {New material in this packet}

2021-009/ZBA – Victor M. Rivera and Laura W. Bergan, Trs., The Rivera Bergan Family Trust for property located at 82 South Pamet Road (Atlas Map 51, Parcel 57, Registry of Deeds title reference: Book 34393, Page 200). Applicant seeks: (1) Special Permit under M.G.L. Ch. 40A, §6 and §30.7.A of the Truro Zoning Bylaw concerning replacement of pre-existing, nonconforming dwelling and new garage on a lot nonconforming as to area; and (2) Special Permit to exceed allowed Gross Floor Area in the Seashore District. [Material in 1/24/2022 packet] and {New material in this packet}

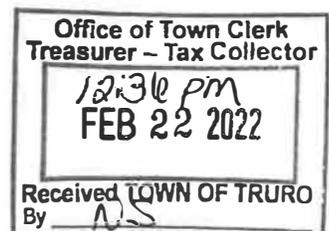
Approval of Minutes

- ◆ June 21, 2021
- ◆ August 23, 2021
- ◆ November 22, 2021
- ◆ December 20, 2021

Next Meeting

- ◆ Monday, March 28, 2022 at 5:30 p.m.

Adjourn



Elizabeth Sturdy

From: Dan Katz <trurodan@gmail.com>
Sent: Wednesday, February 2, 2022 11:43 AM
To: Elizabeth Sturdy
Subject: Fwd: ZBA

Ms. Carboni suggested I might send my note to her along to the Board. I do so in the hope that the ZBA will take into consideration the controlling concept that requests for relief from land use regulations not be based on *self inflicted hardship*.

Thanks for your attention

Dan Katz

18 Old King's H'way (Trurodan@gmail.com)

From: Barbara Carboni <bcarboni@truro-ma.gov>
Subject: RE: ZBA
Date: February 2, 2022 at 10:09:55 AM EST
To: Dan Katz <trurodan@gmail.com>

Mr. Katz, thank you for your input. If you would like, you can submit this as comment to the Board in the pending ZBA hearing. You can do this by emailing it to esturdy@truro-ma.gov. Note that the ZBA does not read submissions into the record.

Please let me know if you have any questions.

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

Sent: Tuesday, February 1, 2022 3:16 PM
To: Barbara Carboni <bcarboni@truro-ma.gov>
Subject: Re: ZBA

Ms. Carboni,

My comment to the ZBA concerns the 133 S. Pamet property and the Dennises request for relief from our current regulations that allow only one dwelling per buildable lot.

To save you reading time, I will summarize my concern...In point of fact, the ZBA must not grant the relief requested; all the reasons stated already are valid. However in my review, it startles me that no one responded to atty Zehnder's statement that "*The hardship for the applicant in not getting this relief is significant*" by stating the obvious fact the the *hardship is self inflicted* and, therefore, in no way qualifies for relief from current zoning regulations.

The Dennises knew full well that the cottage was in jeopardy; they knew full well that relief would be needed from current zoning regulations (ie, the purchase of the Whitelaw property for the sole purpose of moving the cottage to property they would own) and this knowingly self inflicted "*hardship*" must result in a denial of their application, even if all other presented reasons fail to influence the board.

Thanks for reading through this.

Be well,
Dan Katz

MEMORANDUM

To: Truro Zoning Board of Appeals

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: February 25, 2022

Re: February 28, 2022 meeting

2021-008/ZBA – Ivan J. and Kevin Beca, for property located at 38 Longnook Road, (Map 43, Parcel 120). Applicants seek a special permit under G.L. c. 40A, s. 6 and Sections 30.7 and 50.1 of the Truro Zoning Bylaw for reconstruction of a dwelling and garage on a lot nonconforming as to area. *CONTINUED PUBLIC HEARING*

At its meeting on February 9, 2022, the Planning Board granted Residential Site Plan Approval to the applicants subject to minor plan revision (correction of incorrect notation of ADU). The Planning Board having approved the Site Plan, the ZBA may now act on the special permit application before it. See Boespflug v. Community Housing Resources, Inc., 2008 WL 4570337 (Superior Court, 2008)(under Truro Zoning Bylaw, Planning Board site plan approval must precede any action on special permit).

Other permitting:

- Following a hearing held January 31, 2022, the Historical Commission found that the buildings were not “preferably preserved” and imposed no demolition delay.

Town Department comment:

- Planning Department comment: The roof height of the proposed dwelling and garage above grade should be specified. Elevations provided appear to be USGS elevations plus building heights: 45 feet 7 inches (house, see A-200) and 55 feet 1/8 inch (garage, see A-210).
- The Building Commissioner has provided comments in an email dated January 5, 2022, noting Code requirements for egress and fire safety applicable to the garage.

The following discussion is copied from Staff Memo to ZBA dated January 20, 2022

I. Existing Conditions and Proposed Project

38 Longnook Road is a 1.06-acre parcel in the Seashore District, nonconforming as to area (3 acres required) and conforming as to frontage. The lot has a long, triangular shape, narrowing from its 193.08 feet of frontage on Longnook to a point at the rear. Old King’s Highway runs along its western boundary. The existing single-story dwelling contains 1,248 square feet, and is located 27.6 feet from Longnook Road (nonconforming, where 50 feet required), and 90 feet (conforming) from Old Kings Highway. The side yard setback is conforming at 33.8 feet from the eastern boundary. A garage is located to the north of the dwelling. There are single family houses on adjacent and other neighboring parcels; other neighboring land is owned by the National Seashore.

The Applicant proposes to build a new dwelling, and a garage with second floor living space. The dwelling will be located 38 feet from Longnook Road (nonconforming, but lawfully so due to preexisting nonconforming structure); 50 feet from Old King's Highway (conforming); and 49.4 feet from the eastern boundary (conforming). The house will contain Gross Floor area of 2,266 square feet. See Sheet A-110, lower right. A garage will be constructed behind the house, at a conforming side setback of 25.5 feet to the eastern boundary. The first floor of the garage will contain a workshop, and the second story will include two bedrooms, bath and a living room. See Floor Plan – Garage, Sheet A-111. A deck will be located on the north side of the garage. The Gross Floor Area of the garage living space is indicated as 920 square feet. See Sheet A-111, lower right. The total proposed Gross Floor Area is 3,186 square feet. See Table on Site Plan, Sheet A-100. This is compliant with the 3200 square foot limit applicable to the 1.06 acre parcel. No new zoning nonconformities are created.

A driveway, small parking area near the house, and larger parking area adjacent to the garage are proposed. See Site Plan, Sheets A-100, A-101. A Landscape Plan with intended new and reused plantings is included in the Site Plans. See Sheet A-102. A swale is proposed in the area between the garage and house, flowing in a southerly direction. See Site Plan, Sheets A-100 and A-101. The septic system will remain in the same or nearly the same location. See Site Plan, Sheet A-100. 2

II. Special Permit under G.L. c. 40A, s. 6 and Bylaw Section 30.7

The subject lot is nonconforming as to area, 1.06 acres where three acres are required. 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 of modest size, constructed in a location close to the existing one, with massing sensitive to the streetscape and neighboring properties, 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).

2021-009/ZBA –Victor M Rivera and Laura W. Bergan, Trustees, Rivera Bergan Family Trust, for property located at 82 South Pamet Road (Map 51, Parcel 57). Applicants seek 1) a special permit under G.L. c. 40A, s. 6 and Sections 30.7 and 50.1 of the Truro Zoning Bylaw for reconstruction of a dwelling and garage on a lot nonconforming as to area; and 2) a special permit under Bylaw Section 30.3.1.A.2 to exceed the allowed Gross Floor Area in the Seashore District.
CONTINUED PUBLIC HEARING

At its meeting on February 9, 2022, the Planning Board granted Residential Site Plan Approval to the applicants subject to certain plan revisions. The Planning Board having approved the Site Plan, the ZBA may now act on the special permit application before it. See Boespflug v. Community Housing Resources, Inc., 2008 WL 4570337 (Superior Court, 2008)(under Truro Zoning Bylaw, Planning Board site plan approval must precede any action on special permit).

Other permitting:

- Following a hearing held June 24, 2021, the Historical Commission found that the buildings were not “preferably preserved” and imposed no demolition delay.
- On May 13, 2021, the Conservation Commission issued an Order of Resource Area Delineation, identifying boundaries of Bordering Vegetated Wetlands (BVW) and Coastal Bank. On July 30, 2021, the Commission issued an Order of Conditions relating to work within buffer areas to BVW and Coastal Bank. Standard conditions were imposed and a mitigation plan approved, including planting of native shrubs and saplings.

Town Department comment:

- Planning Department comment:
 - The height of the proposed garage should be specified.
 - The applicant should confirm that there will be no habitable area in the garage.

The following discussion is copied from Staff Memo to ZBA dated January 20, 2022

I. Existing Conditions and Proposed Project

82 South Pamet Road is a 2.92 acre (nonconforming) parcel in the Seashore District with conforming frontage (263 feet) on South Pamet Road. The existing dwelling contains 1,234 square feet and has conforming front (73 feet) and side yard (70 feet) setbacks. Several outbuildings, including a garage, are located northwest of the house; a shed is located northeast (all conforming to setback requirements). The property backs up to the Pamet River. There are single family houses on adjacent and other neighboring parcels; other neighboring land is owned by the National Seashore.

The Applicant proposes to build a new dwelling, garage, and shed in roughly the center of the lot. The house will be located 219 square feet from South Pamet Road, with the closest structure to the side lot line (the shed) at 33.1 feet. The dwelling is proposed at two and half stories, with decks, porches, and a greenhouse. The height of the proposed dwelling₁ is identified as 29 feet 8 inches on the Site Plan; 29 feet 11 inches on elevations, Sheet A-2.1; and 30’ “Max Building Height” on the plan set cover sheet. The garage appears on the plan set cover page and sheet A-2.1 to have a second

story, but no floor plans, dimensions, or intended use of such area is indicated. At the Planning Board hearing on Residential Site Plan Approval on January 19, 2021, applicant’s counsel stated that there would be no use of this space. The proposed Gross Floor Area is identified on the Site Plan at 3,857 square feet in total. This exceeds the maximum Seashore Gross Floor Area and will require a special permit from the Zoning Board of Appeals under Section 30.3.1.A.2. No additional Zoning nonconformities are created.

A cesspool will be removed and septic system installed; a new driveway will be constructed to serve the new house and garage.

II. Special Permit under G.L. c. 40A, s. 6 and Bylaw Section 30.7

The subject lot is nonconforming as to area, 1.06 acres where three acres are required. 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.”

The new house will be located 219 feet from the roadway, compared to the 73-foot front setback of the existing house. This increased distance to the street will, to some extent, mitigate the impact of the larger new residence on the streetscape and surrounding properties, and the Board may make the above findings under G.L. c. 40A, s. 6 and the Bylaw. As noted above, 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).

III. Special Permit under Bylaw Section 30.3.1.A.2

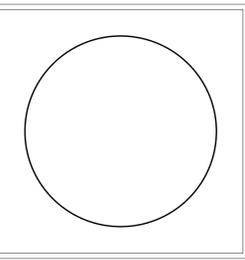
Section 30.3.1, Residential Building Size Regulations, limits total Gross Floor Area on lots in the Seashore District. The baseline Gross Floor Area permitted on a lot of three acres is 3600 square feet, “minus 200 sq. ft. for each contiguous acre less than 3 acres, as the case may be, where the square footage per acre specified above is pro-rated for a portion of an acre.” See Section 30.1.A.1.b. The applicant calculates the maximum permitted Gross Floor Area of this 2.92-acre parcel as 3584 square feet, and the Building Commissioner confirmed his agreement with this calculation.¹ The proposed Gross Floor Area of 3,857 square feet is 273 square feet over the permitted maximum.

¹ 3 acres - 2.92 acres = .08 acres. .08 acres x 200 square feet = 16 square feet. 3600 -16 square feet = 3584 square feet maximum allowable gross floor area.

Bylaw Section 30.3.1.A.2 provides that the maximum Gross Floor Area may be exceeded by special permit from the ZBA, up to 4600 square feet for a three-acre lot. This section of the Bylaw does not provide a standard or criteria for the Board to apply in considering a request to exceed Gross Floor Area, but Section 30.8 of the Bylaw does provide a standard applicable to all special permits:

“Special permits may be approved only after a finding by the Board of Appeals or Planning Board (as applicable, see use table) that the proposed use is in the opinion of the Board in harmony with the general public good and intent of this bylaw. The approval shall be subject to any other applicable provision of this bylaw and the Board may impose conditions, safeguards, and limitations on time and use, which in the Board’s opinion are necessary to comply with the intent and purpose of this bylaw.”

Zoning Bylaw Section 30.8. It is recommended that the Board apply the above standard to the applicant’s request to exceed the maximum permitted Gross Floor Area.



STUDIO OXEYE
 2766 Santa Cruz Way | Sacramento, CA 95817
 T (916) 250-2667
 hello@studiooxeye.com

Project Architect:
GENNIFER E MUÑOZ
 CA Licensed Architect # C-39807

Drawings are preliminary and not intended for construction unless stamped and signed by the Architect.

NOT FOR CONSTRUCTION

DATE: 2/11/22 3:17:46 PM
 PHASE: SD
 PREPARED BY: GEM

REVISION ISSUE DATE

PROJECT: BECICA RESIDENCE
 PROJECT CODE: 20BCB
 ADDRESS: 38 LONG NOOK RD
 TRURO, MA 02666

FLOOR PLAN - HOUSE

A-110

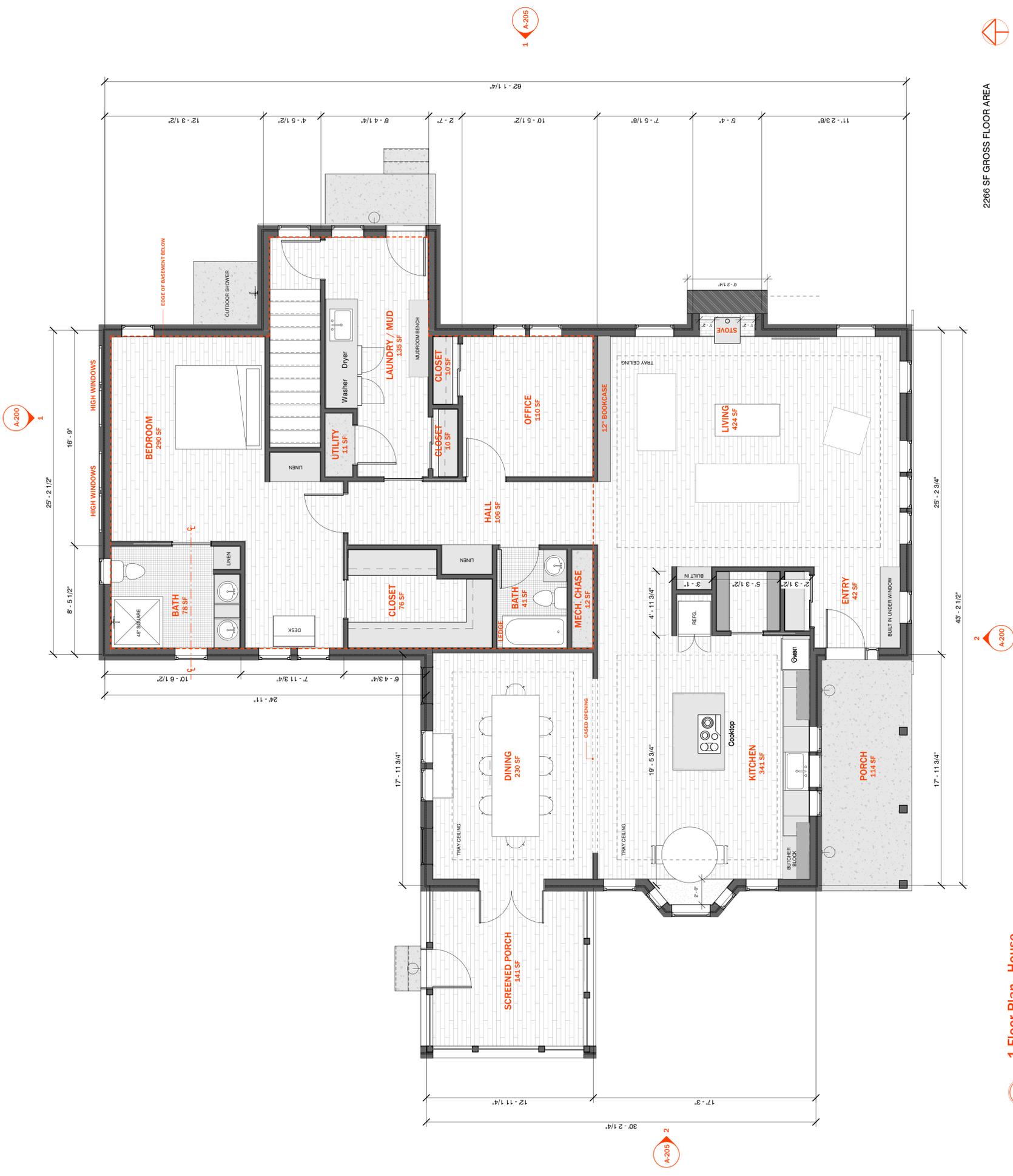
FLOOR PLAN NOTES

- CONTRACTOR IS TO NOTIFY ARCHITECT BEFORE INSTALLING THE WORK OF ANY DISCREPANCIES WITHIN THE DRAWING SET OR BETWEEN ARCHITECT AND CONSULTANT DRAWINGS. CONTRACTOR IS RESPONSIBLE FOR THOROUGHLY READING THE ARCHITECTURAL AND CONSULTANT DRAWINGS PRIOR TO BIDDING AND CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL ADDITIONAL COSTS DUE TO DISCREPANCIES IN THE CONSULTANT AND ARCHITECT DRAWINGS NOR FOR ANY ITEMS MISSED BY THE CONTRACTOR IN THEIR BID OF THE PROJECT.
- ALL EXTERIOR WALLS TO BE 2x6 STUDS PER STRUCTURAL DRAWINGS.
- ALL INTERIOR WALLS TO BE 2x4 STUDS W/ 1/2" GYPSUM EACH SIDE UNO OR AT INTERIOR CORNERS TO BE 2x4 STUDS W/ 1/2" GYPSUM EACH SIDE UNO OR AT INTERIOR CORNERS TO BE 1/2" GYP OVER TRIMMING. REFER UNO OR 2x4 FIRE RESISTIVE RATED CONSTRUCTION. SEE PLANS AND SECTIONS FOR CEILING HEIGHTS.
- PROVIDE PRE-HUNG DOORS AND NAIL FIN WINDOWS PER OWNER.
- ALL WOOD WITHIN 12" OF SOIL OR IN CONTACT WITH CONCRETE TO BE PRESSURE TREATED LUMBER.
- ALL GIRDDERS, BEAMS OR JOISTS TO BE NO. 2 GRADE OR BETTER. EXPOSED GIRDDERS, BEAMS OR JOISTS TO BE FINISHED WITH 1/2" GYPSUM OR SHALL BE FREE OF CRACKS AND DEFECTS.
- USE NON ABSORBENT SURFACE ON FLOOR AND WALLS ABOVE BATHTUBS AND SHOWERS EXTENDED NOT LESS THAN 6" A.F.F.
- USE EXTERIOR GRADE SHEATHING AT EXTERIOR LOCATIONS.
- ESCAPE AND RESCUE OPENINGS REQ. FOR ALL SLEEPING ROOMS, BASEMENTS, UNFINISHED ATTICS AND GARAGES SHALL BE MIN. 20 IN WIDE BY 24 IN HIGH, 57 SQ. FT. CEILING AREA, AND 20 IN HIGH.
- STAIRWAYS, RAILS AND DECKS TO COMPLY WITH 311.
- EXTERIOR DOORS TO HAVE MINIMUM 36" LANDING IN DIRECTION OF TRAVEL AND BELOW NOT INCLUDED. MIN. 6" RAMP FOR BATHROOMS AND LAUNDRY.
- HABITABLE ROOMS MIN. 70 SF (EXCEPT KITCHENS); CEILING MIN. 7'-0" 5'-0" AND BELOW NOT INCLUDED. MIN. 6" RAMP FOR BATHROOMS AND LAUNDRY.
- SWINGING, Bifold OR SLIDING DOORS, AND SIDELIGHTS PER WALKTHROUGH A. HAZARD: BOTTOM EDGE < 18 IN O.O.F., TOP EDGE > 36 IN O.O.F. B. GUARD RAILS AND RAILINGS. C. WET AREAS W/ LOWER EDGE GLASS < 60 IN O.O.F. (WITHIN 60 IN HORIZONTAL). D. < 3" ABOVE STAIR, LANDING OR RAMP WALKING SURFACE. E. 60 IN HORIZONTAL FROM BOTTOM STAIR WALKING SURFACE. F. 48 IN HORIZONTAL FROM BOTTOM STAIR WALKING SURFACE.
- CONCRETE AND MASONRY FOUNDATION WALLS SHALL EXTEND ABOVE THE FINISHED GRADE ADJACENT TO THE FOUNDATION AT ALL POINTS A MINIMUM OF 4 INCHES (102 MM) WHERE MASONRY VENEER IS USED AND A MINIMUM OF 6 INCHES (152 MM) ELSEWHERE.

FIRE PROTECTION NOTES

- SMOKE AND CO2 PER 314.11.
 - SLEEPING ROOMS AND ADJOINING AREA.
 - MIN. 1/2" LEVEL INCLUDING BASEMENTS AND HABITABLE ATTICS.
 - MIN. 200 FROM PERMANENTLY INSTALLED COOKING DEVICE.
 - HARDWIRED PLUS BATTERY BACKUP EXCEPT REMODELS AND ADDITIONS.

ROOM NAME	WIDTH	LENGTH	NET AREA
HOUSE UNCONDITIONED			
HOUSE F.F.			
LAUNDRY / MUD	6'-10"	19'-9"	135 SF
UTILITY	2'-2"	5'-0"	11 SF
CLOSET	1'-11"	5'-3"	10 SF
CLOSET	1'-11"	5'-3"	10 SF
ENTRY	6'-4"	6'-8"	42 SF
LIVING	14'-2"	29'-11"	424 SF
KITCHEN	10'-1"	33'-10"	341 SF
DINING	12'-7"	18'-4"	230 SF
OFFICE	10'-1"	10'-11"	110 SF
HALL	4'-10"	22'-0"	106 SF
BEREADOM	7'-11"	36'-7"	290 SF
BATH	5'-4"	14'-8"	78 SF
PANTRY	4'-7"	4'-11"	23 SF
CLOSET	1'-11"	4'-7"	9 SF
BATH	5'-5"	7'-8"	41 SF
CLOSET	5'-10"	13'-0"	76 SF
1926A SF			
OUTDOOR COVERED			
HOUSE F.F.			
SCREENED PORCH	11'-9"	12'-1"	141 SF
PORCH	6'-6"	17'-6"	114 SF
			256 SF
			2192 SF
GARAGE UNCONDITIONED			
GARAGE F.F.			
MUD	3'-6"	16'-4"	56 SF
CL	2'-0"	3'-6"	7 SF
GARAGE W/ 2			
BEDROOM	8'-11"	9'-10"	87 SF
LIVING	9'-10"	40'-10"	401 SF
BEREADOM	10'-6"	11'-5"	120 SF
BATH	5'-0"	14'-4"	71 SF
CLOSET	1'-9"	5'-6"	10 SF
CLOSET	2'-4"	3'-4"	8 SF
760 SF			
UNCONDITIONED			
GARAGE F.F.			
GARAGE	14'-8"	43'-5"	635 SF
WORKSHOP	8'-0"	28'-1"	223 SF
MECH	3'-6"	5'-7"	20 SF
			878 SF
			1638 SF
HOUSE F.F.			
MECH. CHASE	1'-8"	7'-8"	12 SF
			12 SF
			12 SF



2266 SF GROSS FLOOR AREA

1 Floor Plan - House

SCALE: 1/4" = 1'-0"

*Drawings are 50% of indicated scale if printed on 11" x 17".

These drawings are instruments of service and property of GEN M Architecture Inc. Information contained in these drawings is for use only on this specific project and shall not be transferred without the expressed written permission of GEN M Architecture Inc.



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

February 10, 2022

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

Via hand delivery

Re: Supplemental Zoning Board plan filing 2021-009/ZBA
82 South Pamet Road (51-57)

Dear Ms. Fullerton:

Please find enclosed for filing with the Zoning Board in 2021-009/ZBA one original and nine copies of the following three revised plans:

1. Zoning / Planning Site Plan stamped January 27 / 28, 2022;
2. North & South Elevations (Sheet A-2.1) dated February 1, 2022;
3. Electrical (Sheet V-1.2) dated February 1, 2022.

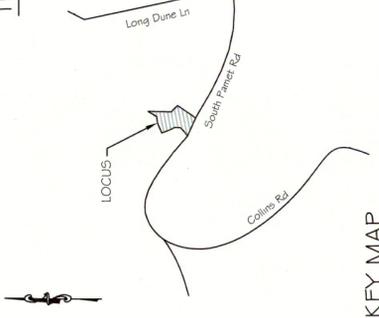
Thank you as always for your assistance. I remain –

Very truly yours,

Benjamin E. Zehnder

Enc.
cc. via email:
client
David Bennett
Barbara Carboni
Linda Cronin
John Z. Demarest, Jr.
Diane Kyle
Cameron Larson
Parlin Meyer
Lauren McKean
R. Todd Schwebel
G. Fred Vanderschmidt
Quinn Wilcox

A Legal Beacon since 1969



KEY MAP

REFERENCE

- PLAN TITLED "SKETCH OF LAND IN TRURO", PREPARED BY SLADE ASSOCIATES, INC., DATED JAN 1990 (PROPERTY BOUNDARIES)
- TRURO ASSESSOR'S MAP 51, PARCEL 57
- FLOOD ZONE A3 EL 14.0 FIRM PANEL 25001C0232J (EFFECTIVE 7/16/2014)
- THIS PROPERTY IS NOT IN A ZONE II OF A PUBLIC WATER SUPPLY AREA SERVICES BY PRIVATE WELLS
- DEED BOOK 34393 AND PAGE 200

NOTES:

- 1.) FOUNDATION PLANTINGS TO BE A MIX OF 80% NATIVE SHRUBS AND 20% MIXED NATIVE ANNUALS AND PERENNIALS FROM THE APPROVED PLANTING LIST.
- 2.) ALL LAWN AREAS WILL BE CONSERVATION APPROVED MIXED GRASS SEED.
- 3.) SPECIAL PERMIT RELIEF AS FOLLOWS:
 DOES NOT EXCEED 3600 S.F. FOR 3 ACRES
 SUBTRACT 200 S.F. FOR EACH CONTIGUOUS ACRE < 3 ACRES
 3 ACRES REQUIRED
 2.92 ACRES PROVIDED
 = 3 ACRES - 2.92 ACRES = .08 ACRES X 200 S.F. = 16 S.F.
 DWELLING SHALL BE 3600 S.F. - 16 S.F. = 3584 S.F. ALLOWED < 3857 S.F. PROVIDED RELIEF OF 273 S.F. REQUESTED
- 4.) LIMIT OF WORK PER APPROVED ORDER OF CONDITIONS.



SURVEY BY:

DEMAREST LAND SURVEYING
 338 MAYFAIR ROAD
 SOUTH DENNIS, MA 02660
 508-364-9049

REVISION: 01/26/2022: Added Limit of Work, Cons. Notes, Rev. Lot Coverage Notes, TOF.

Project:

VICTOR RIVERA & LAURA BERGAN
 15 LAKEVIEW STREET - ARLINGTON, MA 02496

Title:

**ZONING/PLANNING
 SITE PLAN**

82 SOUTH PAMET ROAD - TRURO, MA

BENNETT ENVIRONMENTAL ASSOCIATES, LLC.
 A NATURAL SYSTEMS UTILITIES COMPANY
 LICENSED SITE PROFESSIONALS, ENVIRONMENTAL SCIENTISTS, GEOLOGISTS, ENGINEERS
 1573 MAIN STREET - BREWSTER, MA 02631
 PHONE: (508) 896-1706 FAX: (508) 896-5109
 www.bennett-ca.com

DATE	SCALE	BY	CHECK	JOB NUMBER
12/15/21	As Noted	LJC	DCB	K11357DA.X.EV.901

LEGEND



EXISTING LOT COVERAGE: 25,116 SF 2.0%

DWELLING: 1345 SF
 GARAGE: 586 SF
 SHED #1: 193 SF
 SHED #2: 187 SF
 SHED #3: 85 SF
 SANDER STAND: 120 SF
 DRIVEWAY: 6746 SF
 PLANTINGS: NONE

PROPOSED LOT COVERAGE: 35,554 SF 2.8%

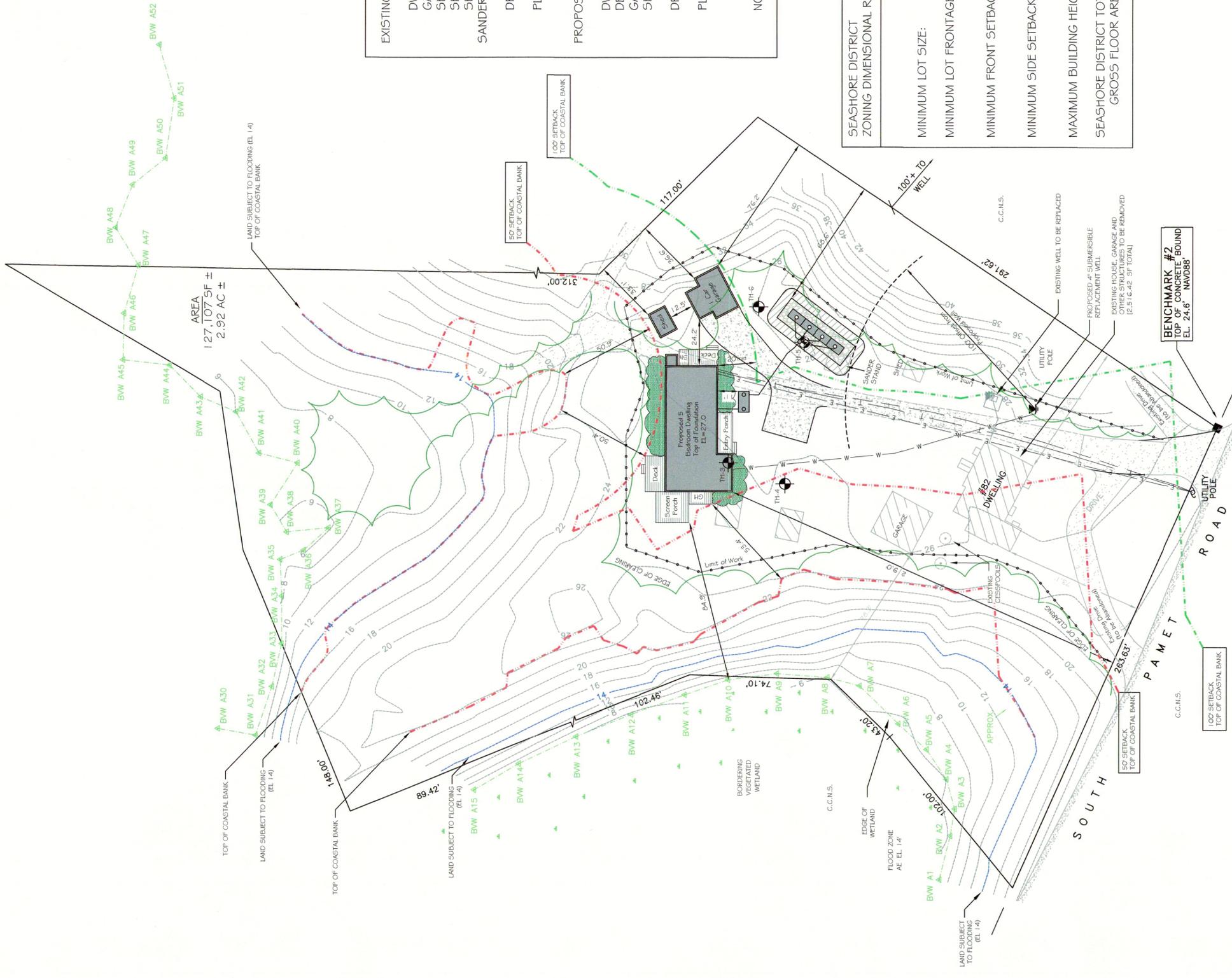
DWELLING: 1980 SF
 DECKS/PORCHES: 971 SF
 GARAGE: 463 SF
 SHED: 140 SF
 DRIVEWAY: 0 SF
 PLANTINGS: 980 SF (FOUNDATION)
 4,020 SF (RESTORATIVE PLANTINGS LEC)
 10,000+ SF (CONSERVATION MIX GRASS SEED)

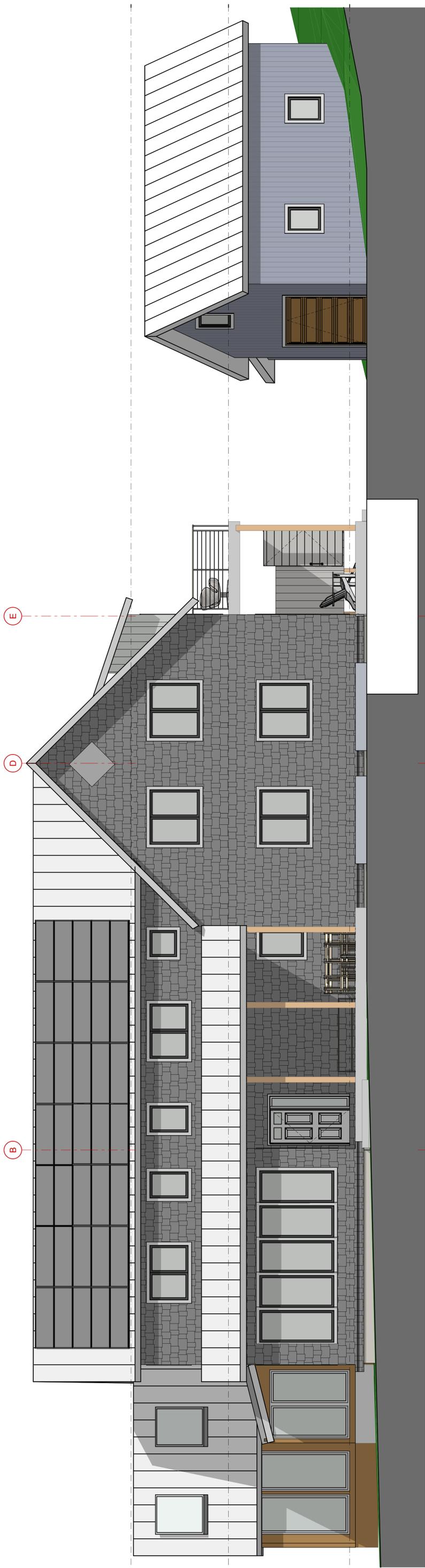
NOTE: ADDITIONAL INVASIVE PLANT REMOVAL UNDER OOC

SEASHORE DISTRICT ZONING DIMENSIONAL REQUIREMENTS

	REGULATION	EXISTING	PROPOSED
MINIMUM LOT SIZE:	3 ACRES	2.92 ACRES	2.92 ACRES
MINIMUM LOT FRONTAGE:	150'	263'	263'
MINIMUM FRONT SETBACK:	50'	73'	219'
MINIMUM SIDE SETBACK:	25'	70'	33'
MAXIMUM BUILDING HEIGHT:	30'	UNKNOWN	29'8"
SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	3,600	1,234	2010 (FF)+1846(SF) = 3,857

SITE PLAN





2 SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

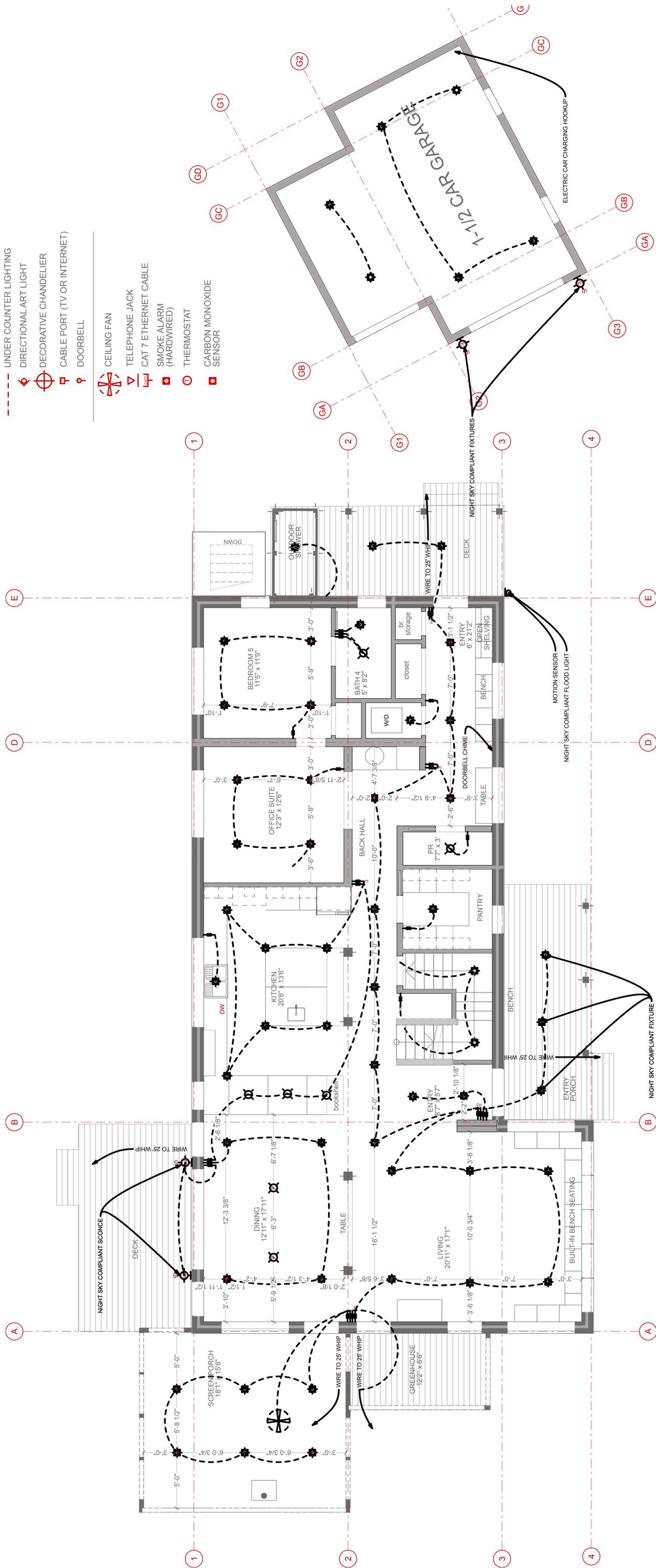


1 NORTH ELEVATION

SCALE: 1/4" = 1'-0"

ELECTRICAL SYMBOL LEGEND

-  GROUND FAULT INTERRUPT RECEPTACLE
-  WATER PROOF EXTERIOR RECEPTACLE
-  DUPLEX RECEPTACLE
-  DIMMER SWITCH
-  5-WAY SWITCH
-  4-WAY SWITCH
-  3-WAY SWITCH
-  SINGLE POLE SWITCH
-  PENDANT
-  BATH VANITY FIXTURE
-  EXTERIOR WALL SCONCE
-  CEILING FLUSH MOUNT FIXTURE
-  RECESSED FIXTURE - 4"
-  WALL MOUNT SCONCE
-  BATH CEILING FAN WITH LIGHT
-  BATH CEILING FAN ONLY
-  UNDER COUNTER LIGHTING
-  DIRECTIONAL ART LIGHT
-  DECORATIVE CHANDELIER
-  CABLE PORT (TV OR INTERNET)
-  DOORBELL
-  CEILING FAN
-  TELEPHONE JACK
-  CAT 7 ETHERNET CABLE
-  SMOKE ALARM (HARDWIRED)
-  THERMOSTAT
-  CARBON MONOXIDE SENSOR



1 MAIN LEVEL ELEC.

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



102 Exchange St., Portland, ME 04101 | 207-747-8822

NOT FOR CONSTRUCTION
PRODUCTION KICK-OFF MEETING

Project: **CUSTOM BRIGHTBUILT HOME**
Victor Rivera and Laura Beigen
82 South Pamet Road, Truro, MA

Drawing: ELECTRICAL
Scale:
Date: February 1st, 2022

Drawn by: FM
Revised: 2/1/22



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

June 21, 2021 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

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

Members Absent: Chris Lucy (Clerk); Heidi Townsend

Other Participants: Barbara Carboni – Town Planner and Counsel; Ben Zehnder (Attorney for the Applicant), Brad Malo (Engineer for the Applicant); Dan Costa (Architect for the Applicant)

Remote meeting convened at 5:30 pm, Monday, June 21, 2021, by 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. 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

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

Chair Hultin opened the hearing and gave Mr. Zehnder the opportunity to provide any information. Mr. Zehnder in his opening statement noted that only four Members of the ZBA were present this evening and he asked Chair Hultin if Chair Hultin could poll the Members present before a vote was taken on this matter. Chair Hultin and Town Planner and Counsel Carboni agreed with this request without objection.

Mr. Zehnder updated the Members that following the Members' questions from the previous hearing, answers were submitted by the Applicant in response to those questions. Additionally, Mr. Malo had submitted a revised Site and Grading Plan to show the heights of the walls in terms of proposed spot elevations and Mr. Costa provided plans with the walls with elevation heights along with the vegetation. The Applicant also submitted a Blue Flags Planting Plan prepared by Ms. Theresa Sprague (botanist) that indicated that the walls would be obscured by the plantings and natural vegetation. Mr. Zehnder hoped that the submitted materials answered the ZBA's questions and concerns.

Mr. Zehnder reminded the Members that the new house is more than 1,000 gross floor square feet less by right, the house will be oriented, so it meets all zoning requirements, setback, height requirement and the project is fully compliant. Mr. Zehnder emphasized the only reason for this hearing is to address the issue of the lack of street frontage that under the current Bylaw required a Special Permit. Mr. Zehnder added that this matter would be heard by the Planning Board this Wednesday, and he hoped that the Special Permit would be granted by the ZBA prior to Wednesday's meeting.

Chair Hultin thanked Mr. Zehnder and led the follow-up questions with Mr. Zehnder, Mr. Malo, and Mr. Costa.

Members asked additional questions surrounding the following topics: the wall calculations, height calculations for the elevation of the house, the pictures of the project site which were from the Applicant's original build, the inclusion of anti-wall falling fencing, the inclusion of the Blue Flags Planting Plan, the description of the hardscape patio at grade (Town Planner and Counsel Carboni noted that this was included in the draft decision as a condition for granting the Special Permit), the grade change from the front porch to the back of the home and the stability of the slope, adherence of the retaining walls to the 25' setback, the sequence of events for the demolition of the current home and the new construction and possible impact from vibrations to the ground activity and coastal bank, relocation of the septic system that will be further away from the coastal bank, the issuance of the Certificate of Occupancy for the new structure until after the old dwelling's demolition, the impact of the demolition process (to include the basement) on the erosion of the coastal bank around the project site, and the grading plan for the regrading of the existing home site.

At this point, Chair Hultin opined that based upon the discussion there was a consensus of support for the new plans and that it would be appropriate to poll the Members in attendance. There were no objections. The poll result was unanimous support by the Members. Town Planner and Counsel Carboni asked Chair Hultin to give an opportunity to members of the public who would like to comment on this matter. There were no comments offered by members of the public.

Chair Hultin and the Members then discussed the possibility of conditioning the sequence of events for demolition and construction for Special Permit approval to which Mr. Zehnder expressed his opposition to ZBA's imposing such a condition. Town Planner and Counsel Carboni said that she did not share Mr. Zehnder's opinion and that the ZBA could establish that condition if they decided it was necessary.

Member Shedd noted that there was a member of the public, Ms. Amy Wolff, who was attempted to ask a question via messaging as she had technical issues. Member Dundas read her question to the Members: Has the ZBA determined that the retaining walls will allow the movement of the sands up straight as the Cape Cod Conservation Commission (CCCC) will not review?

Mr. Zehnder opined that the CCCC has no jurisdiction over this project and that the movement of sands (and other environmental issues) do not fall under the ZBA's purview.

At this point, Ms. Amy Wolff (a neighbor from 97 North Pamet Road) joined the hearing by telephone and asked if not the ZBA, the Planning Board, or the CCCC, what body is examining the health of the coastal bank with the change of grade, addition of retaining walls and what the impact of the erosion on the coastal bank? Chair Hultin replied that the retaining walls would prevent the erosion. Vice Chair Todd then asked if Mr. Malo would like to respond and Mr. Zehnder stated his objection as this was not

an engineering question but a legal question. Chair Hultin asked Mr. Malo if he wished to respond, and Mr. Malo replied that retaining walls will have little or no negative impact on the environment.

Chair Hultin asked Town Planner and Counsel Carboni if there was any other member of the public who would like to comment, and she replied that there were none.

Chair Hultin then led the review of the application for the hearing, the proper submission of supporting materials and revised plans, and the draft decision document before a vote by the ZBA Members. Chair Hultin noted that it would be necessary to remove items from the draft decision document which are not part of the actual decision. Members discussed the potential removal of previously submitted documents which had been replaced by revised documents yet decided to keep them as part of the complete application file.

Town Planner and Counsel Carboni read a proposed motion that she recommended for the approval of the Special Permit. Vice Chair Todd suggested reading aloud the draft decision prepared by Town Planner and Counsel Carboni and allowed Members to make recommended edits. Chair Hultin invited Vice Chair Todd to begin starting with the Findings of Fact, Findings Under Zoning Bylaws, and Conditions with input from Mr. Zehnder.

A discussion ensued when Member Shedd noted that Mr. Zehnder earlier had stated that he had hoped that the Applicant received ZBA approval of the Special Permit before the Planning Board's hearing this Wednesday. Chair Hultin suggested an approval of the Special Permit this evening with the language that qualifies the approval of all the conditions of the Planning Board presuming they are not contradictory to the ZBA's findings to which Mr. Zehnder objected as each body's approval is based on separate Bylaws. Town Planner and Counsel Carboni cited Bylaw §70.4.B Residential Development that stated the Planning Board goes first in the process and Mr. Zehnder stated that was applicable for obtaining a building permit application and not a Special Permit. A review of the Bylaw was interpreted by Chair Hultin and Member Shedd that approval could be granted before the Planning Board hearing. Vice Chair Todd stated that he agreed with the conclusions made by the other Members. Chair Hultin asked if there were any other questions from Members and there were none. Chair Hultin took another poll of Members and Members unanimously indicated that they supported this project.

**Member Shedd made a motion to close the public hearing in the matter of 2020-009/ZBA.
Member Dundas seconded the motion.
So voted, 4-0, motion carries.**

Chair Hultin announced that the public hearing in the matter of **2020-009/ZBA** was closed.

**Member Dundas moved that in the matter of 2020-009/ZBA the Special Permit is granted, and approval of the draft decision as amended during this hearing.
Member Shedd seconded the motion.
So voted, 4-0, motion carries.**

Chair Hultin announced that the Special Permit was granted, and Mr. Zehnder thanked the Members for their decision before his departure. Chair Hultin thanked Town Planner and Counsel Carboni for her work this evening.

**Chair Hultin made a motion to adjourn at 7:21 pm.
Vice Chair Todd seconded the motion.
So voted, 4-0, 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

August 23, 2021 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

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

Members Absent:

Other Participants: Barbara Carboni – Town Planner and Counsel; Liz Sturdy (Truro Office Assistant); Lester J. Murphy (Attorney for the Applicant); John Casale (MarJon Builders, LLC; Builder for the Applicant)

Remote meeting convened at 5:30 pm, Monday, August 23, 2021, by 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. 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

2021-004/ZBA – Douglas Ambrose for property located at 49 Fisher Road, Truro, MA (Atlas Map 53, Parcel 24, Registry of Deeds title reference: Book 32678, Page 75). Applicant seeks a Variance under M.G.L. Chapter 40A, §10 and §50.1 of the Truro Zoning Bylaw for: (1) an above-ground platform for exterior air conditioning condensers constructed 21.7' from the side yard setback where 25' is required; and (2) front entry egress stair landing constructed 18.1' from the side yard setback where 25' is required.

Chair Hultin announced that there was request submitted by the Applicant to continue this hearing to September 20, 2021. Chair Hultin invited Mr. Murphy to provide background. Mr. Murphy stated that the Applicant has engaged an engineer who will research the possibility to reconfigure the lot line between two parcels, so the property is conforming and does not require a Variance. Chair Hultin stated that he had no issues with a continuance and then asked Members if they had any questions or concerns.

Member Lucy asked Mr. Murphy why there was not a request for a Variance for the southern line where the setback it is 24.8' and not 25'. Mr. Murphy asked Mr. Casale to answer the question. Mr. Casale stated that he had a conversation with Building Commissioner Rich Stevens who said not to worry about it. Member Lucy asked Mr. Casale to include the distance from the sideline to the actual building in the

future plan and Mr. Casale agreed to do so. No other Members asked any questions or expressed concerns about the continuance.

Chair Hultin noted that Member Shedd and Member Townsend were the new full-time Members of the ZBA were recently sworn in.

**Chair Hultin made a motion to continue the hearing for 2021-004/ZBA to September 20, 2021.
Vice Chair Todd seconded the motion.
So voted, 6-0, motion carries.**

Chair Hultin announced the continuance for **2021-004/ZBA**, and Mr. Murphy thanked the Members before his departure.

Approval of Minutes

Chair Hultin then opened the review of the minutes for the Cloverleaf Meeting held on January 14, 2021. Chair Hultin commented that the minutes were lengthy and that he didn't see anything that needed to be changed or amended. Members didn't see the need for edits but did comment on the great work that Ms. Sturdy did on the preparation of the minutes. Prior to the motion to approve the minutes, Chair Hultin announced that only the five full-time Members would vote on the motion.

**Member Shedd made a motion to approve the minutes as presented.
Member Lucy seconded the motion.
So voted, 5-0, motion carries.**

Chair Hultin announced that the minutes were approved. After confirming that this meeting's agenda was complete, Chair Hultin asked Members if they had any other business to discuss. Member Lucy asked the Members if any of them had received an email with a questionnaire from the Town Review Committee, through Survey Monkey, that required a response as soon as possible. Member Lucy asked Chair Hultin if the Members would reply as one body or individually. Town Planner and Counsel Carboni recommended to delay this discussion until the next meeting in September as it was not listed on this evening's agenda. Chair Hultin stated that he had already submitted his survey and the matter will be discussed further at the next meeting.

Chair Hultin announced that the next meeting was scheduled for September 20, 2021.

**Chair Hultin made a motion to adjourn at 5:46 pm.
Member Lucy seconded the motion.
So voted, 6-0, motion carries.**

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

November 22, 2021 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Fred Todd (Vice Chair); Heidi Townsend; Darrell Shedd, Virginia Frazier (Alt.)

Members Absent: Chris Lucy (Clerk)

Other Participants: Barbara Carboni – Town Planner and Counsel; Ben Zehnder (Attorney for the Applicants); Thomas P. and Kathleen Dennis, Jr. (Applicants); Theresa Sprague (Botanist for the Applicants); Kevin Whitelaw (Owner of Cape Rental LLC and 127 South Pamet Road); Lauren McKean (Planner for the National Seashore)

Remote meeting convened at 5:30 pm, Monday, November 22, 2021, by 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. Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment.

Public Hearing

2021-006/ZBA (SP, VAR) – Cape Rental LLC and Thomas P., Jr. and Kathleen C. Dennis for property located at 127 South Pamet Road, Truro, MA (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, Truro, MA (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). (Special Permit and Variances Applications)

Chair Hultin invited Mr. Zehnder to provide a brief summation of this matter for the benefit of the members of the public who may be watching this public hearing. Chair Hultin added that Mr. Zehnder will be provided the opportunity to provide more detailed information later. Mr. Zehnder explained, that due to coastal erosion, the Applicants want to move their dwelling on to the adjacent property through an agreement with that property owner, Mr. Whitelaw, of 127 South Pamet Road. To do this, Mr. Zehnder believed that the Applicants need a Variance from the side setback requirement as the relocation site is 38' from a roadway (South Pamet Road) and not 50' as required by the Bylaw and a Variance from the limitation of one single-family dwelling on the property. Chair Hultin asked Mr. Zehnder why there was reference to a Special Permit. Mr. Zehnder stated that he believed that it was no longer required as the current second structure on the Whitelaw property was not a dwelling.

When asked by Chair Hultin for her opinion on this matter, Town Planner and Counsel Carboni opined that she agreed with the Variance requests, but she added that a Special Permit would also be required for the relocation of the Applicants' dwelling as the Whitelaw property is less than 3 acres. Mr. Zehnder agreed with Town Planner and Counsel Carboni.

Mr. Zehnder stated that to receive relief from the Variance, the Applicants must demonstrate, under M.G.L. Chapter 40A, §10, that the Applicant would suffer hardship, financial or otherwise if the Variance was not granted. Mr. Zehnder also added that the soil conditions (ocean erosion) and topography entitles the Applicants to a Variance. Mr. Zehnder noted that not adding an additional dwelling to the neighborhood but preserving an existing single-family dwelling which will be a benefit to the Town. Mr. Zehnder stated that he hoped that the ZBA would approve the Variance requests and Special Permit.

Chair Hultin asked Members for comments and there were none. Mr. Dennis noted that the Dennis' dwelling was indeed a historical structure as it was previously Coast Guard Station #37. Mr. Whitelaw stated his support and had no concerns. Chair Hultin asked Ms. Dennis if she had anything else to add and she said that she did not.

Chair Hultin asked who had the rights to this dwelling and Mr. Zehnder said that this was like a condominium association where there are multiple residences on one lot. Mr. Zehnder added that legally, once the agreement is signed, the Applicants would have an easement right to move and maintain the house on Mr. Whitelaw's property. Additionally, the Applicant would have exclusively the right to occupy the house, share in the real estate cost of the property, pay their share of the property taxes, and pay their share for the operation of the septic system. Chair Hultin asked Mr. Zehnder what would happen to the old lot once the dwelling was relocated, and Mr. Zehnder replied that the pilings would be removed and that the lot could be used for parking until the vacant property becomes part of the beach.

Chair Hultin then opened the discussion with Members. Topics and concerns included: trenching plan for the existing septic system to the relocation site, the letter received by the ZBA from the National Park Service on this matter, ownership of Parcel #1 that goes over the property line, precedence of the permitting of a Variance by the ZBA to add a second dwelling to a property, models of erosion rates for the area, date of when the house was originally moved back on to pilings (2015), and the question was asked if the dwelling would be a year-round or seasonal home (it is a 3-season home).

Chair Hultin then asked if any members of the public had any questions or wanted to comment. Town Planner and Counsel Carboni recognized Mr. Jack Riemer who asked for evidence that all Abutters had been notified by mail regarding this matter. Town Planner and Counsel Carboni stated that the notifications went out by Town Hall as usual and there is no process to confirm receipt by each Abutter. Mr. Riemer then asked if the Truro Historical Commission (THC) had any issue with this proposal. Mr. Zehnder commented that this is a move of the structure and not an alteration so this would not fall under the purview of the THC. Mr. Riemer expressed concern if the THC had not been made aware of this proposal and Chair Hultin replied that the THC would be part of this process later.

Chair Hultin then stated that the ZBA was in receipt of a letter from the National Seashore with an opinion on this matter. Chair Hultin asked if there was a National Seashore representative on the call and Town Planner and Counsel Carboni stated that Ms. McKean was on the call. Chair Hultin expressed his dismay that the letter arrived last Friday, and he didn't receive it until today just before the meeting. The arrival of this information was past the ZBA's policy that established deadlines for submittals and Chair Hultin commented that he hoped the National Seashore would provide this information sooner in the future as it was unfair to the Applicants. Ms. McKean apologized and said that there was no deadline indicated for submission of material for today's hearing in the National Seashore's notification from Town Hall. Ms. McKean then requested to read the letter from the National Seashore District's

Superintendent Brian Carlstrom into the record. Chair Hultin agreed and Ms. McKean read the letter aloud for the record and the letter was screen shared by Town Planner and Counsel Carboni. Ms. McKean further commented if the ZBA approved this proposal it could set a negative precedence for the National Seashore and be detrimental to the neighborhood. Ms. McKean further added that the dwelling could be relocated elsewhere and cited an example when a property was moved from Truro's coastline to an interior location at Castle Hill.

Chair Hultin stated that approval in this matter was a long way away and he asked Town Planner and Counsel Carboni for an opinion should approval be granted in this matter. Town Planner and Counsel Carboni stated that the Board would not be obliged to approve another similar application should approval be granted in this matter.

Chair Hultin asked Mr. Zehnder if he would like to comment. Mr. Zehnder read the law (M.G.L. Chapter 40 §10) aloud about what constituted a "hardship". Mr. Zehnder noted that under this law "hardship" applied to the "petitioner" and didn't specify the "applicant". Chair Hultin asked for Town Planner and Counsel Carboni to seek additional legal advice as the law is written and if it has applicability in this matter. Town Planner and Counsel Carboni further stated that, in the end, the ZBA would have to decide on the requests for Variance and Special Permit independently.

Chair Hultin noted that the National Seashore District was opposed to property owners in the National Seashore District saving their homes in the event of coastal erosion activity. Chair Hultin asked Members if they thought approval of this proposal was detrimental to the neighborhood. Mr. Zehnder thanked Ms. McKean for her comments and noted that coastal erosion was going to lead to other issues such as affect roadways and utilities. Mr. Zehnder reiterated that the relocation and preservation of this dwelling was not going to be detrimental to the neighborhood. Ms. McKean replied that people had demolished their homes and removed in the past when there was no more land. Mr. Dennis commented that he appreciated what the National Seashore District does but that he didn't agree with the premise that approval of this proposal would be substantially detrimental to the neighborhood. Mr. Dennis stated that neighbors supported this proposal and deemed it to be an improvement to the neighborhood.

Vice Chair Todd noted that he saw how complicated an issue this was and that he didn't agree that this proposal would be detrimental to the neighborhood. Vice Chair Todd expressed concern over the precedence of the approval of a dwelling being moved to another property. Member Shedd reiterated his concern about the precedence of the relocation of another dwelling to another property especially after hearing Ms. McKean's comments. Member Townsend agreed with Vice Chair Todd's comments that the relocation of the house was not detrimental to the neighborhood and is curious about Town Counsel's opinion in this matter. Member Frazier agreed with Member Townsend's comments.

Chair Hultin noted that it was impressive that neighbors are supporting a neighbor's attempt to preserve their home as that is a good precedence, but he quickly noted that the ZBA had to follow existing law and Bylaws in all matters before the ZBA. Town Planner and Counsel Carboni agreed to the recommendation of a continuance in this matter and noted that the ZBA can decide to continue the hearing.

Ms. McKean thanked the Members for their consideration and encouraged the Members to look at the bay side and not only the ocean side as there were similar situations of dwellings approaching the coastal bank due to erosion.

Mr. Zehnder added that he supported the continuance to December 20, 2021, and asked Members to let him know if they have technical questions so he can have those experts present to answer questions at the upcoming meeting. Chair Hultin noted that the Site Plan was very clear. When asked, Members unanimously stated that they had no additional technical questions for the Applicants.

**Chair Hultin made a motion to continue the hearing of 2021-006/ZBA to December 20, 2021.
Member Shedd seconded the motion
So voted, 5-0, motion carries.**

Chair Hultin announced the continuance in the matter to December 20, 2021, and Mr. Zehnder thanked the Members before his departure. The Applicants thanked the Members and left the hearing.

Board Action/Review

Chair Hultin asked for a motion to postpone the Election of Officers until the next meeting when all Members would be present.

**Member Shedd made a motion to postpone the Election of Officers to December 20, 2021.
Vice Chair Todd seconded the motion.
So voted, 5-0, motion carries.**

Chair Hultin announced the approval of the motion to postpone the Election of Officers and then led the discussion and review of the 2022 meeting schedule. Member Townsend asked if there was any discussion to return to in-person hearings. Town Planner and Counsel Carboni replied that the Select Board has had initial conversations to consider hybrid meetings with the creation of a policy that outlines how hybrid meetings would be conducted.

**Chair Hultin made a motion to approve the ZBA's 2022 meeting schedule as presented.
Vice Chair Todd seconded the motion.
So voted, 5-0, motion carries.**

Chair Hultin announced the approval of the ZBA's 2022 meeting schedule and opened the review of the minutes from the ZBA meeting held on September 20, 2021. Members did not make any recommended edits or changes to the minutes.

**Member Shedd made a motion to approve the minutes from September 20, 2021 as presented.
Chair Hultin seconded the motion and announced as Member Townsend would not vote as she was not present at that meeting.
So voted, 4-0, motion carries.**

Public Comment Period

Chair Hultin asked if there were any members of the public who would like to make any comments. Town Planner and Counsel Carboni confirmed that there were no members of the public to offer comment.

Chair Hultin asked if Members had anything else to say and Town Planner and Counsel Carboni advised that any topics should be added to the next meeting's agenda. With Town Planner and Counsel Carboni's approval, Member Townsend asked an administrative question. Member Townsend asked if there would be an additional meeting with the Select Board as time had run out during the previous joint session without covering all the topics on the agenda. Town Planner and Counsel Carboni replied that she will check with the Select Board and report back to the Members.

Chair Hultin announced that the next meeting was scheduled for December 20, 2021.

Vice Chair Todd made a motion to adjourn at 6:59 pm.

Member Shedd seconded the motion.

So voted, 6-0, motion carries.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alexander O. Powers". The signature is written in a cursive style with a large, sweeping initial "A".

Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

December 20, 2021 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

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

Members Absent:

Other Participants: Barbara Carboni – Town Planner and Counsel; Liz Sturdy – Truro Office Assistant; Ben Zehnder (Attorney for Thomas P. and Kathleen Dennis, Jr. - Applicants); Thomas P. Dennis, Jr. (Applicant); Lauren McKean (Planner for the National Seashore); Justin Perrotta (Attorney for Sarah Lutz and John Van Rens – Applicants); Sarah Lutz and John Van Rens (Applicants); Scott Phillips, Fauzia Khanani, and Sera Ghadaki (Architects for Sarah Lutz and John Van Rens); Stephanie Sequin (Surveyor and Engineer for Sarah Lutz and John Van Rens); Fred Gaechter (Chair of the Truro Conservation Trust and Abutter to the Applicant)

Remote meeting convened at 5:30 pm, Monday, December 20, 2021, by 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. 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

Chair Hultin asked if there was any member of the public who wanted to make a public comment and there were none.

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, Truro, MA (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, Truro, MA (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). (Special Permit and/or Variance Applications) to add a second dwelling unit onto a lot from an adjacent lot.

Chair Hultin provided an overview of last month's hearing and stated that the ZBA had presentation by Mr. Zehnder, an extensive discussion, and the ZBA had now received two letters from the National Seashore on this matter. Chair Hultin invited Mr. Zehnder to provide an update and Mr. Zehnder announced that his clients had purchased the property at 127 South Pamet Road from Cape Rental LLC last Friday. Mr. Zehnder noted that Mr. Dennis was also participating in tonight's hearing. Mr. Zehnder further stated the Applicants decided to purchase the property as it was the best option to save the

dwelling located at 133 South Pamet Road. Mr. Zehnder stated that ZBA had indicated at last month's hearing that both a Special Permit and Variance were required. Mr. Zehnder stated that he had reviewed case law in Massachusetts regarding hardship. Mr. Zehnder noted that he did not disagree with Town Planner and Counsel Carboni's interpretation of the same case law. It was Mr. Zehnder's hope was that the ZBA would grant the Special Permit and Variance to preserve such a historical structure and allow the Applicants to keep the dwelling in a safe location.

Chair Hultin opened the discussion with Mr. Zehnder specifically on the point of whether this was a case of change of use for two-family use on the property. Mr. Zehnder argued that the structures were not being combined such they are multi-family dwellings, and that the zoning Bylaw allows one dwelling per lot. Mr. Zehnder added that this is a use classification as the same number of dwellings are in the area, being operated in the same way, and being lived in the same way. Town Planner and Counsel Carboni said that she and Mr. Zehnder on most aspects of the Bylaw but that the addition of the second dwelling on the lot makes it a multi-family situation. Town Planner and Counsel Carboni agreed with Mr. Zehnder that a use Variance was required. Member Shedd asked why the Applicants needed a second dwelling on the property and Mr. Dennis answered that he wanted to safeguard the home and prevent it from being demolished. Member Shedd expressed concern that the ZBA is being asked to create a precedence for a Special Permit or Variance under a condition of hardship in the National Seashore. Vice Chair Todd stated that he shared the concerns expressed by Member Shedd and the hardship affects 133 South Pamet Road and not 127 South Pamet Road. Vice Chair Todd also expressed concerns about the septic system and utilities as more land is naturally eroded. Member Townsend shared the same concerns as Member Shedd and asked if the two properties could be combined or subdivided by the same owner. Mr. Zehnder noted that the septic systems was designed to handle the anticipated erosion and that the properties could be combined to eliminate the lot line but there could still be an issue of two dwellings on the same property. Town Planner and Counsel Carboni added that she would want an opinion from the Building Commissioner in terms of how he interpreted the Bylaw. Mr. Zehnder was unsure if subdivision of the lots would be permissible due to setback requirements. Member Frazier noted that this matter was very confusing and expressed that a closer examination of what permit would be required. Mr. Zehnder stated that there would be a shortage of 6.45' of the required 300' frontage for two lots. Vice Chair Todd stated that the two dwellings would also push the allowable of gross floor square footage in the Seashore District and would have to go in front of the Planning Board. Mr. Zehnder replied that the Building Commissioner stated that this matter did not require a review by the Planning Board as no new structure was being built nor was there an increase in either dwelling's gross floor area square footage. Mr. Dennis commented that they had only seven days to purchase the property and was hopeful that an acceptable solution would be approved by the ZBA. Chair Hultin commented that based upon the questions and concerns expressed by the Members that a Variance nor a Special Permit would be granted. Chair Hultin asked Mr. Zehnder if he would like to request a continuance to explore other solutions or withdraw the applications without prejudice. Mr. Zehnder stated that he would be in favor of a continuance for thirty (30) days in this matter. Ms. McKean asked to be recognized and noted that the multi-family use is still an issue for the National Seashore. Member Shedd asked if the most recent letter from the National Seashore was added into the record and Town Planner and Counsel Carboni confirmed that it was and it was included in the Members' packet for this evening's hearing. Chair Hultin offered Mr. Zehnder to request a continuance to January 24, 2022, at 5:30 pm and Mr. Zehnder made the request to do so.

Chair Hultin made a motion to continue the hearing of 2021-006/ZBA to January 24, 2022.

**Vice Chair Todd seconded the motion.
So voted, 5-0, motion carries.**

Chair Hultin announced the continuance in the matter to January 24, 2022, and Mr. Zehnder thanked the Members before his departure. The Applicants thanked the Members and left the hearing.

Member Lucy joined the meeting prior to the start of the Public Hearing for **2021-007/ZBA (SP)**.

Public Hearing

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

Chair Hultin invited Mr. Phillips to speak who introduced the other architects and representatives for the Applicant. Mr. Phillips provided his professional background along with his ties to coastal Massachusetts.

Mr. Phillips then reviewed the Applicant's packet and noted that the proposed project will not be detrimental to the current neighborhood, nor will traffic be increased in the area. Mr. Phillips stated that the density of the new home will be smaller than the current home. According to Mr. Phillips, the project will not increase the current number of three (3) bedrooms, the current gross floor area square footage is 2,280 square feet and the proposed gross floor area is 2,314 square feet, and the proposed garage will be a 700 square foot 2-car garage replacing a current 900 square foot 3-car garage and therefore decrease the gross square footage of the structure by a total of 170 square feet. Mr. Phillips added that the proposed home will be further away from the road and the design of the new modest home will maintain the character and charm of Cape Cod. Mr. Phillips said that the new updated septic system will be further away from the wetlands. Mr. Phillips then provided an overview of the Site Plan along with comments about problematic characteristics of the home and garage to include the poor original construction of the home in 1962 as well as the obstruction of beautiful views.

Mr. Phillips said during his presentation of the new Site Plan, the proposed new home will be 71' further away from the road, the Applicant will reuse most of the driveway and that will save existing trees and vegetation, and the relocation of the septic system that is further away from the wetlands.

Chair Hultin commented that proposed plan was architecturally pleasing but the issue for a Special Permit surrounds the adequacy of the street. Mr. Perrotta replied that the issue with Cooper Street created the nonconformity as it is not wide enough. Mr. Perrotta added that both existing and new structures were compliant with the Bylaw. Mr. Perrotta commented that there will be no additional traffic on the road. Chair Hultin, along with Mr. Perrotta, noted almost unanimous letters of support from the Abutters and not one letter of objection. Vice Chair Todd noted that the police chief had no concerns when given the opportunity to comment on the project so Vice Chair Todd would support granting of the Special Permit. Member Shedd said that this was a wonderful project and that he would also support the project. Member Frazier stated that she would have no problem to grant a Special Permit. Member Townsend said that the presentation was very good and that the neighbors are supportive of the project. Member Lucy commented that Cooper Road is a 40' wide road and that the issue was the original construction, drainage, and pitch of the road. Member Lucy added that he was in

favor of the granting of the Special Permit. Chair Hultin also expressed support for the granting of the Special Permit in this matter.

Chair Hultin then asked if there was a member of the public who would like to voice opposition to the granting of the Special Permit in this matter and there were none. Mr. Gaechter asked Chair Hultin to be recognized to voice his support for the granting of the Special Permit as an Abutter. Mr. Gaechter favorably commented that the Applicant was doing great things to improve the property while preserving the environment.

Chair Hultin announced that only the regular Members of the ZBA would vote on a motion to grant a Special Permit in this matter.

Vice Chair Todd made a motion to grant a Special Permit in the matter of 2021-007/ZBA (SP) and due to the nonconformity of Cooper Road, the Board finds that Cooper Road is adequate to access for first responder vehicles such as in past cases, the proposed project does not add traffic, the proposed project will be nominally larger than the existing structure, the relocation of the septic system will be further away from the protected wetlands, and therefore, the granting of a Special Permit will not be substantially more detrimental than the current structure to the neighborhood and the alteration will exist in harmony within the general purpose of the Bylaw.

Chair Hultin seconded the motion.

So voted, 5-0, motion carries.

Chair Hultin announced the granting of the Special Permit and the Applicant's representatives thanked the Members and departed the hearing.

Board Action/Review

Chair Hultin opened the discussion for the Election of Officers. Chair Hultin confirmed with Vice Chair Todd that he did not wish to be nominated as the Chair due to health reasons. Chair Hultin announced the position of Vice Chair would also be elected tonight and the position of Clerk would be postponed. Member Shedd commented that in his viewpoint that he would nominate Chair Hultin for one more year and Member Lucy seconded it. Vice Chair Todd noted what a great job that Chair Hultin has done and Chair Hultin said that he was humbled by the supportive comments, and he would accept a nomination to lead the ZBA for another year as there was still a vacancy for an alternate Member. Vice Chair Todd then nominated Member Lucy to succeed him as the Vice Chair. Chair Hultin asked if there were any other nominations for Vice Chair and there were none.

Vice Chair Todd make a motion to nominate Member Lucy as Vice Chair of the ZBA.

So voted, 5-0, motion carries.

Member Shedd made a motion to nominate Chair Hultin as the Chair of the ZBA for another year.

So voted, 5-0, motion carries.

Chair Hultin announced the election of Vice Chair Lucy and his re-election as Chair. Chair Hultin then reiterated the postponement of the election for the Clerk position on the ZBA without objection as the Members could vote on this anytime in the future after it was determined that it was part of the Board.

Approval of Minutes

Chair Hultin stated that he didn't have an opportunity to review the minutes for approval but noted that they were very extensive and old. Speaking for himself, Chair Hultin said that he didn't want to approve the minutes. Member Shedd announced that he had read the minutes and was comfortable to vote. Member Todd said that he was comfortable and happy to approve the minutes. Vice Chair Lucy said that he could vote on the minutes for those meetings for which he was in attendance. Member Townsend stated that she would be comfortable as well voting for approval of the minutes for the meetings for which she was in attendance. Member Frazier, as an alternate and newly elected to the ZBA, would not vote on the motion for the approval of minutes.

Member Shedd made a motion to approve the minutes for July 22, 2020, July 27, 2020, August 24, 2020, September 21, 2020, October 26, 2020, and November 23, 2020, as presented.

Vice Chair Lucy seconded the motion.

So voted, 4-0-2 (Chair Hultin and Member Frazier)

Chair Hultin announced the approval of the aforementioned minutes, the next meeting was scheduled for January 24, 2022, at 5:30 pm, and that there may be new material in the matter of **2021-006/ZBA (SP, VAR)** at the next meeting. Chair Hultin wished everyone a Merry Christmas and a Happy New Year.

Chair Hultin made a motion to adjourn at 6:49 pm.

Vice Chair Lucy seconded the motion.

So voted, 6-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff