

**TRURO PLANNING BOARD AGENDA**  
**TUESDAY, July 18, 2017 – 6:00 p.m.**  
**Truro Town Hall, 24 Town Hall Road, Truro**

**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.

**Temporary Sign Permit (2 applications)**

**Truro Center for the Arts at Castle Hill** – seeks approval of two applications for 30 day Temporary Sign Permits pursuant to §11 of the Truro Sign Code for:

- a. One sign 48" by 36" to be placed on Route 6 at 3 Edgewood Way for an event to be held on July 28, 2017, sign to be placed on July 24<sup>th</sup> and removed on July 31<sup>st</sup>.
- b. Five signs 33" by 22" or 48" by 36" to be placed at Route 6 at Castle Road, corner of Truro Central and Castle Roads, 10 Meetinghouse Road, median @ Pamet Road exit and Route 6 and Route 6 at 3 Edgewood Way for an event to be held on August 12, 2017, signs to be placed on August 7<sup>th</sup> and removed on August 14<sup>th</sup>.

**Temporary Sign Permit (2 applications)**

**Friends of the Truro Library** – seeks approval of two applications for 30 day Temporary Sign Permits pursuant to §11 of the Truro Sign Code for two signs, one 27" by 18" located at Snow's Park and one 2 ½ feet by 6 feet located on Rt. 6 near the Library. For the August 9, 2017 event signs will be placed on July 31, 2017 and removed on August 10, 2017. For the August 10, 2017 event signs will be placed August 1, 2017 and removed August 10, 2017.

**Continued Public Hearing - Residential Site Plan Review**

**2017-006SPR Christopher and Jane Clark**, seek approval of an application for Residential Site Plan Review pursuant to §70.4 of the Truro Zoning Bylaw for demolition of an existing dwelling and construction of a new dwelling on a pre-existing nonconforming developed lot in the Seashore Zoning District. The property is located at 1 Higgins Hollow Road, Map 46 Parcel 289. Hearing continued from June 27, 2017.

**Continued Public Hearing - Commercial Site Plan Review**

**2016-008SPR Maria Kuliopulos** seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map 39 Parcels 131, 158. Hearing continued from March 7, 2017, May 2, 2017, June 6, 2017 and June 27, 2017.

**Continued Public Hearing - Definitive Subdivision Plan**

**2016-010PB Stephen Walsh, et al**, have filed an application for approval of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located on Walsh Way, Walsh Way Extension and Valentine Lane, Map 43, Parcels 7, 8, 9, 10, 134 & 135. The plan would widen existing roadways with no new lots created. Hearing continued from September 6<sup>th</sup>, September 20<sup>th</sup>, November 2<sup>nd</sup> and December 6, 2016 and February 7, March 7, April 11, 2017 and June 6, 2017.

**Continued Public Hearing - Definitive Subdivision Plan**

**2017-002PB Claire A. Perry, Trustee**, has filed an application for approval of a Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property

located 27 Perry Road, Map 45, Parcel 144. A preliminary subdivision plan was approved on June 30, 2016. Hearing continued from June 27, 2017

**Public Hearing – Definitive Subdivision Plan**

**2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers (by Nickerson Realty Corporation, applicant)** has filed an application for approval of a Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located at 25 & 25A Pond Road, Map 36, Parcels 35 & 39. A preliminary subdivision plan was approved on March 15, 2016.

**Discussion**

**Board Workshop**, possible program contents

**Review and Approval of Meeting Minutes**

June 27, 2017 Regular Meeting

**Reports from Board Members and Staff**

Acting Town Planner report.

**Meeting Dates and Other Important Dates**

August 1, 2017 (Tues.) – Regular Meeting

August 15, 2017 (Tues.) – Regular Meeting

September 5, 2017 (Tues.) – Regular Meeting

September 19, 2017 (Tues.) – Regular Meeting

**Adjourn**



Truro Planning Board  
Notice of Public Hearing  
July 18, 2017

The Truro Planning Board will hold a public hearing at 6:00 PM on Tuesday, July 18, 2017 at the Truro Town Hall, 24 Town Hall Road, Truro, on the following:

**2017-003PB – Kristen A. Hall, Conservator for Steven F. Rogers (by Nickerson Realty Corporation, applicant)** has filed an application for approval of a Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located at 25 & 25A Pond Road, Assessor's Map 36, Parcels 35 & 39. A preliminary subdivision plan was approved on March 15, 2016.

Copies of the application and plans are available for review at the Planning Department Office, 24 Town Hall Road, Truro, MA 02666.

Steven Sollog, Chair

# TOWN OF TRURO



# PLANNING BOARD

## Application for Temporary Sign Permit

Pursuant to Section 11 of the Truro Sign Code

Fee: \$25.00

Office of Town Clerk  
Treasurer - Tax Collector

JUN 29 2017

\$25.00 fee paid

Received TOWN OF TRURO  
By: *[Signature]*

Applicant Name: Truro Center for the Arts at Castle Hill Date: 6/27/17

Applicant Contact Information: P.O. Box 756 Truro, MA 02666  
Mailing Address

508-349-7511 Alicia @ castlehill.org  
Phone Email

Number of Signs Requested: Single Sign

Temporary Sign Dimensions: Height 48" Width 36" Please attach a "to scale" copy of the proposed sign(s).

Location(s) of Proposed Temporary Sign(s): Rt. 6 at 3 Edgewood Way  
Truro, MA 02666

Map(s): \_\_\_\_\_ Parcel(s): \_\_\_\_\_ Please use additional sheet(s) for multiple locations

Date(s) of the Event in Which the Sign is Intended: July 28, 2017

Date When Sign(s) will be: Installed: July 24, 2017 Removed: July 31, 2017

Name and Address of Property Owner(s) Where Temporary Sign(s) to be located:

Truro Center for the Arts at Castle Hill P.O. Box 756 (10 Meetinghouse Road) Truro, MA  
Name Mailing Address

508-349-7511 Cherie@Castlehill.org  
Phone Email

Alicia Maacki Sen 6/27/17  
Applicant Signature Date

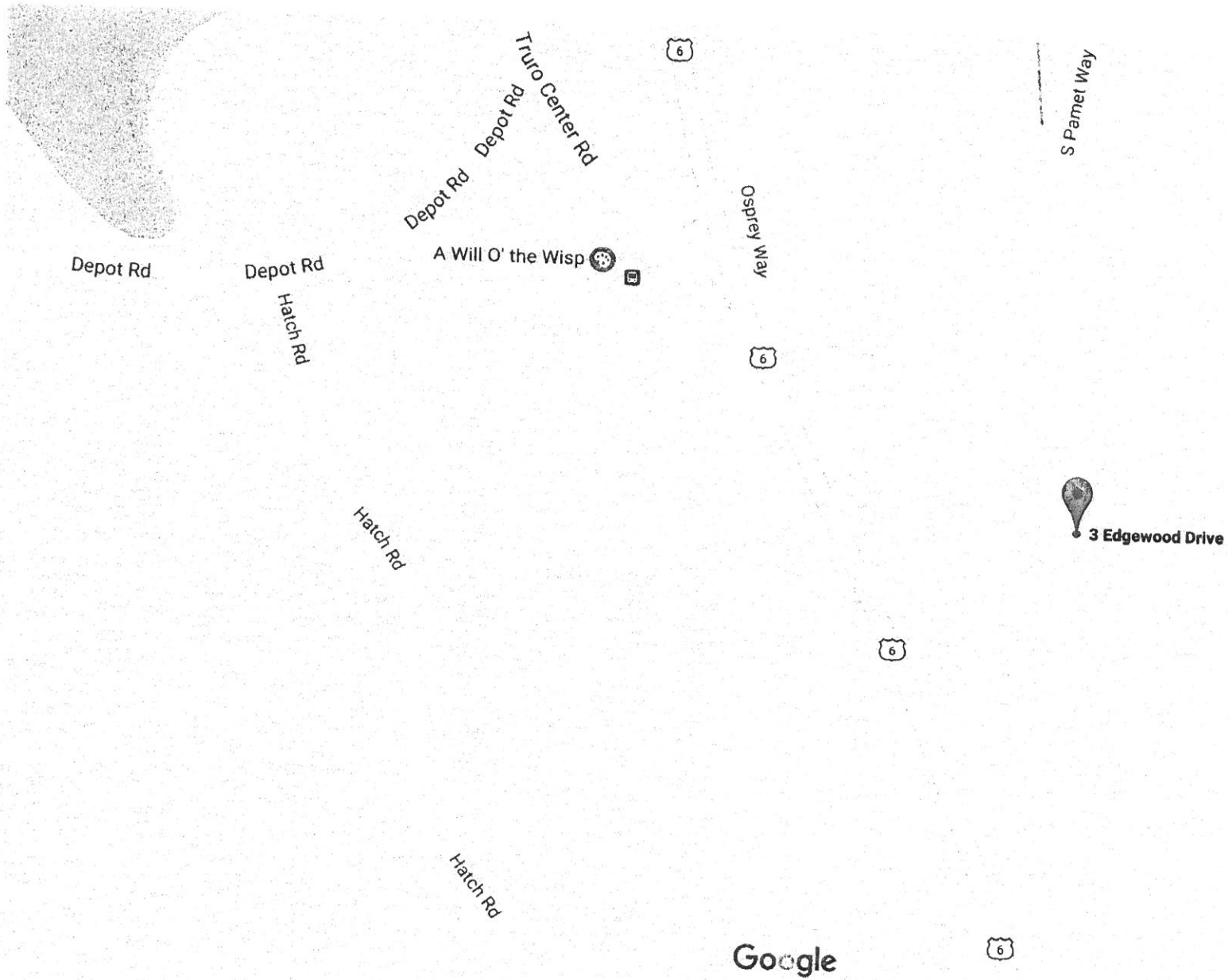
[Signature] 6/27/17  
Owner Signature (which also authorizes the use of the property) Date

Planning Board Action: Approved \_\_\_\_\_ Approved w/Conditions \_\_\_\_\_ Denied \_\_\_\_\_

Conditions: \_\_\_\_\_

Board Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Title

CC: Building Commissioner, Board of Selectmen



TRUSSARDI CENTER FOR THE ARTS AT GATE HILL  
PRESENTS

... John Bunker Lecture Series ...

**CRAIG BARNES**

AUTHOR, NPR COMMENTATOR

JUNE 18<sup>th</sup> 7:30 PM

WELFLEET  
PRESERVATION HALL

33 MAIN ST. WELFLEET

MASS 01980

36"

48"



# TOWN OF TRURO



# PLANNING BOARD

Office of Town Clerk  
Treasurer - Tax Collector

2017-  
JUN 29 2017  
\$25.00 fee pd

Received TOWN OF TRURO  
By: *[Signature]*

## Application for Temporary Sign Permit

Pursuant to Section 11 of the Truro Sign Code

Fee: \$25.00

Applicant Name: Truro Center for the Arts at Castle Hill Date: 6/27/17

Applicant Contact Information: P.O. Box 7516 Truro, MA 02666  
Mailing Address

508-349-7511  
Phone

alicia@castlehill.org  
Email

Number of Signs Requested: Five

Temporary Sign Dimensions: Height 33" 48" Width 22" 36" Please attach a "to scale" copy of the proposed sign(s).

Location(s) of Proposed Temporary Sign(s): #1 Route 6 @ Castle Road

#3 10 Meetinghouse Road

#4 Median @ Pomeroy Road Exit 4 Route 6 #5 Route 6, 3 Edgar Way.

Map(s): 4 Parcel(s): \_\_\_\_\_ Please use additional sheet(s) for multiple locations

Date(s) of the Event in Which the Sign is Intended: August 12, 2017

Date When Sign(s) will be: Installed: August 7, 2017 Removed: August 14, 2017

Name and Address of Property Owner(s) Where Temporary Sign(s) to be located:

Town of Truro &  
Truro Center for the Arts at Castle Hill P.O. Box 7516  
Name Mailing Address

508-349-7511  
Phone

Cherie@castlehill.org  
Email

Alicia Maerli  
Applicant Signature

June 27, 2017  
Date

[Signature]  
Owner Signature (which also authorizes the use of the property)

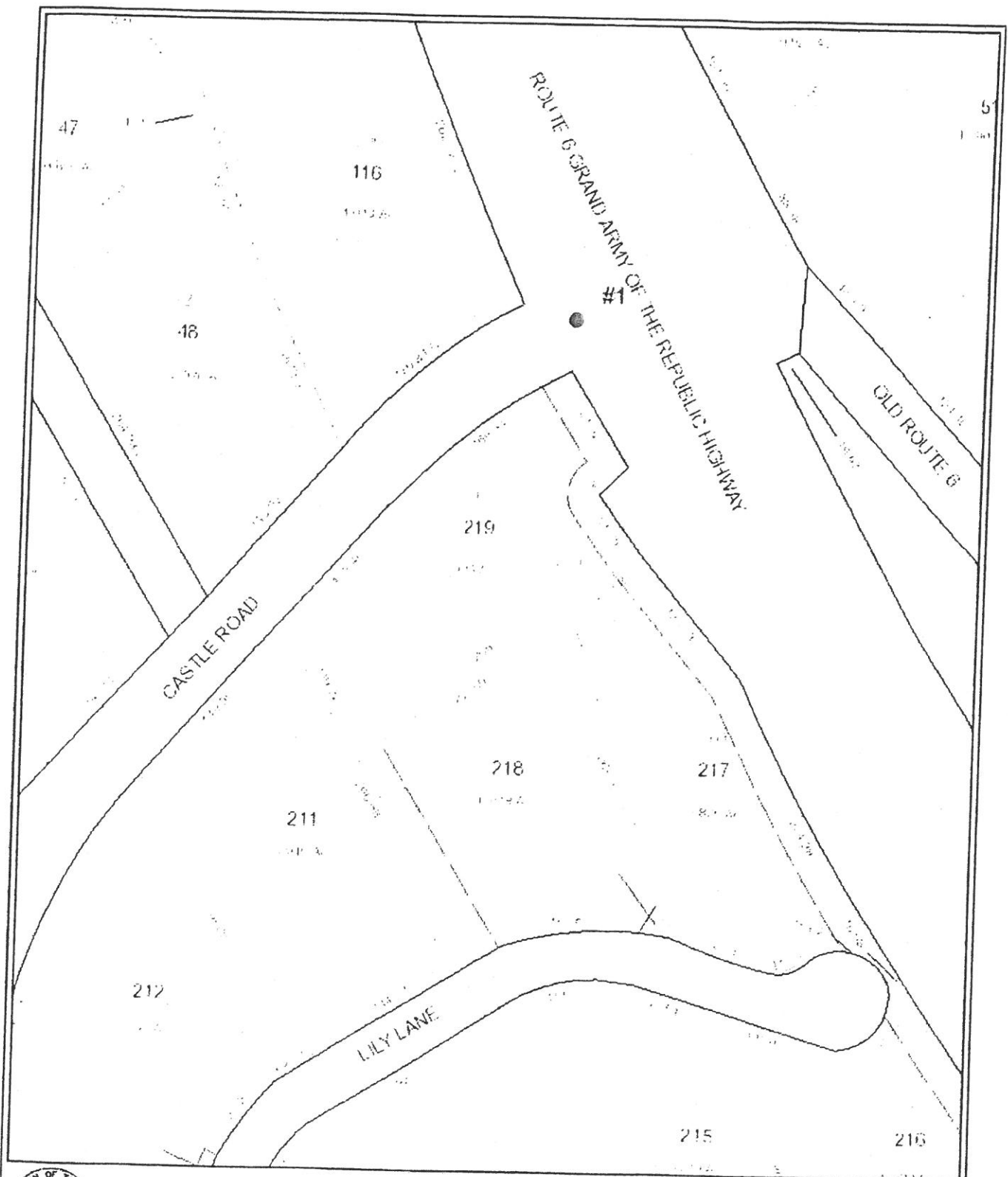
June 27, 2017  
Date

Planning Board Action: Approved Approved w/Conditions Denied

Conditions: \_\_\_\_\_

Board Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Title

CC: Building Commissioner, Board of Selectmen

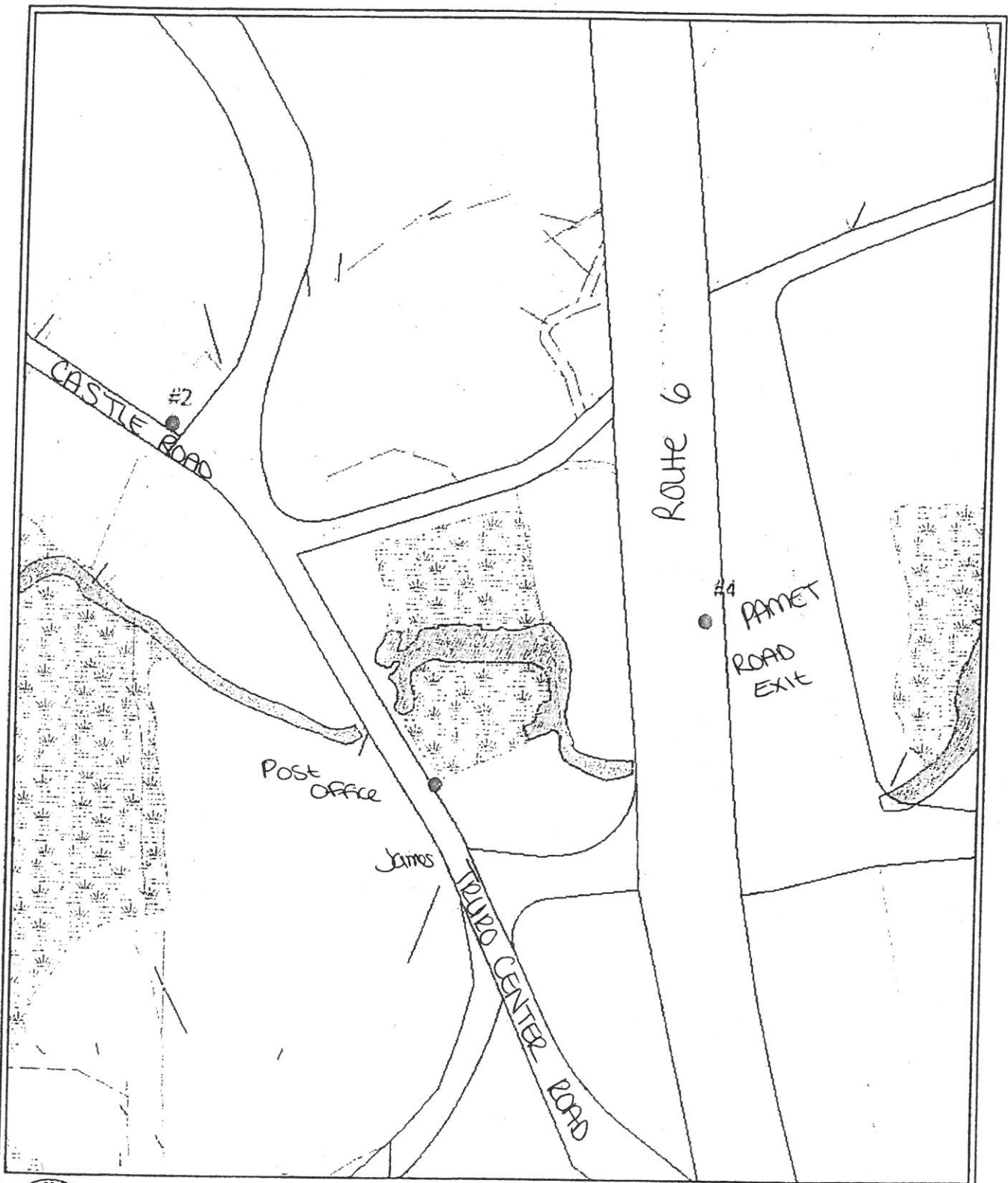


Signage for Castle Hill Events  
 Truro, MA  
 1 Inch = 100 Feet  
 May 13, 2015



Data shown on this map is provided for planning and informational purposes only. The municipality and CAI Technologies are not responsible for any use for other purposes or misuse or misrepresentation of this map

www.cai-tech.com  
 CAI



### Signage for Castle Hill Events

Truro, MA

1 Inch = 200 Feet

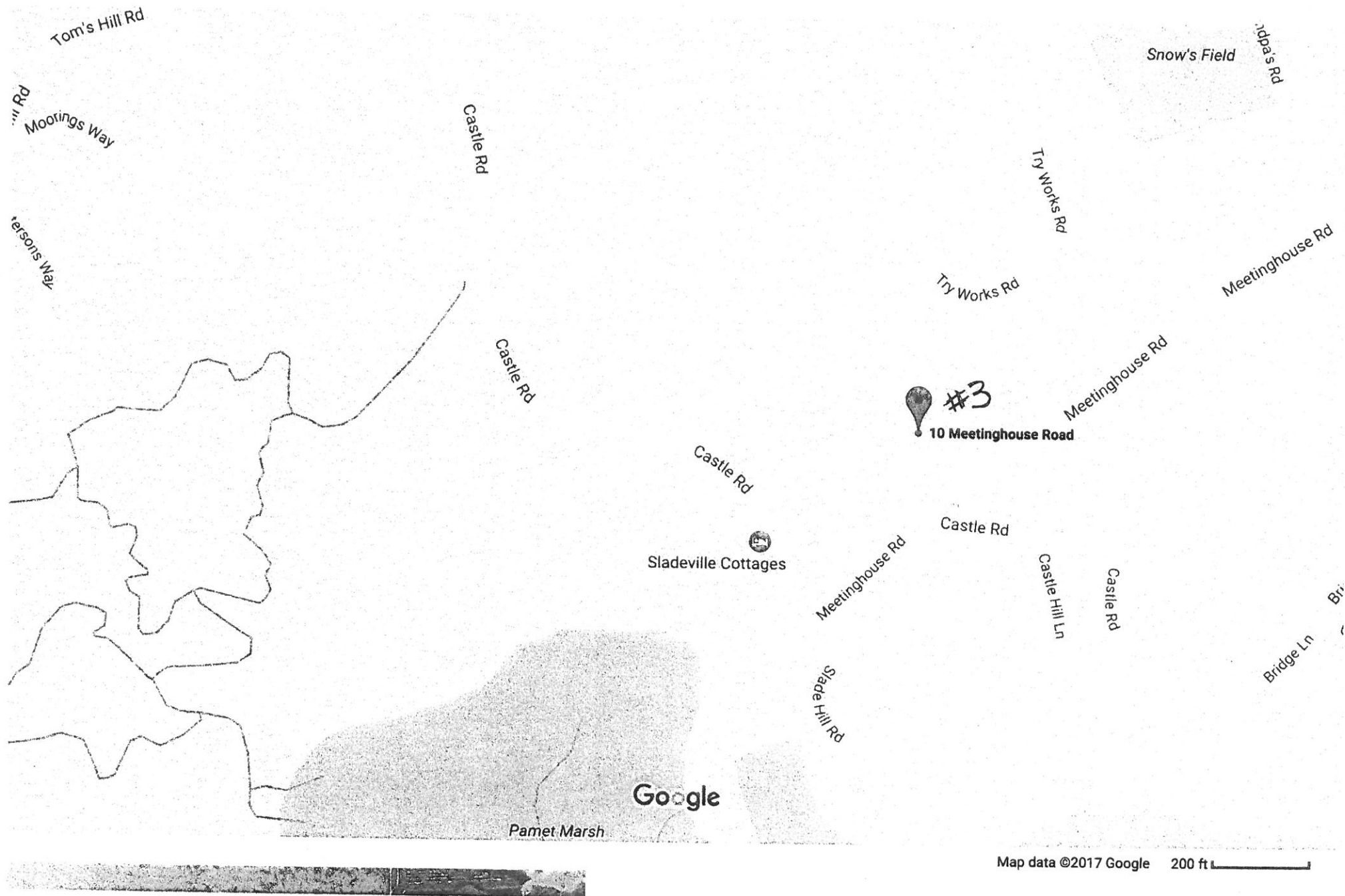
May 13, 2015



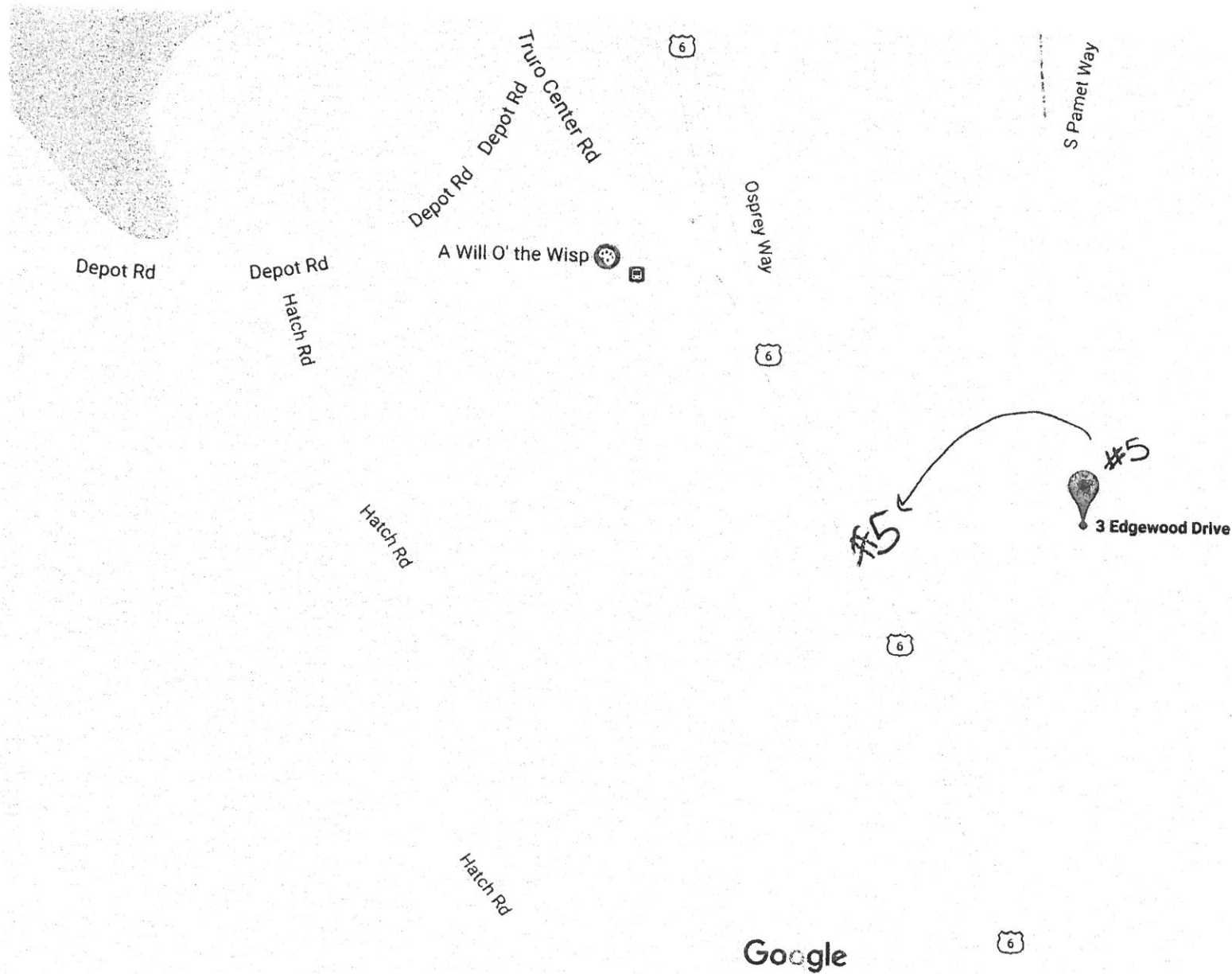
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[www.cai-tech.com](http://www.cai-tech.com)









TRUD CENTER FOR THE ARTS AT COTE HILL  
PRESENTS

... John Bunker Lecture Series ...

**CRAIG BARNES**

AUTHOR, NPR COMMENTATOR

JUNE 18<sup>th</sup> 7:30 PM

WELFLEET  
PRESERVATION HALL

35 MAIN ST WELFLEET

36"



10 MEETINGHOUSE RD

# TOWN OF TRURO



# PLANNING BOARD

Office of the Clerk  
Treasurer - Tax Collector

JUL 11 2017  
\$ 25.00 PAID

Received TOWN OF TRURO  
By: unster

## Application for Temporary Sign Permit

Pursuant to Section 11 of the Truro Sign Code

Fee: \$25.00

Application same as last year

Applicant Name: Friends of the Truro Library Date: 7/11/17

Applicant Contact Information: Marilyn Adams, P.O. Box 413, N. Truro  
Mailing Address

508-237-9095 adams.mac2011@gmail.com  
Phone Email

Number of Signs Requested: 2 yard signs - 27" w x 18" h

Temporary Sign Dimensions: Height 2 1/2' Width 6' Please attach a "to scale" copy of the proposed sign(s).  
Banner

Location(s) of Proposed Temporary Sign(s): Banner sign holder at the junction of Rt 6 + 6a (yard signs) at Snow's Park + Rt 6 near library

Map(s): \_\_\_\_\_ Parcel(s): \_\_\_\_\_ Please use additional sheet(s) for multiple locations

Date(s) of the Event in Which the Sign is Intended: August 9, 2017 (rain date Aug 10)

Date When Sign(s) will be: Installed: 7/31/17 Removed: 8/10

Name and Address of Property Owner(s) Where Temporary Sign(s) to be located:

Town of Truro  
Name Mailing Address

Phone \_\_\_\_\_ Email \_\_\_\_\_

[Signature] 7/11/17  
Applicant Signature Date

Owner Signature (which also authorizes the use of the property) \_\_\_\_\_ Date \_\_\_\_\_

Planning Board Action: Approved \_\_\_\_\_ Approved w/Conditions \_\_\_\_\_ Denied \_\_\_\_\_

Conditions: \_\_\_\_\_

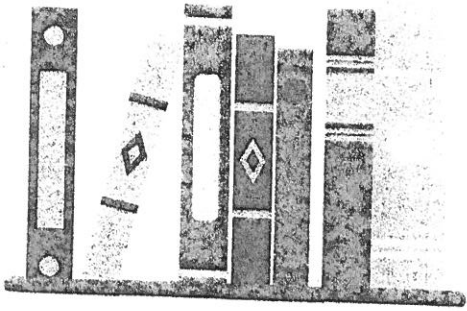
Board Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Title

CC: Building Commissioner, Board of Selectmen



Size = 27" W x 18" H  
(This is a proof from  
manufacturer)

*Friends of the Truro Library*

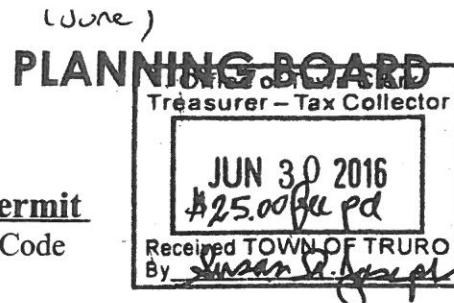


**Book Sale**

**August ~~10~~ 9**

**at the Truro Public Library**

# TOWN OF TRURO



Last Year

## Application for Temporary Sign Permit

Pursuant to Section 11 of the Truro Sign Code

Fee: \$25.00

Applicant Name: Friends of the Truro Library Date: June 29, 2016

Applicant Contact Information: Martha Magane Box 347 Truro, MA 02666  
Mailing Address

508-349-2015  
Phone

mmagane@comcast.net  
Email

Number of Signs Requested: 2

Temporary Sign Dimensions: <sup>banner =</sup> Height 2 1/2' <sup>yard sign = 27" w x 18" h</sup> Width 6' Please attach a "to scale" copy of the proposed sign(s).

Location(s) of Proposed Temporary Sign(s): Banner sign holder at the junction of Rt. 6 + 6a + Snows Park, across from Jams (yard sign)

Map(s): \_\_\_\_\_ Parcel(s): \_\_\_\_\_ Please use additional sheet(s) for multiple locations

Date(s) of the Event in Which the Sign is Intended: Wednesday, August 10, 2016

Date When Sign(s) will be: Installed: Aug 1-3 Removed: August 10.

Name and Address of Property Owner(s) Where Temporary Sign(s) to be located:

Town of Truro  
Name Mailing Address

Phone Email

Martha Magane  
Applicant Signature

6/29/16  
Date

Owner Signature (which also authorizes the use of the property)

Date

Planning Board Action: Approved Approved w/Conditions Denied

Conditions: \_\_\_\_\_

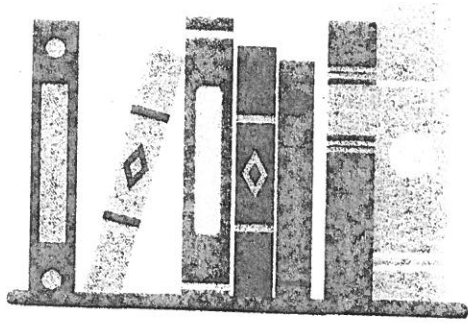
Board Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Title

CC: Building Commissioner, Board of Selectmen

Danner! size = 2'6" x 6'  
(this is a <sup>H</sup> <sup>w</sup> proof from  
manufactures)

## *Friends of the Truro Library*



# **Book Sale**

**August** ~~10~~ 9

**at the Truro Public Library**

Location

Friends of the ~~Huro~~ Library  
Book Sale Signs

①

Yard  
sign  
(near  
library)

Banner  
on sign  
holder



Rt  
6A

Rt  
6

Atlantic  
Spice

Cape  
View Motel

②

Castle  
Rd.

Blackfish  
Rest.

marsh

P.O.

Jans

Town Center Rd

3 Harbors  
R.E.

Stage

Proposed location  
of yard sign

Rt 6

Bridge

→ Parrot Rd

Depot Rd





# TOWN OF TRURO

## Planning Department

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

### Memorandum

To: Planning Board  
Fr: Harry Terkanian, Acting Town Planner  
Date: July 7, 2017  
Re: **2017-006SPR Clark; Staff Report #2**

**2017-006SPR Christopher and Jane Clark**, seek approval of an application for Residential Site Plan Review pursuant to §70.4 and §30.3.1 (as adopted at the 2017 Annual Town Meeting) of the Truro Zoning Bylaw for demolition of an existing dwelling and construction of a new dwelling on a pre-existing nonconforming developed lot in the Seashore Zoning District. The property is located at 1 Higgins Hollow Road, Map 46 Parcel 289.

### Background

According to the site plan prepared by Felco, Inc. and dated 4-25-2017, Map 46, Parcel 289 is 59,778 square feet and is located within the Seashore Zoning District, where the minimum lot size required is three (3) acres. The property is a lawfully pre-existing non-conforming developed lot. In addition, the existing dwelling is nonconforming with regard to the front yard setback.

The applicant proposes to remove the existing single family dwelling and construct a new dwelling. In addition to the dwelling there are two other structures on the property: a "writing hut" and a studio.

On May 22, 2017, the Zoning Board of Appeals granted a special permit for the demolition of an existing pre-existing nonconforming dwelling (lot size of less than 3 acres and front yard setback of 30' where 50' is required) and construction of a new dwelling which continues the existing front yard setback nonconformity. The existing nonconformity is not increased nor are any new nonconformities created. A copy of the ZBA decision is attached.

### Completeness of Application

The following additional materials have been submitted since Staff Report #1 was prepared:

Elevations prepared by Ambrose Homes, Inc dated 7-5-17, revised 7-8-17, projectID: K102414, two sheets.

### Staff Comments

The application was circulated for comment to the Fire and Police Chiefs, Health and Conservation Agent and Building Commissioner. Since this property is located in the National Seashore, a copy was also provided to Lauren McKean, Cape Cod National Seashore. A copy of the May 22, 2017 and June 13, 2017 supplemental filings was also sent to Ms. McKean. The National Park Service responded with a letter dated June 27, 2017 which was read at the June 27, 2017 public hearing.

### **Residential Dwelling Massing Limitations in the Seashore District**

The 2017 Annual Town Meeting adopted a new zoning bylaw §30.3.1 Residential Building Size Regulations which, once approved by the Attorney General, will regulate the size of proposed new and alternations to existing dwellings in the Seashore District.

Based on the lot size of 1.37 acres, 3, 274 square feet of gross floor area is allowed by right on this property and up to 4,274 square feet of gross floor area is allowed by special permit. Therefore, the existing structures, at 2,794 square feet, conform to the new regulation. If the new bylaw is approved by the Attorney General, the proposed dwelling and accessory structures, which exceed 3,274 square feet, will exceed the maximum amount permitted by right but are below the maximum allowed with a special permit. A special permit from the Zoning Board of Appeals under §30.3.1.A.2 of the bylaw will be required if the amendment adopted at the 2017 Annual Town Meeting is approved.

### **Historic Status of Structure**

Comments were received from Mr. Chuck Steinman orally at the June 27<sup>th</sup> hearing and subsequently by email on July 7, 2017, email copy attached. Whether the Board is required to consider the preservation of a historic structure as part of a site plan review under §70 of the Zoning Bylaw required advice from town counsel. Counsel's response is attached.

### **Review Criteria**

The review criteria for the review of residential site plans in the Seashore District are set forth in Section 70.4.D of the bylaw:

- 1. Relation of Buildings and Structures to the Environment. Proposed development shall relate to the existing terrain and lot, and shall provide a solar and wind orientation which encourages energy conservation.***

The proposed dwelling will be located in the same general vicinity on the property as the existing dwelling. Some re-grading is proposed to facilitate the construction of a dwelling with a larger footprint than the existing dwelling. As proposed the new dwelling and the proposed area of disturbance during demolition of the existing structure or construction of the new structure will not encroach into areas of the property under the jurisdiction of the Massachusetts Endangered Species Act (MESA). The Board may wish to discuss the limit of disturbance further with the applicant and, if desired, place a condition on its approval.

- 2. Building Design and Landscaping. Proposed development shall be consistent with the prevailing character and scale of the buildings and structures in the neighborhood***

*through the use of appropriate scale, massing, building materials, screening, lighting and other architectural techniques.*

The proposed scale and massing of the new dwelling, while of greater gross floor area than the existing dwelling, is generally in keeping with the scale and massing of the existing dwelling and dwellings in the surrounding neighborhood. Limited information has been provided about the building materials. Information about the proposed exterior lighting is provided and is of a residential scale. The configuration of the parcel and proposed dwelling creates a natural screening of the dwelling from neighboring dwellings, as illustrated by the supplemental photographs provided by the applicant.

3. ***Preservation of Landscape. The landscape shall be preserved in its natural state insofar as practicable by minimizing any grade changes and removal of vegetation and soil.***

A significant portion of the site currently is in a natural state. This landscape will be preserved in its natural state. If desired, the Board could place a condition to ensure such on its approval.

4. ***Circulation. Curb cuts and driveways shall be safe and convenient and shall be consistent with Chapter I, Section 9 of the General Bylaws of the Town of Truro.***

The existing driveway will continue to serve the new dwelling.

5. ***Lighting. Lighting shall be consistent with Chapter IV, Section 6 of the General Bylaws of the Town of Truro. There shall be protection of adjacent properties and the night sky from intrusive lighting.***

Information about the proposed exterior lighting has been provided and is of a residential scale. If desired, the Board could place a condition to ensure such on its approval.

### **Criteria for Board action**

The criteria for Planning Board action are set forth in §70.4.E:

*The concurring vote of four members of the Planning Board shall approve a Residential Site Plan in the form submitted or with reasonable conditions, unless it finds that (a) the application for site plan approval is incomplete, or (b) the imposition of reasonable conditions will not ensure that the project will conform to the standards and criteria described herein, or (c) the project does not comply with the requirements of the Zoning By-law.*

### **Planning Board Action**

If the Board feels that they have sufficient information, the Board should make findings with respect to each review criteria, finding the application compliant, non-compliant, suggesting conditions to ensure compliance, or designating as not relevant to the case.

Accordingly, the Board may wish to undertake the following:

1. Make findings with respect to each of the review criteria/design guidelines; and
2. Vote to approve, conditionally approve or deny the application based on specific reasons.

If the Board is inclined to approve the residential site plan it may wish to move the following:

*In the matter of 2017-006SPR Christopher and Jane Clark for property at 1 Higgins Hollow Road, I move to approve the residential site plan for the demolition of an existing non-conforming dwelling and for the construction of a new dwelling on an existing non-conforming lot in the Seashore District as shown on the plan entitled Site and Sewage Plan prepared by FELCO, Inc. dated 4-25-2017 (Job #17018) and the unlabeled floor plans and elevations on file with the application;*

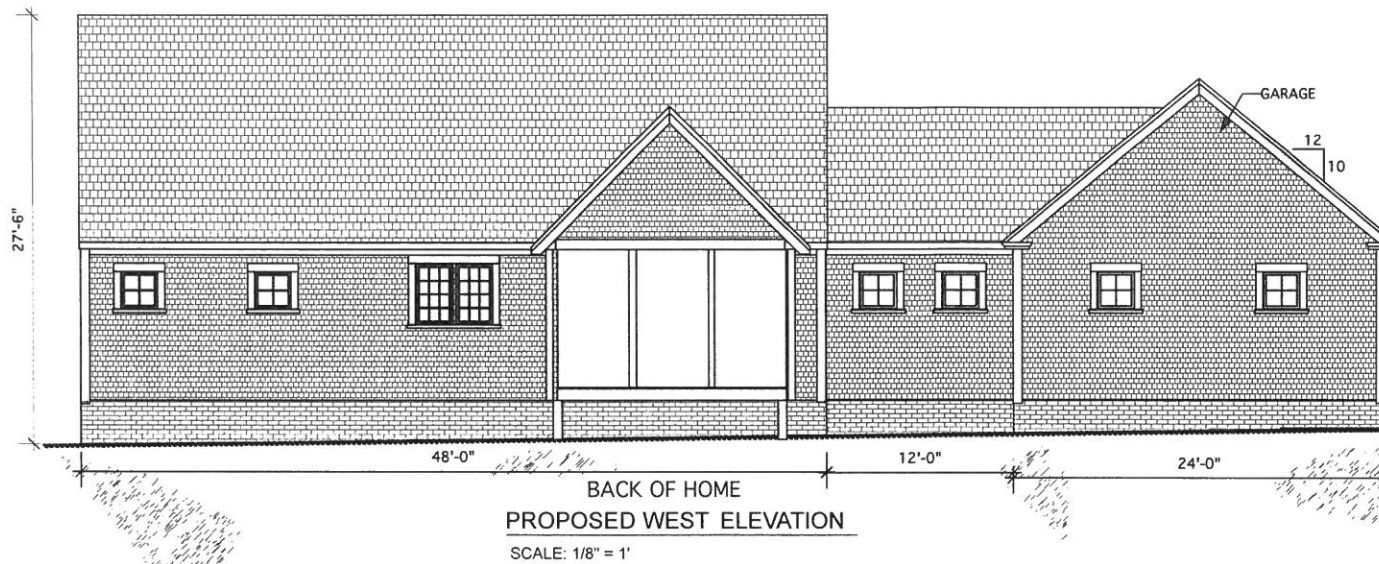
*Based on the following findings of fact:*

- *<findings on each of the review/ design criteria>*

If the Board feels it does not have sufficient information with which to make findings and act on the application, the Board may also seek to continue the hearing to obtain additional information.

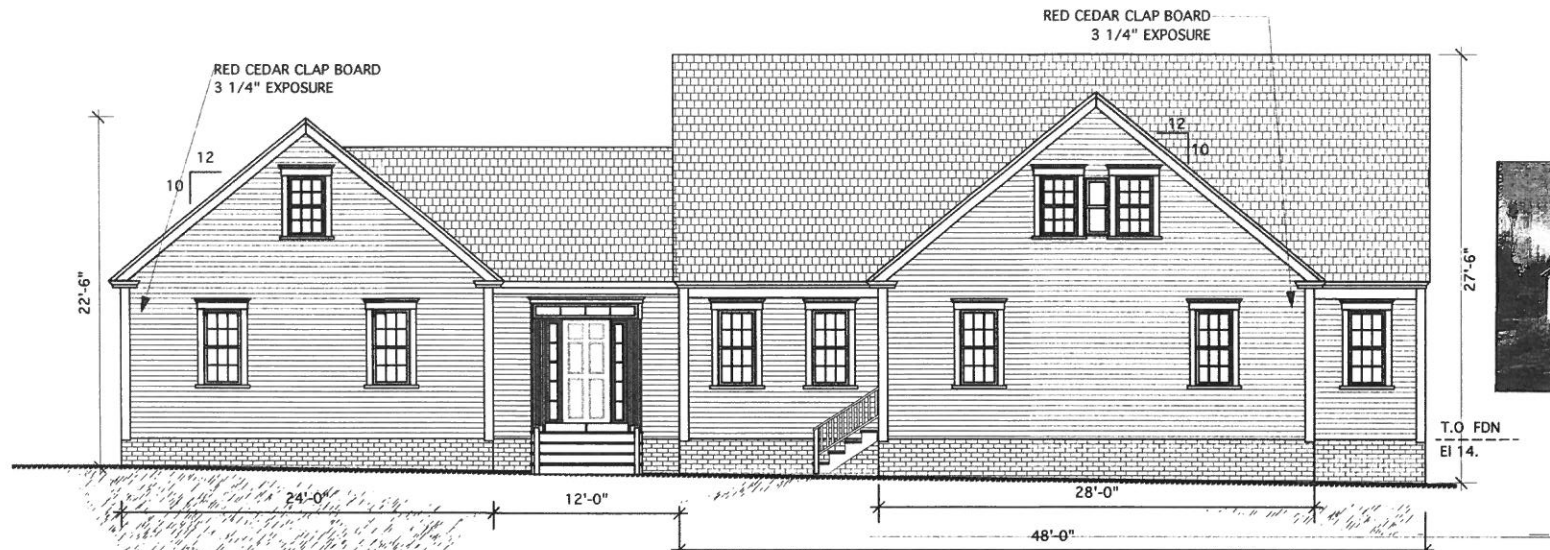
A continuance should be made to a date certain and confirmed in writing by the applicant.



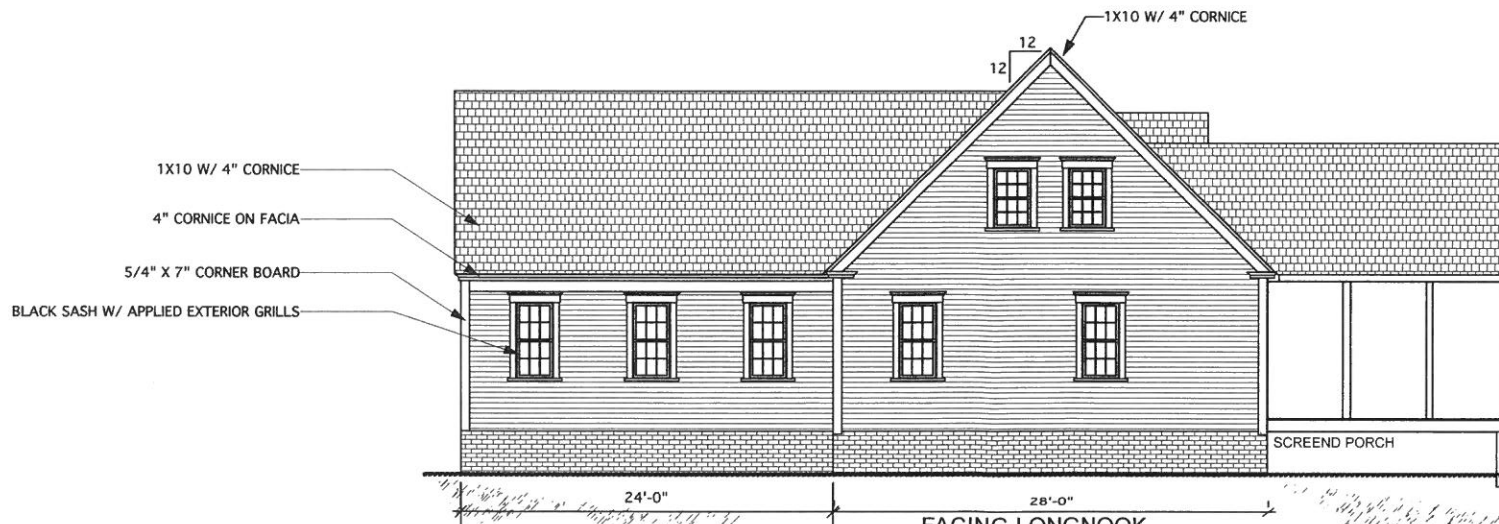


<b>AMBROSE HOMES INC.</b> 2766 RTE 6, WELLFLEET, MA 508-349-8232 WWW.AMBROSEHOMES.COM		Project Name CHRS & JANE CLARK 1 HIGGINS HOLLOW RD TRURO, MA PROPOSED ELEVATIONS
Designer EZRA AMBROSE Checked By EZRA AMBROSE Project ID K102414 Drawing Code CAC File Name Project Location E.P.A.	Date 7-5-17 Revision 7-8-17 Project ID K102414 Drawing Code CAC File Name Project Location E.P.A.	Sheet Scale 2 of 2





FRONT OF BUILDING FACING HIGGINS HOLLOW  
PROPOSED EAST ELEVATION  
SCALE: 3/16" = 1'



FACING LONGNOOK  
PROPOSED NORTH ELEVATION  
SCALE: 3/16" = 1'

Project No.	7-5-17	Client	7-8-17	Project ID	K102414	Drawn By	Checked By	Scale	Sheet Scale	1 of 2
Design Firm	AMBROSE HOMES, INC.	Drawn By	EZRA AMBROSE	Checked By		Scale		Sheet Scale		
Client	CHRIS & JANE CLARK	Project No.	7-5-17	Client Name	2766 RTE 6, WELLFLEET, MA	Project Manager	ECV	Scale		
Address	1 HIGGINS HOLLOW RD	Project ID	K102414	Client Phone	508-348-8252	Project Manager	ECV	Scale		
City	TRURO, MA	Project ID	K102414	Client Email	WWW.AMBROSEHOMES.COM	Project Manager	ECV	Scale		
State	MA	Project ID	K102414	Client Website		Project Manager	ECV	Scale		
Zip	01969	Project ID	K102414	Client Website		Project Manager	ECV	Scale		
Project Name	PROPOSED ELEVATIONS	Project ID	K102414	Client Website		Project Manager	ECV	Scale		

## Harry Terkanian

---

**From:** Chuck Steinman <c.e.steinman@comcast.net>  
**Sent:** Friday, July 07, 2017 10:45 AM  
**To:** Steve Sollog; Harry Terkanian  
**Cc:** Jack Riemer; Paul Kiernan  
**Subject:** Historic 1719 Richard Paine (Clark) House and Studio at 1 Higgins Hollow Road

Steve,

The following is an answer to your question "What's Historic?"

According to the Truro Historical Commission's Historic Survey:

"The house is significant as one of the oldest houses in Truro and a relatively unaltered example of an early 18<sup>th</sup>-century three-quarter Cape Cod house. It retains its original form and massing, with a steeply pitched roof and four-bay facade. The 20<sup>th</sup>-century west addition detracts slightly from the overall integrity of the house, but its character remains intact."

The house is recommended as individually eligible for listing on the National Register and its prominent location in the Longnook-Higgins Hollow recommended eligible historic district makes its preservation even more important. The Truro Historical Commission and Review Board recommended saving the historic 3/4 cape but stated that the later kitchen "L" could be removed and replaced with a new structure.

A letter to the Massachusetts Historical Commission (MHC) could be sent to verify its historic significance and if so designated, could enable the owner to seek exemptions from the State Building Code to preserve the historic character defining elements.

I understand that you were unable to see the house interior on your site visit. As seen in the photos taken during the Historic Review Board's site visit, the basic house is the same as in the photo from the 1960's *Historic Building Area Survey* (HABS) performed by the National Park Service. The fireplace paneling has been changed but the original post and beam structure remains.

The 1980's rehabilitation added a new foundation with crawl space, and rebuilt and stabilized the floor structure. The Historical Commission's consultant's did not feel the renovations detracted from its eligibility for listing in the National Register. While the renovations replaced the historic windows and trim with not very historic reproductions, and replaced the front clapboard siding with shingles, these changes could be remedied. Such details should be avoided in any new construction as pointed out by Paul Kiernan at the recent Planning Board Public Hearing. Architectural scaled elevations should be presented for review by the Planning Board for this purpose because of the prominent location of the building in a potential National Register Historic District.



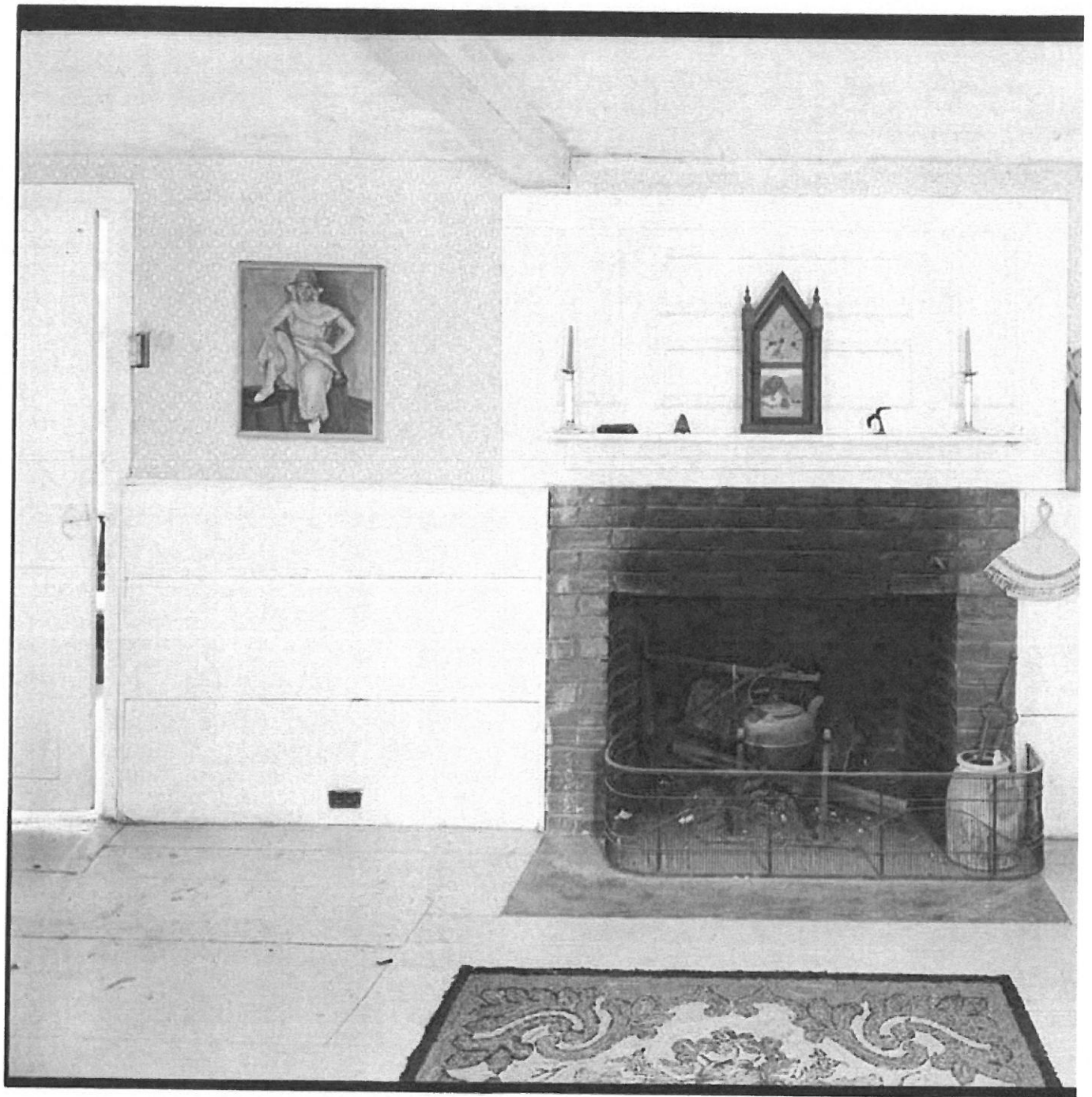










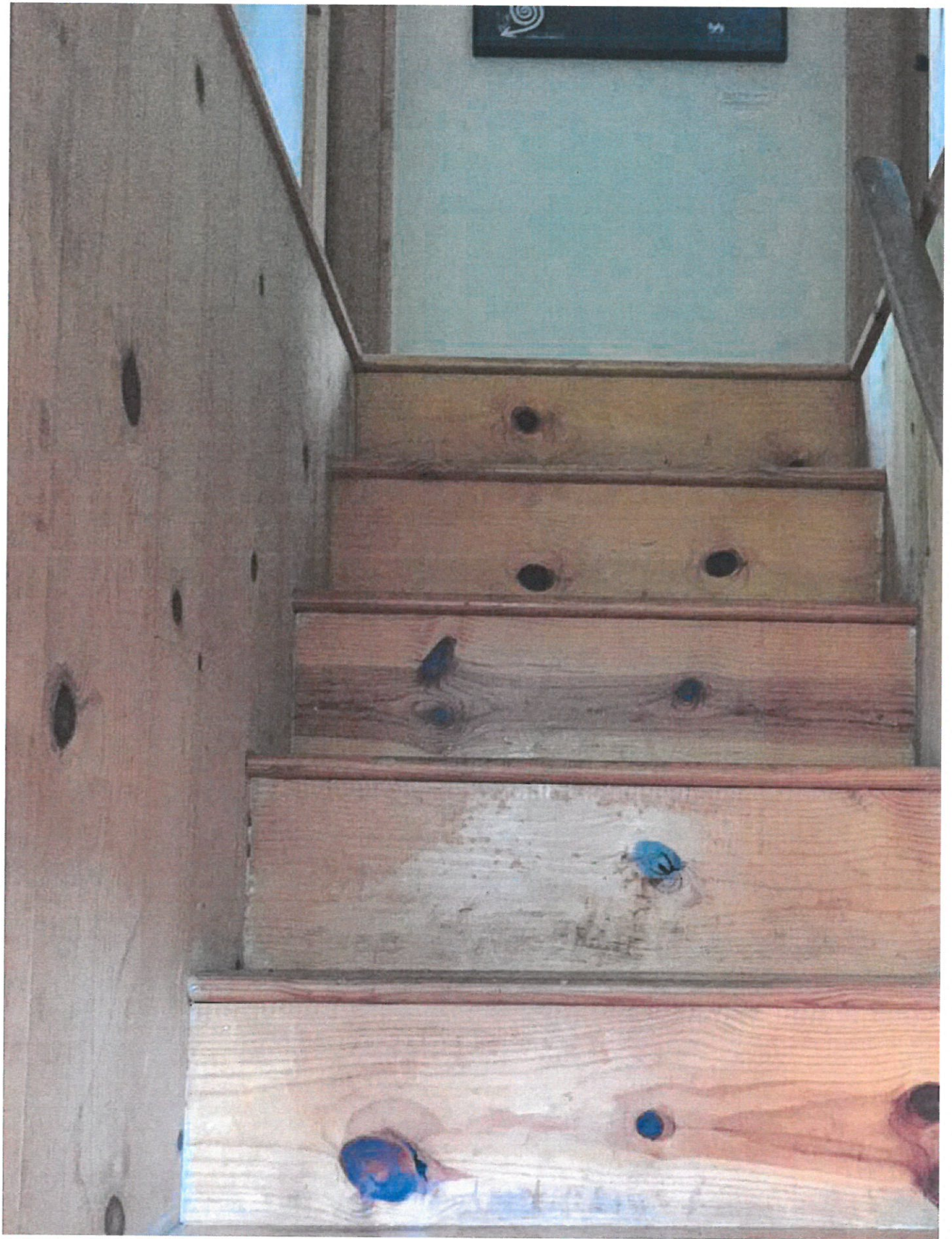








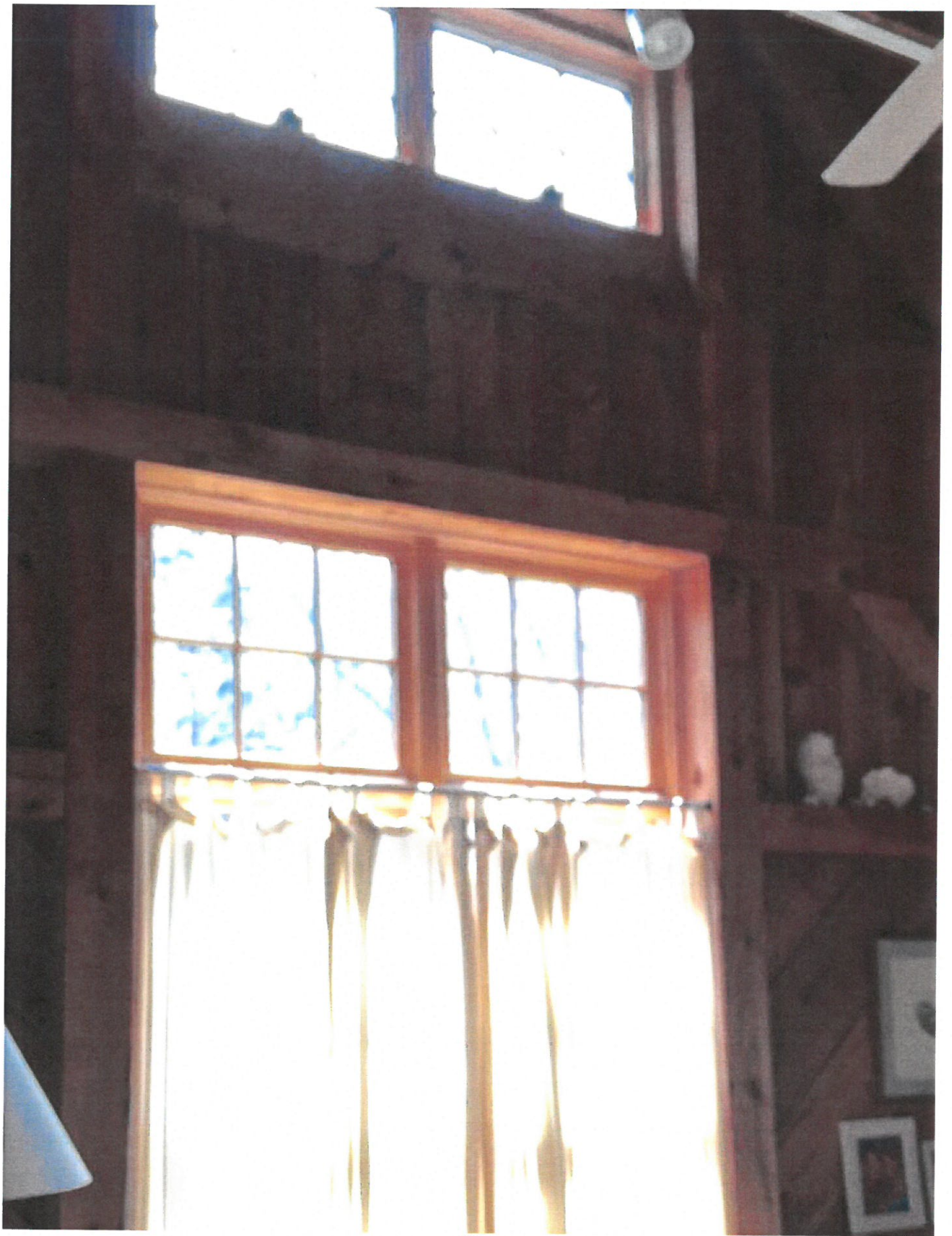




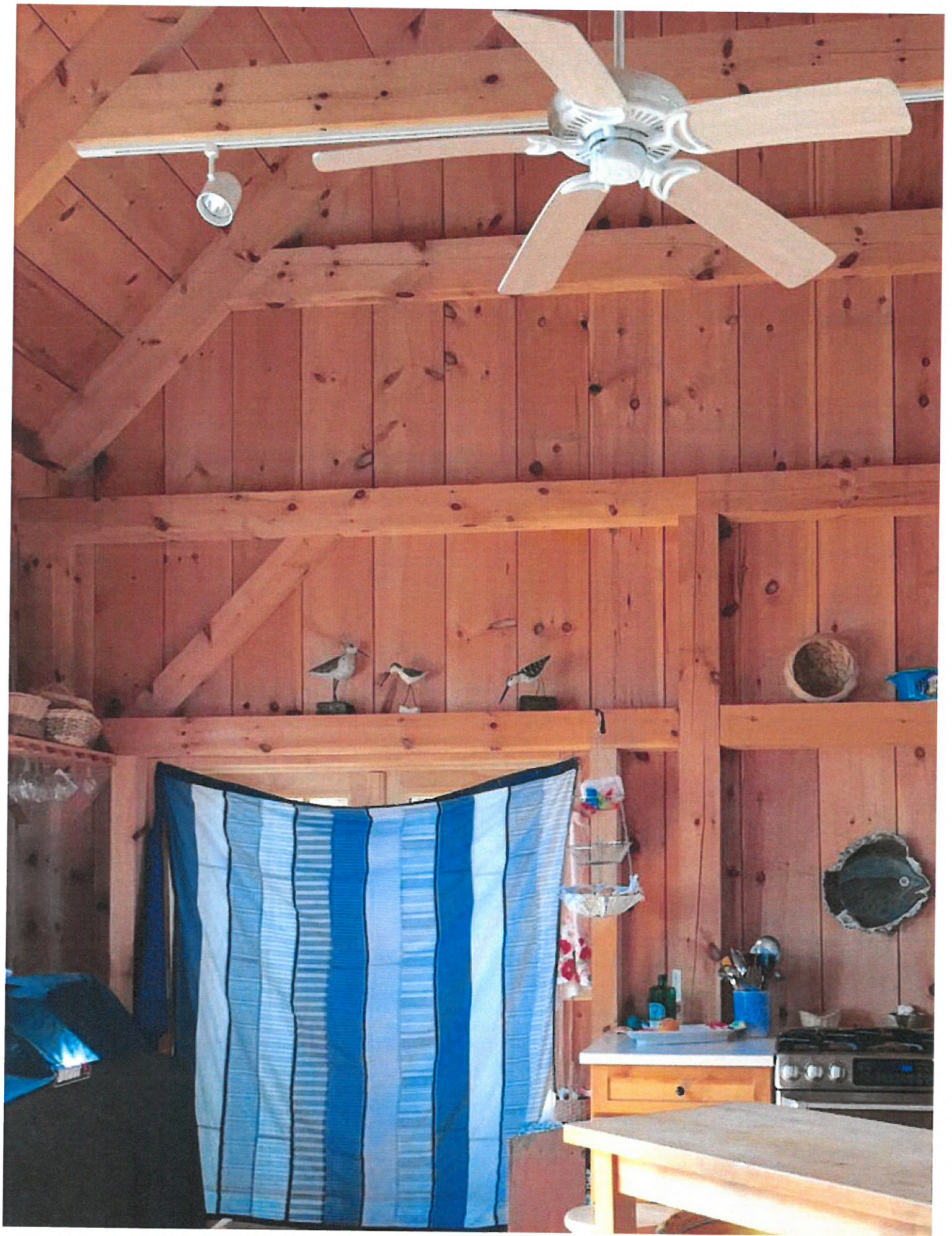














**From:** Katherine D. Laughman [<mailto:klaughman@k-plaw.com>]

**Sent:** Tuesday, July 11, 2017 9:30 AM

**To:** Rae Ann Palmer

**Cc:** Jonathan Silverstein

**Subject:** 1 Higgins Hollow - Legal Basis for Considering Historic Preservation as Part of Site Plan Review

Rae Ann –

You have requested an opinion concerning Site Plan Review for property located at 1 Higgins Hollow Road (the "Property"). In particular, you have asked whether the Planning Board may impose a site plan condition requiring that the existing structure be retained and historically preserved. In my opinion, such a condition, if challenged, may be found to be an unreasonable and beyond the scope of the Planning Board's authority under the Zoning Bylaw to impose.

### **FACTUAL BACKGROUND**

It is my understanding that 1 Higgins Hollow Road has been designated a "Significant Building" under the Town's "Preserving Historic Properties" General Bylaw Chapter VI and was subject to a 12-month demolition delay. The Property is now before the Planning Board for Site Plan Review under Section 70 of the Town's Zoning Bylaw based on the fact it triggers Section 70.2.A.5 for "[c]onstruction, alteration, or modification of any Seashore District property (i) which results in the addition of more than one thousand (1,000) square feet of gross floor area (the aggregate gross floor area of all structures on the project lot) to an existing structure or structures, (ii) which adds an additional story to an existing structure, or (iii) which constitutes the construction or reconstruction of a single-family dwelling or a two-family dwelling." The Planning Board has requested a response to a memorandum suggesting that historic preservation may be imposed as a condition of site plan approval.

### **LEGAL ANALYSIS**

Although site plan review is a permissible regulatory tool for imposing reasonable terms and conditions on uses permitted as of right, it is well settled that the Zoning Act, G. L. c. 40A, §§ 1 et seq., does not expressly recognize site plan review "as an independent method of regulation." Osberg v. Planning Bd. of Sturbridge, 44 Mass. App. Ct. 56, 57 (1997); see also Y. D. Dugout, Inc. v. Bd. of Appeals of Canton, 357 Mass. 25, 31 (1970). "Consequently, guidance regarding the appropriate mechanism for review of planning board action on a site plan has developed in iterative stages, depending on the particular frameworks established under various local bylaws." Cumberland Farms, Inc. v. Planning Bd. of Bourne, 56 Mass. App. Ct. 605, 608 n.6, (2002) (citation omitted).

In cases where the site plan is related to a use as of right, the local board has no discretionary power to deny the use, and may only impose reasonable terms and conditions on the proposed use. See Osberg, 44 Mass. App. Ct. at 58. When reviewing a planning board's decision to approve a site plan with conditions for a use as of right, the judge's standard of review is one of reasonableness. See Y.D. Dugout, Inc., 357 Mass. at 31. When reviewing a planning board's decision denying approval of a site plan submitted in connection with a use allowed as of right, the judge is to "examine the proposal to see if the [reason for denial] was so intractable that it could admit of no reasonable solution." Prudential Ins. Co. of America v. Bd. of Appeals of Westwood, 23 Mass. App. Ct. 278, 282-83 (1986). In the absence of such a finding, the judge is not required to give deference to the board's decision. See id. at 283.

Under the Town's Zoning Bylaw, Section 70.1. A., the stated purpose of Site Plan Review is "to protect the health, safety, convenience and general welfare of the inhabitants of the Town. It provides a review of plans for uses and structures which may have significant impacts, both within the site and in relation to adjacent properties and streets; including the potential impact on public services and infrastructure; pedestrian and vehicular traffic; unique environmental and historic resources; abutting properties; and community character and ambiance." (Emphasis added).

Section 70.6.C. sets forth the Site Plan Review criteria relating to "Design" and provides that "[b]uildings shall relate harmoniously to each other in architectural style, site location, and building exits and entrances. Building scale, massing, materials, and detailing should be compatible with what is prevalent in the surrounding area."

The stated purpose of site plan review indicates that this Bylaw is intended to address "unique environmental and historic resources" as well as the "community character and ambiance." In addition, the "Design" criteria requires that the Planning Board address the "architectural style" as well as "building scale, massing, materials and detailing" in order to ensure that buildings are "compatible with what is prevalent in the surrounding area." In my opinion, while this language certainly provides the Planning Board with the authority to address the aesthetics of a proposed design to ensure compatibility with a surrounding area, and to take into consideration the historic community character, it does not provide the Planning Board the authority to require that a historic structure be permanently preserved instead of replaced with a design that meets the purpose of the Site Plan Review Bylaw and the design criteria set forth in Section 70.6.C. In my opinion, were the Planning Board to require that a historic structure be preserved in reliance on the language in the "Purpose" section and the "Design" criteria, it would likely be subject to judicial challenge as an unreasonable condition, tantamount to the denial of Site Plan Approval and may be struck down by a Court.

In my opinion, the Comprehensive Plan adopted in 2005 provides direction to the Town with respect to the adoption and implementation of bylaws, regulations and policies. However, a Comprehensive Plan is not legally enforceable and the goals and policies stated therein cannot be enforced if not implemented through the adoption of legally enforceable measures, such as bylaws. One of the action items in the Town's 2005 Comprehensive Plan calls for the "the establishment of historic districts, subject to the wishes of area residents." It is my understanding that the Town has not enacted G.L. c.40C, the Historic Districts Act, which allows municipalities to create local historic districts for purposes of preserving preservation and protection of the distinctive characteristics of buildings and places significant in the history of the commonwealth. A local historic district, created through a local bylaw under G.L. c.40C provides the strongest available form of historical protection. In a local historic district, before any exterior architectural feature that is visible from a public way is altered, the plans to carry out that alteration must first be approved by a local historic district commission. However, even under G.L. c.40C, historic districts do not necessarily prevent all changes from occurring, nor do they prevent all demolition, new construction or development. The intent is to make changes and additions harmonious, and prevent the intrusion of incongruous elements that might detract from the aesthetic and historic values of the district.

I additionally note that the Property has already been subject to a 12-month demolition delay under the Town's "Preserving Historic Properties" General Bylaw. Under this Bylaw, the 12-month delay is intended to allow the applicant and the Historical Review Board an opportunity to consider alternatives to demolition. It is my understanding that no alternatives were reached during this delay period.

Thus, it is my opinion that the Town's Site Plan Review bylaw enables the Planning Board to review and condition the proposed alterations to 1 Higgins Hollow Road in a manner which addresses the "architectural style" as well as "building scale, massing, materials and detailing" in order to ensure that building is "compatible with what is prevalent in the surrounding area." However, it is my opinion that the Planning Board may not reasonably impose the types of historic preservation measures that are more appropriately regulated through the Massachusetts Historic District Act, G.L. c.40C pursuant to its non-discretionary review authority under the Site Plan Review Bylaw.

Please do not hesitate to contact me or Jonathan Silverstein should you have any further questions concerning this matter.

Best regards,

~Katie

Katherine D. Laughman, Esq.

KP | LAW

101 Arch Street, 12th Floor

Boston, MA 02110

O: (617) 654 1744

C: (857) 763 0018

F: (617) 654 1735

[klaughman@k-plaw.com](mailto:klaughman@k-plaw.com)

[www.k-plaw.com](http://www.k-plaw.com)

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# TOWN OF TRURO

## Planning Department

P.O. Box 2030, Truro, MA 02666

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

### Memorandum

To: Planning Board  
Fr: Harry Terkanian, Acting Town Planner  
Date: July 10, 2017  
Re: **2016-008SPR White Sands/Kuliopulos; Staff Report #2**

**2016-008SPR Maria Kuliopulos** seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map1, Parcel 5.

### Background

The Planning Board conditionally approved a site plan for this property on January 19, 2016. The site plan covered the reconstruction of a fire-damaged building. In accordance with an Order for Judgment, the applicant had until October 30, 2016 to complete the reconstruction of the units per the approved plan. The applicant was did not meet this timeline and the Town Board of Selectmen did not grant an extension. (Letter from Zisson & Veara to Christopher Snow, September 21, 2016) Upon the lapse of the time period for action, the applicant lost grandfathered zoning status with respect to number of units on the property. Accordingly, the applicant was instructed to submit a modified site plan to the Planning Board that complied with current zoning. This required a reduction in the number of units on the property.

Under the Zoning Bylaw, the following section governs Modification of an Approved Site Plan:

#### *H. Modification of an Approved Site Plan*

*Modifications to a project that has received Site Plan Approval shall be submitted to the Planning Board for further review. A filing of said modification shall be submitted in accordance with Section 70.3.D.*

### **Completeness of Application, Staff and Department Comments and Requested Waivers**

See the January 11, 2017 staff report

### **Zoning Status**

The companion case (2016-007ZBA) was before the Zoning Board of Appeals on June 26, 2017. At that hearing the ZBA requested a complete and consistent set of plans and the matter was continued to July 31, 2017. The attached correspondence was sent to the applicant's attorney on June 30, 2017. As of the date of this memorandum there have been no further submissions to the ZBA.

**Planning Board Status**

This matter was before the Board on June 27<sup>th</sup>. Previous to the June 27<sup>th</sup> meeting the applicant's attorney had requested a continuance to July 18<sup>th</sup>. Since the June 26<sup>th</sup> ZBA hearing raised questions about the need for a consistent set of plans and whether substantive action could be taken by the Planning Board on July 18<sup>th</sup>, the attached correspondence was sent to the applicant's attorney on June 30<sup>th</sup>. As of the date of this memorandum there have been no further submissions to the Planning Board.

**Planning Board Action**

See the January 11, 2017 staff report.



# TOWN OF TRURO

Planning Department  
P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004 x 127; Fax: (508) 349-5505  
hterkanian@truro-ma.gov

June 30, 2017

Via Email Only

Edward T. Patten, Esq.  
1198 Route 28 (Unit D)  
South Yarmouth, MA 02664

RE: Kuliopulos, Maria, White Sands Motel, Truro Planning Board File 2016-008SPR

Dear Attorney Patten:

As you requested, the public hearing on the above commercial site plan was continued to the Planning Board meeting on July 18, 2017. In as much as the companion matter pending before the Zoning Board of Appeals was continued to July 31, 2017 it is unclear what might be accomplished by the Planning Board on July 18<sup>th</sup>. I have your email of June 28<sup>th</sup> requesting a further continuance to August 15, 2017 and will bring the request to the attention of the Planning Board.

I note that the site plan presented to the Zoning Board at the June 26<sup>th</sup> meeting (*Schematic site key plan*, sheet A 3.00, prepared by Luna Design Group, undated) differed from the building floor plans included in your letter of June 22, 2017 to the Zoning Board Chairman in that the units the applicant proposed to combine to reduce the unit count differ on the two plans making it impossible to understand with certainty exactly what relief the applicant seeks from the Zoning Board of Appeals and therefore the precise nature of the project before the Planning Board for site plan review. In order to insure that both boards review the same project, I request that any additional plans submitted to the Zoning Board of Appeals be submitted to the Planning Board at the same time. If you do file additional plans, please submit twelve sets of plans for use by the Planning Board.

As an additional matter, I have reviewed the minutes of the previous hearings on this application. There are only five members of the Planning Board who attended both the March 7, 2017 and May 2, 2017 Planning Board hearings on this matter. As I am sure you are aware, under section 70 of the Truro Zoning Bylaw, the affirmative votes of four members of the Planning Board are required to approve a commercial site plan. You may wish to consider requesting a withdrawal of the application for commercial site plan review without prejudice and refile the application at a later date, once the proceedings before the Zoning Board of Appeals are complete. This would

permit the full membership of the Planning Board to consider a specific site plan proposal. Such a decision is entirely within the purview of the applicant and is offered only as a suggestion for your client's consideration.

Respectfully,

Harry Sarkis Terkanian, Acting Town Planner

Cc: E. James Veara, Esq.  
Rae Ann Palmer, Town Manager  
Planning Board members





# TOWN OF TRURO

Planning Department  
P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505  
hterkanian@truro-ma.gov

To: Planning Board  
From: Harry Terkanian  
Date: July 10, 2017  
Re: **2016-010PM Walsh Definitive Plan; Staff Report #5**

**2016-010PB Stephen Walsh, et al**, have filed an application for approval of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on Walsh Way, Walsh Way Extension and Valentine Lane, Map 43, Parcels 7, 8, 9, 10, 134 & 135. The plan would widen existing roadways with no new lots created.

**Deadline for Board action: August 18, 2017**

This staff report supplements the four previous staff reports on this application.

On September 6<sup>th</sup> this public hearing was opened and continued to September 20<sup>th</sup>, pending further information about zoning implications of the road widening. Following consultation with the Building Commissioner and Town Counsel, it was determined that the proposed road layout creates one new set back non-conformity, and extends an existing setback non-conformity on a lot with two dwelling units on it. The applicant's representative, Mr. Lay, requested continuance to allow him to address the zoning issues with the Zoning Board of Appeals (ZBA) prior to returning to the Planning Board. The Board granted a series of continuances to November 2, 2016, December 6, 2016, February 7, 2017 and June 6, 2017 to accommodate filing and scheduling with the ZBA. The requested variance and special permit (2016-019ZBA) were approved by the ZBA, the decision has been filed with the Town Clerk and the appeal period has expired without an appeal. A second ZBA application (2017-008ZBA) for relief from the required 20 foot radius at the north side of the intersection of Route 6 and Walsh Way was filed on April 10, 2017 and heard by the ZBA on May 22, 2017 the decision was filed with the Town Clerk on June 1, 2017.

Mr. Roderick did not attend the March 7, 2017 Board meeting which included a hearing session on this matter. On June 15, 2017 Mr. Roderick listened to the video of the hearing session he did not attend and has signed the required certification which has been filed with the records of this matter (copy attached.)

The applicant has proposed the attached covenant.

The applicant has offered a condition of approval (April 6, 2017 staff report page 3) and staff has suggested other possible conditions. Based on discussion at the June 6, 2017 Board meeting a further revision to the statement of conditions of approval is proposed as follows:

The ways shown on this plan shall be used only for frontage for, and access to Lots 1 through 5 as shown on this definitive subdivision plan and two adjacent parcels shown on the Truro Assessor's Map, Sheet 43, as Parcels 6 and 133 and for access to but not



frontage for two parcels shown on the Truro Assessor's Map Sheet 43, Parcels 9 and 13. Lots shown on this plan and said Parcels 6 and 133 shall not be further divided so as to result in more than seven (7) lots. This definitive plan approval does not include approval of roadway construction plans. Any roadway construction, redivision of the lots shown on this plan or of said Parcels 6 and 133 or use of the ways shown on this plan to access additional property shall require modification of the approval of this plan to approve roadway construction and provision of security for or construction of any required roadway improvements prior to use of said ways for redivision of or access to additional property. The property shown on this plan will not be combined with adjacent land in any manner that would constitute segmentation of development in order to circumvent review by the Cape Cod Commission or the Town of Truro.

This condition could be imposed in place of the applicant's suggested condition and could be accompanied by one or more of the other possible conditions relating to future road condition suggested in the prior staff memos.

#### Waivers

The Board should vote individually on the waivers that have been requested. General Laws, chapter 41, section 81R provides in part that "[T]he planning Board may waive in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations, . . ."

#### Standard For Board Action:

The Subdivision Control Law, section 81U articulates the standard to be applied by the Board in acting on a definitive plan:

After the hearing required by section eighty-one T and after the report of said health board or officer or lapse of forty-five days without such report, the planning board shall approve, or, if such plan does not comply with the subdivision control law or the rules and regulations of the planning board or the recommendations of the health board or officer, shall modify and approve or shall disapprove such plan. In the event of disapproval, the planning board shall state in detail wherein the plan does not conform to the rules and regulations of the planning board or the recommendations of the health board or officer

#### Possible Motion:

- Move to approve/approve with conditions/deny application **2016-010PB Stephen Walsh, et al**, for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81T and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on Walsh Way, Walsh Way Extension and Valentine Lane, Map 43, Parcels 7, 8, 9, 10, 134 & 135. Said plan is entitled "Definitive Subdivision of Land in Truro Showing a Re-division of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as shown of the Truro Assessor's Atlas," made for John Walsh, Ellen Shiel, Elizabeth Walsh Carver, Miguel D. Walsh, Stephen Walsh & Mary Ellen Walsh, by Slade Associates, Inc., October 6, 2016, Revised September 1, 2016, Scale 1"=50'. The plan would widen existing roadways with no new lots created.

If approval is conditional, specific conditions should be cited in the motion. The Board should specify which conditions it requires be noted on the plan to be recorded with the registry of

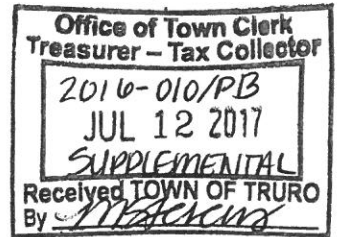
deeds (or contained in a separate “statement of conditions of subdivision approval” referenced on the plan). It is also required that the applicant be required to reference the decision on the plan and record the decision with the plan.

**NOTE:**

The plan(s) filed in connection with this application are too large to reproduce accurately. They will be available at the Planning Board meeting on July 18<sup>th</sup> and can be examined in advance at the Truro Planning Office, Town Hall on Monday July 17 and Tuesday, July 18 between the hours of 1:00 PM and 4:00 PM.



TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT



The undersigned Elizabeth Walsh Carver of Waltham, Middlesex County, Massachusetts, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Showing a Redivision of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as Shown on The Truro Assessors' Atlas Made For Stephen Walsh, John Walsh, MIGUEL D. WALSH, Ellen Shiel & Mary Ellen Walsh & ELIZABETH WALSH CARVER dated Oct. 6, 2015 made by Slade Associates, Inc. for property located at Walsh Way and showing 5 (no new lots) proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that: \*REVISED 9/1/16, 6/2/17, 6/12/17

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.
7. See attached.

The undersigned Elizabeth Walsh Carver wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 22 day of June, 2017

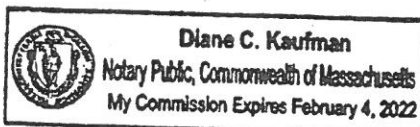
Elizabeth W Carver  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

On this 22 day of June, 2017, before me, the undersigned notary public, personally appeared Elizabeth Carver, proved to me through satisfactory evidence of identification, which were License, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.



Diane C. Kaufman  
NOTARY PUBLIC





**TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT**

The undersigned John Walsh of Seabrook, Harris County, Texas, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Showing a Redivision of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as Shown on The Truro Assessors' Atlas Made For Stephen Walsh, John Walsh, MIGUEL D. Walsh, Ellen Shiel & Mary Ellen Walsh & ELIZABETH WALSH CARVER dated Oct. 6, 2015 \* made by Slade Associates, Inc. for property located at Walsh Way and showing 5 (no new lots) proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that: \*REVISED 9/1/16, 6/2/17, 6/12/17

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.
7. See attached.

The undersigned \_\_\_\_\_ wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 16 day of JUNE, 2017

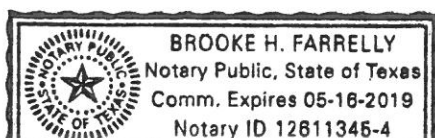
[Signature]  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

Galveston  
**HARRIS COUNTY**

**STATE OF TEXAS**

On this 16<sup>th</sup> day of June, 2017, before me, the undersigned notary public, personally appeared John Henry Walsh, Jr., proved to me through satisfactory evidence of identification, which were Texas DL, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.



Brooke H. Farrelly  
NOTARY PUBLIC



**TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT**

The undersigned Miguel D. Walsh of Bethesda, Montgomery County, Maryland, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Showing a Redivision of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as Shown on The Truro Assessors' Atlas Made For Stephen Walsh, John Walsh, MIGUEL D. Walsh, Ellen Shiel & Mary Ellen Walsh & ELIZABETH WALSH HARVER dated Oct. 6, 2015 \* made by Slade Associates, Inc. for property located at Walsh Way and showing 5 (no new lots) proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that: \*REVISED 9/1/16, 6/2/17, 6/12/17

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.
7. See attached. MIGUEL DANIEL WALSH

The undersigned MIGUEL DANIEL WALSH wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 19th day of JUNE, 2017

Signature of Owner

Signature of Owner

**STATE OF MARYLAND**

**MONTGOMERY COUNTY**

On this 19th day of June, 2017, before me, the undersigned notary public, personally appeared Miguel Daniel Walsh, proved to me through satisfactory evidence of identification, which were a Maryland drivers license, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.

NOTARY PUBLIC

Enrique Luna, Notary Public  
Montgomery County, Bethesda, Maryland  
My Commission Expires Aug. 04, 2019



**TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT**

The undersigned Ellen Sheil of Providence, Newport County, Rhode Island, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Showing a Redivision of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as Shown on The Truro Assessors' Atlas Made For Stephen Walsh, John Walsh, MIGUEL D. Walsh, Ellen Sheil & Mary Ellen Walsh <sup>WALSH CARVER</sup> ~~ELIZABETH~~ dated Oct. 6, 2015 ~~\*~~ made by Slade Associates, Inc. for property located at Walsh Way and showing 5 (no new lots) proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that: \* REVISED 9/1/16, 6/2/17, 6/12/17

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.
7. See attached.

The undersigned \_\_\_\_\_ wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 14 day of June, 2017

Ellen Sheil

Signature of Owner

Signature of Owner

**COMMONWEALTH OF MASSACHUSETTS**

**PLYMOUTH, SS**

On this 14 day of June, 2017, before me, the undersigned notary public, personally appeared Ellen Sheil, proved to me through satisfactory evidence of identification, which were Rhode Island <sup>Licence</sup>, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.



MARILYN MARRESE  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
January 1, 2021

Marilyn Marrese  
NOTARY PUBLIC





**TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT**

The undersigned Stephen Walsh of Wilmington, New Hanover County, North Carolina, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Showing a Redivision of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as Shown on The Truro Assessors' Atlas Made For Stephen Walsh, John Walsh, MICHAEL D. Walsh, Ellen Shiel & Mary Ellen Walsh <sup>WALSH CARVER</sup> ~~ELIZABETH~~ dated Oct. 6, 2015 ~~X~~ made by Slade Associates, Inc. for property located at Walsh Way and showing 5 (no new lots) proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that: *\*REVISED 9/1/16, 6/2/17, 6/12/17*

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.
7. See attached.

The undersigned \_\_\_\_\_ wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 16<sup>th</sup> day of June, 2017

[Signature]  
Signature of Owner

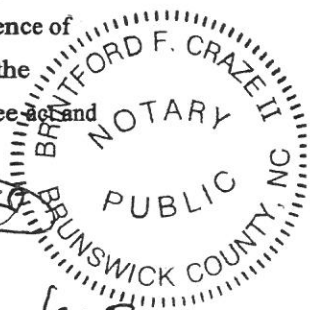
[Signature]  
Signature of Owner

**STATE OF NORTH CAROLINA**

**NEW HANOVER COUNTY**

On this 16<sup>th</sup> day of June, 2017, before me, the undersigned notary public, personally appeared Stephen Joseph Walsh, proved to me through satisfactory evidence of identification, which were NC Drivers Lic #38764480, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.

[Signature]  
NOTARY PUBLIC  
*My Commission Expires 11/2/2018*



TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT

The undersigned Mary Ellen Walsh of Plymouth, Plymouth County, Massachusetts, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled Definitive Subdivision of Land in Truro Showing a Redivision of Parcels 43-7, 43-8, 43-9, 43-10, 43-134 & 43-135 as Shown on The Truro Assessors' Atlas Made For Stephen Walsh, John Walsh, MIGUEL D. Walsh, Ellen Shiel & Mary Ellen Walsh + ELIZABETH WALSH dated Oct. 6, 2015 \* made by Slade Associates, Inc. for property located at Walsh Way SH LARVER and showing 5 (no new lots) proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that: \*REVISED 9/1/16, 6/2/17, 6/12/17

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.

7. See attached.

The undersigned Mary Ellen Walsh  
wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 30<sup>th</sup> day of June, 2017

Mary Ellen Walsh

Signature of Owner

\_\_\_\_\_

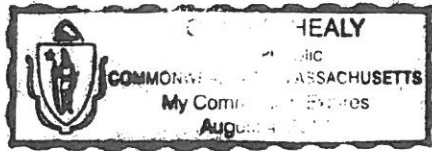
Signature of Owner

Plymouth

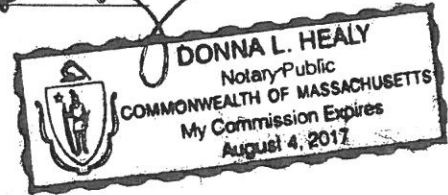
COMMONWEALTH OF MASSACHUSETTS

~~BARNSTABLE, SS~~

On this 30<sup>th</sup> day of June, 2017, before me, the undersigned notary public, personally appeared Mary Ellen Walsh, proved to me through satisfactory evidence of identification, which were Ma Drivers License, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.



*Donna L. Healy*  
NOTARY PUBLIC



The following are further agreements and/or conditions of approval:

We, the undersigned, being a majority of the members of the Truro Planning Board present at a meeting held \_\_\_\_\_, 2016, hereby agree that the following submission requirements of the Town of Truro Rules and Regulations Governing the Subdivision of Land are waived:

- 2.5.2a.6 drainage calculations
- 2.5.2a.9 traffic impact study
- 2.5.2a.10 three proposed road names
- 2.5.2b.5 existing and proposed methods of providing road drainage and utilities
- 2.5.2b.10 topographical contours (shown on preliminary plan)
- 2.5.2b.14 base flood elevation data
- 2.5.2b.21 notation prohibiting the conveyance of lots and the issuing of building permits
- 2.5.2b.22 two onsite USGS benchmarks
- 2.5.2b.24 all information required on preliminary plan
- 2.5.2b.29 notes indicating that all "utilities shall be underground"
- 2.5.2b.30 location of trees
- All of 2.5.2C contents of plan, profiles and cross-sections
- 2.5.9 homeowners' association
- 3.6.1.c provision for projection of streets to adjoining property
- 3.6.8 Table 1, Appendix 2 (specifications for type B road)
- 4.1.2 Clearing, grubbing & excavation
- 4.1.3 Erosion control measures
- 4.1.5 sub-base
- 4.1.6 grade
- 4.1.7 surface material
- 4.1.8 berms
- 4.1.9 street signs
- 4.1.10 vegetation
- 4.2.1 drainage installation
- 4.2.2 catch basins
- 4.2.3 drainage pipe outlets
- 4.3 underground utilities (there is an existing overhead line)
- 4.4 inspection
- 4.5.1 clean up
- 4.5.2 documentation for construction (a plan showing the locations of new concrete monuments will be submitted)

Lots may not be conveyed until all requisite concrete monuments have been set. Lot 3 may not be conveyed until the cottage shown as "1 story wd. fr. cott. To be removed" has been removed.

Planning Board Signatures:

Date: \_\_\_\_\_



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COMMONWEALTH OF MASSACHUSETTS**

**BARNSTABLE, SS**

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, the undersigned notary public, personally appeared \_\_\_\_\_, proved to me through satisfactory evidence of identification, which were \_\_\_\_\_, to be the person whose name is signed on the

preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.

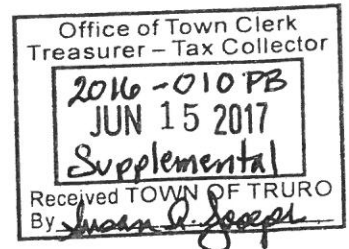
\_\_\_\_\_  
NOTARY PUBLIC



# TOWN OF TRURO

## Planning Department

P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505  
hterkanian@truro-ma.gov



CERTIFICATION PURSUANT TO G. L. c. 39, SECTION 23D OF PARTICIPATION IN A SESSION OF AN ADJUDICATORY HEARING WHERE THE UNDERSIGNED MEMBER MISSED A SINGLE HEARING SESSION [Note: Can only be used for missing one single hearing session]

I, Mike Rodderick, hereby do swear and certify under the pains and penalties of perjury as follows:

1. I am a member of the Truro Planning Board.
2. I missed a hearing session on the matter of 2016-010PB Application of Stephen Walsh et al for approval of a definitive subdivision plan which was held on March 7, 2017.
3. On June 15, 2017 I examined all the evidence and testimony received at the hearing session that I missed which included a review of (initial which one(s) applicable):
  - a. a. \_\_\_\_\_ official audio recording of the missed hearing session; or
  - b. b. MWR official video recording of the missed hearing session; or
  - c. c. \_\_\_\_\_ official transcript of the missed hearing session.

This certification shall become a part of the record of the proceedings in the above matter. Signed under the pains and penalties of perjury this 15<sup>th</sup> day of June, 2017.

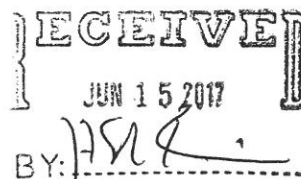
[Signature]

Mike Rodderick

Received as part of the record of the above matter: Date: 6/15/17

By: HSCT

Position: Acting Town Planner





# TOWN OF TRURO

Planning Department  
P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505  
hterkanian@truro-ma.gov

To: Planning Board  
From: Harry Sarkis Terkanian  
Date: July 10, 2017  
Re: **2017-002PB Claire A. Perry, Trustee Definitive Subdivision Plan; Staff Report #2**

**2017-002PB Claire A. Perry, Trustee** seeks approval of a Definitive Plan filed with the Town Clerk on May 22, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject property is known and numbered as 27 Perry Road, Truro and shown as Parcel 144 on Truro Assessor's Map, Sheet 45.

This staff report supplements staff report #1

**Deadline for Board Action: August 21, 2017**

## **Waivers:**

Several waivers are requested, including waivers from submission requirements and waivers from compliance with roadway construction standards.

Waivers from the following submission requirements have been requested:

- 2.5.2.a.6 – Drainage Calculations
- 2.5.2.a.9 – Traffic Study
- 2.5.2.a.10 – Three Proposed Road Names
- 2.5.2.b.1 – Subdivision Name.
- 2.5.2.b.5 – Existing & Proposed Methods of Providing Road Drainage and Utilities
- 2.5.2.b.10 – Topographic Contours (Note: topographic contours appear to be shown on the preliminary plan.)
- 2.5.2.b.16 – Grades, Widths, Locations, Sight Distances, Physical Condition of Existing Roadways (Note: see May 19, 2017 letter from Mr. Brady.)
- 2.5.2.b.22 – Two on site U.S.G.S. Benchmarks
- 2.5.2.b.24 – All Information Required on a Preliminary Plan
- 2.5.2.b.30 - Location of All Trees of 10" Diameter
- 2.5.2.c – Plan, Profile and Cross Section
- 2.5.2.c.11 – Limits of Clearing
- 2.5.2.c.15 – Landscape Plan



### 2.5.2.c.16 – Erosion Control Plan

2.5.9 – Homeowner’s Association. Mr. Brady has been sent two samples, the homeowner’s association trust from the Meldahl subdivision and a private road maintenance agreement for Fisher Hill Road.

3.4.1 – Setting Monuments at Property Corners. Waiver requested for the corners Lot 10B on the east side of the cul-de-sac “as this is an area currently under cultivation and is constantly plowed. Also the setting of monuments at the angle points in the easterly property line (with the exception of the most southerly corner of Lot 10B (sic)) as this line is defined by the centerline of the road.”

Waivers from the following roadway standards have been requested:

3.7 – Existing Way to be Improved in Accordance With Rural Road Alternative (Note: Not listed as a waiver, appears as a plan note.)

4.1 – construction of Circular Turnaround

4.1.1 – 4 Foot Shoulders

4.2 – Drainage

### **Additional Planning Staff Comments:**

See DPW Director’s comments in the attached memorandum regarding requested waivers related to drainage.

The following is a comparison of the proposal with applicable requirements of the Truro Zoning Bylaw and Rules and Regulations Governing the Subdivision of Land in Truro.

### Roadway Layout – Zoning Compliance

The roadway appears to conform with zoning requirements for minimum width of street and width of turn around as measured from property lines. Curb radii may be met but are not labeled. (Table 1)

**Table 1. Zoning Requirements w/o Relief From Zoning Board of Appeals**

Required per Zoning Definition of Street	Proposed on Plan
40’ Minimum width of street ROW	40’ Perry Road (Private)
Property lines shall be rounded to provide a curb radii of not less than 20’	No street intersections
Turn around with property line diameter of 80’	R=40’ would indicated a diameter of 80’ at the terminus of Perry Road, per plans

The private portion of Perry Road scales to approximately 1,120 feet, within the maximum 1,000 foot distance for a dead end road, and 80-foot turn arounds measured from property lines are provided as required under Section 3.6.6. Note. A waiver was granted from this requirement as part of the approval of an earlier subdivision plan (2008-016PB, see below.)

The applicant proposes no road construction. A waiver of section 3.7 was granted as part of the approval of an earlier subdivision plan (2008-016PB, see below.) Section 3.7 Rural Road Alternative provides as follows:

*Where approval is sought for a subdivision on land of a rural or sensitive nature, the Board may, at its discretion, waive strict compliance with the requirements of Section 3.6.8 in order to allow roads servicing not more than four (4) dwellings to be more in keeping with the rural landscape. In granting a waiver the Board will consider the following factors before granting a waiver of the standard road requirements: length of the road; design of the road and its compatibility with bordering permanent open space, scenic amenity, any other conservation measures; public safety; the adequacy of the proposed surface to withstand the expected intensity of vehicular traffic upon build-out of the subdivision; the provision of pull-offs, the applicant's willingness to resurface following the construction of residences; provisions for protecting the road surface during the construction of residences; and the long-term adequacy of any homeowner's maintenance agreement to protect the proposed surface; and applicable covenants restricting future density increases.* (Amended 8/19/14)

#### Adequacy of Access

The subdivision road becomes a 40 foot wide public way, also named Perry Road, as shown on the plan.

Section 3.9 gives the Board discretion to disapprove a plan "...if it determines that access roads to the subdivision are inadequate to carry the volume of traffic reasonably anticipated. The applicant shall show to the satisfaction of the Board that the roads and ways to and from the proposed subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel and adequate circulation for the projected volume of traffic...The Board may require appropriate and reasonable improvements in adjacent streets and ways to minimize congestion, to ensure safe and adequate access to the subdivision, and to ensure safe and adequate vehicular and pedestrian travel."

#### Building Lots – Zoning Compliance

The proposed lots 10A and 10B appear to meet minimum dimensional requirements. The remaining two parcels are labeled "(Not A Buildable Lot)":

**Table 2. Area and Dimensional Requirements**

Lot #	10A	10B	Parcel "D"	Parcels "B" & "C"
Min. Lot Size = 33,750 s. f.	34,402	90,720	120,719	217,800
Min Frontage = 150 feet	157.14	150.17	Over 241.81 estimated	102.71 (may be additional road frontage at NE corner)
Lot Shape	yes	yes	yes	No?

#### Natural Resources

The application materials include a letter from the Massachusetts Natural Heritage and Endangered Species Program indicating that the proposed subdivision would not result in a take of state-listed species.

## **Previous Subdivision**

This property was the subject of an earlier definitive subdivision plan (2008-016PB) in 2009. Attached are copies of the decision, plan and covenant. The covenant does not appear to have been released, but only applies to Lot 7. Since the application before the Board is for a new subdivision, the Board has the jurisdiction to re impose the same conditions or to impose a different set of conditions (or no conditions.) Nor is the Board bound by earlier waivers as the current definitive plan proposed the creation of an additional buildable lot which might trigger the need for additional conditions. To avoid confusion, the Board should consider, at a minimum, the re-imposition of the conditions imposed in 2008-010SPR.

## **Planning Board Jurisdiction**

Pursuant to MGL Ch. 41 section 81U:

In the case of a subdivision showing lots in a residential zone, where a preliminary plan has been acted upon by the planning board or where at least forty-five days has elapsed since submission of the preliminary plan, an applicant may file a definitive plan. The failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action on the definitive plan within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

## Findings

The Board should make findings with respect to the following requirements of subdivision regulations:

- Fulfillment of submission requirements
- Due notice and public hearing
- Review and approval by Board of Health
- Protection of Natural Resources
- Adequacy of Access of subdivision road and adjacent roads
- Zoning compliance of lots created or modified by the subdivision

## Waivers

The Board should vote individually on the waivers that have been requested. General Laws, chapter 41, section 81R provides in part that “[T]he planning Board may waive in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations, . . .”

The requested waivers are:

- 2.5.2.a.6 – Drainage Calculations



- 2.5.2.a.9 – Traffic Study
- 2.5.2.a.10 – Three Proposed Road Names
- 2.5.2.b.1 – Subdivision Name
- 2.5.2.b.5 – Existing & Proposed Methods of Providing Road Drainage and Utilities
- 2.5.2.b.10 – Topographic Contours (Note: topographic contours appear to be shown on the preliminary plan.)
- 2.5.2.b.16 – Grades, Widths, Locations, Sight Distances, Physical Condition of Existing Roadways (Note: see May 19, 2017 letter from Mr. Brady.)
- 2.5.2.b.22 – Two on site U.S.G.S. Benchmarks
- 2.5.2.b.24 – All Information Required on a Preliminary Plan
- 2.5.2.b.30 - Location of All Trees of 10” Diameter
- 2.5.2.c – Plan, Profile and Cross Section
- 2.5.2.c.11 – Limits of Clearing
- 2.5.2.c.15 – Landscape Plan
- 2.5.2.c.16 – Erosion Control Plan
- 2.5.9 – Homeowner’s Association
- 3.4.1 – Setting Monuments (Lot 10B easterly line)
- 3.7 – Existing Way to be Improved in Accordance With Rural Road Alternative (Note: Not listed as a waiver, appears as a plan note.)
- 4.1 – construction of Circular Turnaround
- 4.1.1 – 4 Foot Shoulders
- 4.2 – Drainage

Standard For Board Action:

The Subdivision Control Law, section 81U articulates the standard to be applied by the Board in acting on a definitive plan:

After the hearing required by section eighty-one T and after the report of said health board or officer or lapse of forty-five days without such report, the planning board shall approve, or, if such plan does not comply with the subdivision control law or the rules and regulations of the planning board or the recommendations of the health board or officer, shall modify and approve or shall disapprove such plan. In the event of disapproval, the planning board shall state in detail wherein the plan does not conform to the rules and regulations of the planning board or the recommendations of the health board or officer

Possible Motion:

- Move to approve/approve with conditions/deny application **2017-002PB Claire A. Perry, Trustee**, for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on Perry Road, Map 45, Parcel 144. Said plan is entitled “Definitive Subdivision Plan of Land in Truro Showing a Subdivision of Lots 3A, 10 & 12 as shown on a Plan Recorded in Plan Book 630, Page 58.” Made for Claire A. Perry by Slade Associates, Inc., April 12, 2016, Scale 1”=80.’

If approval is conditional, specific conditions should be cited in the motion. The Board should specify which conditions it requires be noted on the plan to be recorded with the registry of

deeds (or contained in a separate “statement of conditions of subdivision approval” referenced on the plan). It is also required that the applicant be required to reference the decision on the plan and record the decision with the plan.

If the motion is to deny, the Board must cite reasons for denial. Reasons for denial are limited to failure of the plan to comply with the requirements of the Truro subdivision regulations (as modified by waivers voted by the Board), Board of Health conditions or failure of each building lot on the plan to satisfy the applicable frontage requirements of the zoning bylaw see section 81U quoted above.

**NOTE:**

The plan(s) filed in connection with this application are too large to reproduce accurately. They will be available at the Planning Board meeting on July 18<sup>th</sup> and can be examined in advance at the Truro Planning Office, Town Hall on Monday July 17 and Tuesday, July 18 between the hours of 1:00 PM and 4:00 PM.



# Memo

To: Harry Terkanian, Interim Town Planner

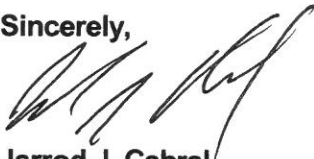
From: Jarrod J. Cabral, DPW Director

Date: July 13, 2017

Re: Development Application, Clair A. Perry

After review of the definitive plan for the property located at 27 Perry Road, it has been determined that there is inadequate drainage and storm-water management proposed for this development application. I recommend not to approve waivers for 2.52a.6 drainage calculations, 2.5.2b5 proposed method of providing road drainage and utilities, as well as 4.2 drainage.

Sincerely,



Jarrod J. Cabral  
Director  
Department of Public Works  
Truro Ma 02666



TOWN OF TRURO PLANNING BOARD  
FORM D  
COVENANT

BARNSTABLE DEEDS,  
BOOK 23885  
PAGE 141

The undersigned **Stephen R. Perry, Richard B. Perry & Lucy J. Perry** of Barnstable County, Massachusetts, hereinafter called the "Covenantor", having submitted to the Truro Planning Board, a definitive plan of a subdivision, entitled **Subdivision Plan of Land in Truro made for Stephen R. Perry, Richard B. Perry & Lucy J. Perry** dated **June 23, 2008, revised Nov. 10, 2008 and Dec. 3, 2008** made by **Slade Associates, Inc.** for property located at **Harding's Way and Perry Road (Truro Assessors Map 45, Parcels 127, 131, 132 & 133)** and showing **five (5)** proposed lots, does hereby covenant and agree with said Planning Board and the successors in office of said Board, pursuant to MGL c.41, §81U, as amended that:

1. The Covenantor is the owner of record of the premises shown on said plan;
2. This covenant shall run with the land and be binding upon the executor, administrators, heirs and assigns of the Covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the Rules and Regulations of said Planning Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgage premises or part thereof may sell any such lot, subject only to that portion of this covenant which provided that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on said subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon approval of said plan by the Planning Board.
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded at the Registry of Deeds or the Land Court when said plan is recorded. A copy of the recorded covenant shall be returned to the Planning Board.

The undersigned **Stephen R. Perry, Richard B. Perry & Lucy J. Perry**, wife, husband, of the Covenantor hereby agree that such interest as I, we, may have in said premises shall be subject to the provisions of this covenant and insofar as is necessary release all rights of tenancy by the courtesy, dower, homestead and other interest therein.

Witness our hands and seals this 8<sup>th</sup> day of March, 2009

Stephen R. Perry  
Signature of Owner

Lucy J. Perry  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

On this 8<sup>th</sup> day of March, 2009, before me, the undersigned notary public, personally appeared Stephen R. Perry and Lucy J. Perry, proved to me through satisfactory evidence of identification, which were Insurance Cards, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.

Jane K. Petterson  
NOTARY PUBLIC  
my commission Exp.  
5-19-2011

The following are further agreements and/or conditions of approval:

1. Permanent Bounds shall be set at all road points and lot corners, as appropriate, for Perry Road and Harding's Way.
2. An as-built plan showing the bounds shall be submitted.
3. The developer shall present to the Planning Board for its approval a declaration of trust creating a Homeowners' Association per Section 2.5.9 of the Truro Rules and Regulations Governing the Subdivision of Land (Sept. 10, 2007).
4. Only Lot 7 shall be subject to this covenant.

Planning Board Signatures:

W.F. [Signature]  
Paul West  
Carol B. Chene

Date: 3-10-09

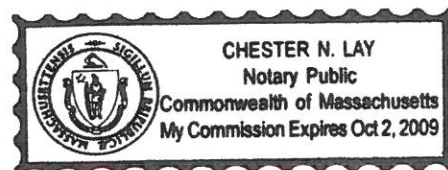
Stephen Williams  
William C. [Signature]

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, SS

On this 10<sup>TH</sup> day of MARCH, 2009, before me, the undersigned notary public, personally appeared STEPHEN WILLIAMS, proved to me through satisfactory evidence of identification, which were PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document in my presence and acknowledged the foregoing instrument to be his free act and deed before me.

Chester N. Lay  
NOTARY PUBLIC







**COMMONWEALTH OF MASSACHUSETTS  
TOWN OF TRURO  
PLANNING BOARD – CERTIFICATE OF ACTION  
DEFINITIVE SUBDIVISION**

**Sheet 45 Parcels 127, 131, 132 & 133**

**Harding's Way and Perry Road**

**Reference: No. 2008-016**

**Applicant: Stephen R. Perry, Richard B.  
Perry & Lucy J. Perry**

**Hearing Dates 12/16/08 and 1/13/09**

**Decision Date January 13, 2009**

At a public hearing opened December 13, 2008 and continued to and closed January 13, 2009, the Town of Truro Planning Board, acting in the matter of Reference Number **2008-016** voted to **approve with conditions** a Definitive Subdivision Plan in accordance with the Truro Subdivision Regulations, 2.5 and M.G.L c.41, §§81-T and 81-U and as shown on the following plan:

“Definitive Plan” Subdivision Plan of Land in Truro Made for Stephen R. Perry, Richard B. Perry & Lucy J. Perry, dated June 23, 2008, revised Nov. 10, 2008 and Dec. 3, 2008, at 1" = 100', by Slade Associates, Inc., Plan #08-39.

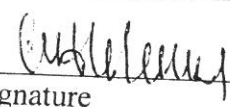
**DEFINITIVE SUBDIVISION DECISION**

On a motion from Mr. Weinstein, seconded by Mr. Williams, the Board voted unanimously (Weinstein, Snow, Worthington, Golden, Williams and Chaplin) to approve the definitive plan for Stephen R. Perry, Richard B. Perry & Lucy J. Perry, as submitted pursuant to MGL c. 41, §81-T and §81-U and Section 2.5 of the Truro Subdivision Regulations with the following conditions:

- 1) The following notes shall be included on the definitive plan:
  - Any further divisions of land off Perry Road shall require further upgrade(s) of Perry Road thus requiring further review and approvals from the Truro Planning Board.
  - Once Lot 9 or 10 separate ownership, the applicant must apply for a shared system application with DEP and Truro Board of Health or install a septic system to serve each lot independently.
  - Permanent Bounds shall be set at all road points and Lot Corners, as Appropriate.
- 2) The following shall be included within the Planning Board Covenant:
  - An as-built plan showing the bounds shall be submitted.
  - Permanent Bounds shall be set at all road points and lot corners, as appropriate.

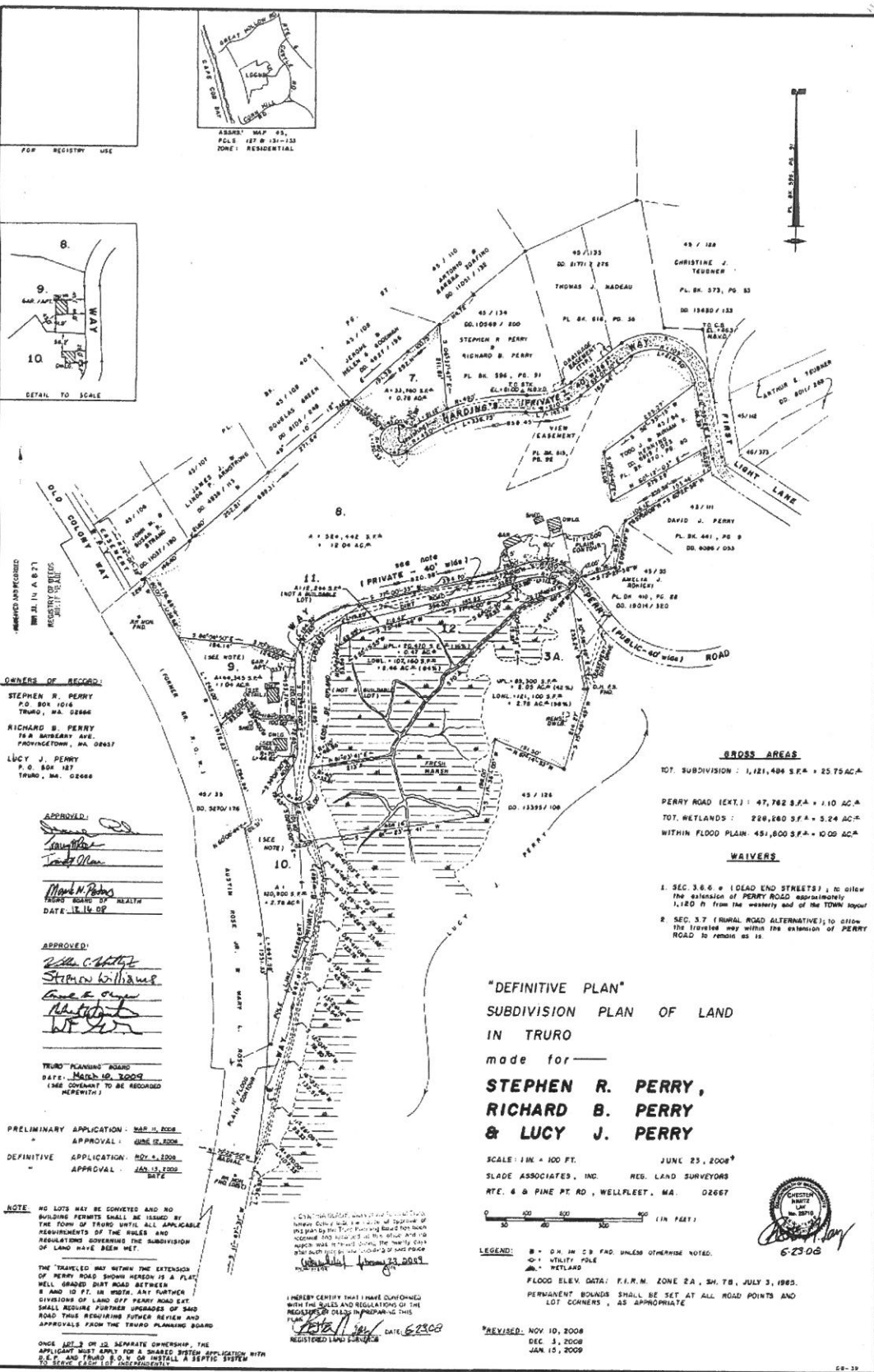
- The developer shall present to the Planning Board for its approval a declaration of trust creating a Homeowners' Association per Section 2.5.9 of the Truro Rules and Regulations Governing the Subdivision of Land (Sept. 10, 2007).
- Only Lot 7 shall be subject to this covenant.

 1-23-09  
Chairman, Truro Planning Board      Date

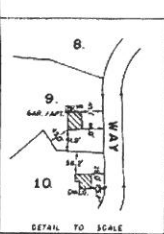
Received, Office of the Town Clerk:  January 23, 2009  
Signature      Date

I certify that this decision was filed with the Office of the Town Clerk on \_\_\_\_\_  
and twenty (20) days have elapsed since the date of filing, and no appeal has been filed.

\_\_\_\_\_  
Signature      Date



FOR REGISTRY USE



**OWNERS OF RECORD:**  
STEPHEN R. PERRY  
P.O. BOX 1016  
TRURO, MA 02666  
RICHARD B. PERRY  
76.8 BUREAU AVE  
PROVINGTOWN, MA 02647  
LUCY J. PERRY  
P.O. BOX 187  
TRURO, MA 02666

**APPROVED:**  
*[Signature]*  
TOWN CLERK  
DATE: 11.16.07

**APPROVED:**  
*[Signature]*  
STEPHEN WILLIAMS  
DATE: 11.16.07

**TRURO PLANNING BOARD:**  
DATE: March 10, 2009  
(SEE COVENANT TO BE RECORDED HEREWITH.)

**PRELIMINARY APPLICATION:** MAR 11, 2008  
APPROVAL: JUNE 11, 2008  
**DEFINITIVE APPLICATION:** NOV 1, 2008  
APPROVAL: JAN 13, 2009

**NOTE:** NO LOTS MAY BE CONVEYED AND NO BUILDING PERMITS SHALL BE ISSUED BY THE TOWN OF TRURO UNTIL ALL APPLICABLE REQUIREMENTS OF THE RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND HAVE BEEN MET.

THE TRAVELLED WAY WITHIN THE EXTENSION OF PERRY ROAD SHOWN HEREON IS A PLACED WELL GRADED DIAT ROAD BETWEEN 8' AND 10' FT. IN WIDTH. ANY FURTHER DIVISION OF LAND OFF PERRY ROAD EXT SHALL REQUIRE FURTHER UPGRADES OF SAID ROAD THAT REQUIRING FURTHER REVIEW AND APPROVALS FROM THE TRURO PLANNING BOARD

ONCE LOT 2 OF 10 SEPARATE OWNERSHIP, THE APPLICANT MUST APPLY FOR A SHARED SEPTIC SYSTEM WITH LOT 1, AND TRURO S.O.W. OR INSTALL A SEPTIC SYSTEM

I, CLAYTON G. BROWN, Surveyor, do hereby certify that I have surveyed and laid out the above described land in accordance with the laws and regulations of the Commonwealth of Massachusetts, and that the same are true and correct.

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS IN PRODUCING THIS PLAN.  
DATE: 6/23/08  
REGISTERED LAND SURVEYOR

**"DEFINITIVE PLAN"**  
**SUBDIVISION PLAN OF LAND**  
**IN TRURO**

made for —  
**STEPHEN R. PERRY,**  
**RICHARD B. PERRY**  
**& LUCY J. PERRY**

SCALE: 1 IN. = 100 FT. JUNE 23, 2008  
SLADE ASSOCIATES, INC. REG. LAND SURVEYORS  
RTE. 6 & PINE PT. RD., WELFLEET, MA. 02667

LEGEND:  
B = 6" DIA. IN C.B. FLAG, UNLESS OTHERWISE NOTED.  
+ = UTILITY POLE  
W = WETLAND  
FLOOD ELEV. DATA: F.I.R.M. ZONE 2A, SH. 78, JULY 3, 1985.  
PERMANENT BOUNDS SHALL BE SET AT ALL ROAD POINTS AND LOT CORNERS, AS APPROPRIATE.

\*REVISED: NOV 10, 2008  
DEC 1, 2008  
JAN 15, 2009

**GROSS AREAS**  
TOT. SUBDIVISION: 1,121,406 S.F. = 25.75 AC.  
PERRY ROAD (EXT.): 47,762 S.F. = 1.10 AC.  
TOT. WETLANDS: 226,260 S.F. = 5.24 AC.  
WITHIN FLOOD PLAIN: 451,000 S.F. = 10.00 AC.  
**WAIVERS**  
1. SEC. 3.6.6 (DEAD END STREETS): to allow the extension of PERRY ROAD approximately 1,100 ft. from the westerly end of the TOWN REPORT  
2. SEC. 3.7 (RURAL ROAD ALTERNATIVE): to allow the proposed way within the extension of PERRY ROAD to remain as is.







# TOWN OF TRURO

Planning Department  
P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004, Ext. 27 Fax: (508) 349-5505  
hterkanian@truro-ma.gov

To: Planning Board  
From: Harry Terkanian  
Date: July 10, 2017  
Re: **2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers; Staff Report #1**

**2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers (by Nickerson Realty Corporation, applicant)** seeks approval of a nine lot definitive subdivision, pursuant to MGL c.41, Section 81U and Section 2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land for property located at 25 & 25A Pond Road, Assessors Map 36, Parcels 35 & 39.

**Deadline for Board Action: August 29, 2017**

The public hearing on this application should not be opened until the applicant provides the Board with green cards/receipts confirming that abutters have been notified by certified mail.

## Description

As indicated in the application materials, the applicant proposed to consolidate two existing, unimproved parcels into a single 10.236 acre parcel on which to create a private way serving 9 residential building lots. Locus is shown on an earlier recorded plan, Plan Book 245, Page 83 as Parcels A and B. The earlier plan did not require approval under the subdivision control law.

## Completeness of Application

The following application materials were submitted on May 31, 2017 and appear to meet the filing requirements except as noted:

- Form C – Application for Approval of a Definitive Plan dated May 30, 2017
- Filing fee of \$1,125.00
- Certified abutter's list dated May 16, 2017
- "Definitive Subdivision Plan of Land in Truro 'Rogers Landing' Mae for Nickerson Realty Corporation" Scale 1" = 50', January 11, 2017 Prepared by Slade Associates, Inc. (stamped by RLS on 5-25-17)
- "Stormwater Management/Planting Plan May 2, 1971, Nickerson Realty, Rogers Way, Truro, MA" Prepared by Blueflax Design, LLC.
- "Road Plan & Profile 'Rogers Landing' 25 & 25A Pond Road, Truro, MA" Prepared for Nickerson Realty Corporation, dated May 12, 2017, Prepared by East Cape Engineering.
- Revised "Definitive Subdivision Plan of Land in Truro 'Rogers Landing' Mae for Nickerson Realty Corporation" Scale 1" = 50', January 11, 2017 Prepared by Slade Associates, Inc. (stamped by RLS on 6-12-17; filed with the Town Clerk on June 13, 2017.)

Deficiencies in the initial filing were noted in a letter to Tim Brady, PE, attached. The following items listed in that letter appear to remain outstanding:

8. Section 2.5.c.16 requires (b) drainage patterns and watershed boundaries; (c) existing vegetation, (f) temporary driveway apron and (g) narrative of construction schedule, etc. Can you please supplement by letter or comment on these items. I assume that the limits of work on the subdivision plan are the same as (d) proposed limit of clearing and request confirmation.
9. Has section 2.5.3 Staking of Proposed Subdivision been done?
10. The subdivision plan lists by area a “restricted” portion of each lot. What restriction(s) exist or are to be applied to the lots?
11. Truro General Bylaws, Section 2-3-3 authorize withholding of permits to delinquent taxpayers. MGL c. 60, §23 requires a “clean” certificate of municipal liens prior to presenting a plan for recording at the registry of deeds. The locus for the proposed subdivision is currently appears on the delinquent tax list and has a significant outstanding balance which the owner or applicant should be prepared to address.

#### **Staff Comments**

Board of Health and Conservation comments are set forth in a July 6, 2017 memo from Patricia Pajaron attached. The Building Commissioner asked for information on purpose for the “restricted areas” shown on the plan. The DPW has responded by stating that the drainage and storm water management is adequate, see attached memorandum. No other department comments were received.

Truro General Bylaws, Chapter II, Section 3 requires that tax payments to the Town of Truro be up to date before a property owner is entitled to a permit from the Town. The currently outstanding real estate taxes, together with interest and fees, for lots 25 and 25A total \$110,640 per the list published by the Tax Collector under the bylaw. See schedule attached.

A preliminary subdivision plan was approved by the Board in case 2016-003PB on March 15, 2016. A copy of the decision is attached.

#### **Waivers Requested**

The following waivers from the requirements in Town of Truro Rules and Regulations Governing the Subdivision of Land have been requested:

2.5.2.b.10 – Topographic contours.

2.5.2.b.24 – All information required on a preliminary plan. A preliminary plan was submitted in this case.

2.5.2.b.30 – Location of all trees of 10” diameter.

3.6.7 - Screening from adjacent properties. Proposed subdivision roads shall be separated from subdivision boundaries by a screening buffer of twenty-five (25) feet width or more. This buffer is to consist of naturally occurring vegetation; however, if this area is disturbed it must be replanted preferably with native vegetation and shown on a plan in accordance with section 2.5.2.c.15.

#### **Building Lots – Zoning Compliance**

The proposed lots appear to meet minimum dimensional requirements. All lots have between 40,008 and 50,912 square feet of area and at least 150 feet of frontage on Rogers Way.

#### Adequacy of Access – Compliance with Subdivision Regulations

Issues or questions exist with compliance with the following requirements of the Subdivision Regulations:

2.5.2.a.6 requires “Two (2) copies of drainage calculations based on a fifty (50) year storm, stamped and signed by an engineer, along with a topographic plan delineating contributing areas.” This requirement does not appear to have been met.

2.5.2.a.8 requires “A computer disk containing a file of the subdivision in either .DWG or .DXF format.” The computer disk received did not contain any files.

2.5.2.a.9 requires a traffic study for subdivisions with 10 or more building lots. Further, the Planning Board “may also require a traffic study if in their determination one is warranted because of public safety concerns.” Approval of the preliminary subdivision plan included a requirement to “Conduct a traffic study using a consultant acceptable to the Planning Board to estimate annual-daily- and weekly- peak traffic conditions on Pond Road and nearby roads and intersections including the additional traffic generated from the additional nine house lots.”

2.5.2.a.10 requires three proposed road names. One, “Rogers Way”, has been provided.

2.5.2.a.11 requires a written statement stating the time within which the applicant/subdivider agrees to complete the proposed ways and install all utilities required by the Board. This statement has not been provided.

2.5.2.b.10 two (2) foot contours – waiver requested.

2.5.2.b.14 requires base flood elevation data. None noted.

2.5.2.b.22 requires establishment of two benchmarks taken from USGS datum. None noted.

2.5.2.b.24 – All information required on a preliminary plan. A preliminary plan was submitted in this case and a waiver has been requested.

2.5.2.b.30 – Location of all trees of 10” diameter. A waiver has been requested.

3.6.6 – Length of dead end streets should not exceed one thousand (1,000) feet. From the road plan and profile the end of layout appears to be 1,009.87 feet. 16.5 feet of the centerline lies within the limits of Pond Road; the length of the centerline within the subdivided property appears to be 993.37 feet.

3.6.7 - Screening from adjacent properties. Proposed subdivision roads shall be separated from subdivision boundaries by a screening buffer of twenty-five (25) feet width or more. This buffer is to consist of naturally occurring vegetation; however, if this area is disturbed it must be replanted preferably with native vegetation and shown on a plan in accordance with section 2.5.2.c.15. A waiver has been requested.

#### **Planning Board Jurisdiction**

Pursuant to MGL Ch. 41 section 81U:

In the case of a subdivision showing lots in a residential zone, where a preliminary plan has been acted upon by the planning board or where at least forty-five days has elapsed



since submission of the preliminary plan, an applicant may file a definitive plan. The failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action on the definitive plan within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

### Findings

The Board should make findings with respect to the following requirements of subdivision regulations:

- Fulfillment of submission requirements
- Due notice and public hearing
- Review and approval by Board of Health
- Adequacy of Access of subdivision road and adjacent roads
- Zoning compliance of lots created or modified by the subdivision

### Waivers

The Board should vote individually on the waivers that have been requested. General Laws, chapter 41, section 81R provides in part that “[T]he planning Board may waive in any particular case, where such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law, waive strict compliance with its rules and regulations . . .”

The requested waivers are:

2.5.2.b.10 – Topographic contours.

2.5.2.b.24 – All information required on a preliminary plan. A preliminary plan was submitted in this case.

2.5.2.b.30 – Location of all trees of 10” diameter.

### Standard for Board Action:

The Subdivision Control Law, section 81U articulates the standard to be applied by the Board in acting on a definitive plan:

After the hearing required by section eighty-one T and after the report of said health board or officer or lapse of forty-five days without such report, the planning board shall approve, or, if such plan does not comply with the subdivision control law or the rules and regulations of the planning board or the recommendations of the health board or officer, shall modify and approve or shall disapprove such plan. In the event of disapproval, the planning board shall state in detail wherein the plan does not conform to the rules and regulations of the planning board or the recommendations of the health board or officer

### Possible Motion:

Move to **approve/approve with conditions/disapprove** the Definitive Subdivision Plan, case reference number 2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers, entitled “Definitive Subdivision Plan of Land in Truro ‘Rogers Landing’ Mae for Nickerson Realty Corporation, Scale 1” = 50’, January 11, 2017 Prepared by Slade Associates, Inc.” pursuant to MGL c.41, Section 81U and Section 2.4 of the Town of Truro Rules and Regulations

Governing the Subdivision of Land for property located at 25 and 25A Pond Road, Assessors Map 36, Parcels 35 & 39.

**Note: Include any conditions in the motion.**

If approval is conditional, specific conditions should be cited in the motion. The Board should specify which conditions it requires be noted on the plan to be recorded with the registry of deeds (or contained in a separate "statement of conditions of subdivision approval" referenced on the plan). It is also required that the applicant be required to reference the decision on the plan and record the decision with the plan.

If the motion is to deny, the Board must cite reasons for denial. Reasons for denial are limited to failure of the plan to comply with the requirements of the Truro subdivision regulations (as modified by waivers voted by the Board), Board of Health conditions or failure of each building lot on the plan to satisfy the applicable frontage requirements of the zoning bylaw see section 81U quoted above.

**NOTE:**

The plan(s) filed in connection with this application are too large to reproduce accurately. They will be available at the Planning Board meeting on July 18<sup>th</sup> and can be examined in advance at the Truro Planning Office, Town Hall on Monday July 17 and Tuesday, July 18 between the hours of 1:00 PM and 4:00 PM.





## TOWN OF TRURO

P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004 x127 Fax: (508) 349-5505  
hterkanian@truro-m.gov

June 16, 2017

Nathan A. Nickerson, III  
Nickerson Realty Corporation  
PO Box 684  
North Eastham, MA 02651

RE: 2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers; Definitive Subdivision of Property at 25 and 25A Pond Road.

Dear Mr. Nickerson:

The public hearing for the above referenced matter is scheduled for Tuesday, July 18, 2017 at 6:00 PM at the Truro Town Hall, 24 Town Hall Road, Truro, MA.

Please note that per the Town of Truro Rules and Regulations Governing the Subdivision of Land, §2.5.4.b(3), it is the applicant's responsibility to notify abutters regarding the public hearing by certified mail return receipt. The applicant shall give notice by mailing a copy of the notice to the abutters to the subject property, the abutters to abutters and properties across the street from the subject property. Sad notice shall be mailed out not less than ten (10) days prior to the scheduled public hearing. A copy of the certified mail receipts (the white receipt stamped by the Post Office) must be filed with the Planning Board and the original "green cards" should be submitted to the Board as well. The notice of this hearing will appear in the *Banner* on June 30 & July 7, 2017. A form of the notice to abutters is enclosed for this purpose.

If you have any questions or comments regarding this matter please do not hesitate to contact me.

Respectfully,

Harry Sarkis Terkanian,  
Acting Town Planner

Encl: notice

### **NOTICE TO ABUTTERS**

You have been identified as an abutter to the below referenced property for which an application for approval of a definitive subdivision plan has been filed. The hearing, as noted below, will provide an opportunity for you to review the proposal and to voice your questions and concerns. Copies of the application and plan may be reviewed prior to the hearing at the Planning Department Office, 24 Town Hall Road, Truro. You may contact the Truro Planning Board Staff at (508) 349-7004 x 127 if you have further questions or concerns. Correspondence can be sent to the Truro Planning Board, PO Box 2030, Truro, MA 02666 or via email to [hterkanian@truro-ma.gov](mailto:hterkanian@truro-ma.gov).

#### **Truro Planning Board Notice of Public Hearing**

The Truro Planning Board will hold a public hearing at 6:00 PM on Tuesday, July 18, 2017 at the Truro Town Hall, 24 Town Hall Road, Truro, on the following:

**2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers (by Nickerson Realty Corporation, applicant)** has filed an application for approval of a Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located at 25 & 25A Pond Road, Map 36, Parcels 35 & 39. A preliminary subdivision plan was approved on March 15, 2016.

Copies of the application and plans are available for review at the Planning Department Office, 24 Town Hall Road, Truro, MA 02666.

Steven Sollog, Chair



# TOWN OF TRURO

Planning Department  
P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004 x 127; Fax: (508) 349-5505  
hterkanian@truro-ma.gov

June 13, 2017

By Email Only

Timothy J. Brady, PE/PLS  
East Cape Engineering, Inc.  
P. O. Box 1525  
Orleans, MA 02653

RE: Truro Planning Board 2017-003PB, Nickerson Realty Corp. (Steven F. Rogers Rev. Trust.)  
Application for Approval of Definitive Plan:

Dear Tim:

Pending hiring of a permanent Town Planner, I will be Acting Town Planner. I understand from Chet Lay that you will be representing the applicant in this matter.

The public hearing on this application is scheduled for Tuesday, July 18, 2017 at 6:00 PM in the Selectmen's Chambers at the Truro Town Hall, 24 Town Hall Road, Truro.

A review of the application discloses some incomplete or missing information and raises questions as follows:

1. Section 2.5.2.a.5 requires 2 copies of the plan at a scale of 1" = 100'. I did not see this item in the application package.
2. Section 2.5.2.a.8 requires an electronic copy of the plan. I did not see this item in the application package.
3. Section 2.5.2.b.6 requires "Area(s) subject to the Wetlands Protection Act and approval and/or restriction(s) of the Conservation Commission or the Board." Other than that portions of Lots 1 & 9 and the adjacent roadway which lie within 100 feet of Village Pond I assume that there are none and request confirmation.
4. Section 2.5.2.b.6 also requires gross and net areas of wetlands within each lot or parcel. I assume that there are none and request confirmation.
5. Section 2.5.2.b.6 also requires the area of contiguous upland on each lot. I assume that all upland on each lot is contiguous so the total area figures would suffice, but request confirmation.

6. Section 2.5.2.b.14 requires base flood elevation data. I don't see this information on the plan and assume that the locus elevation is outside of any flood hazard area and request confirmation.
7. Section 2.5.2.b.31 requires the location of "ancient ways, historic walls, foundations or other similar structures." I assume that there are none (other than the "vehicle tracks shown on the plan) and request confirmation.
8. Section 2.5.c.16 requires (b) drainage patterns and watershed boundaries; (c) existing vegetation, (f) temporary driveway apron and (g) narrative of construction schedule, etc. Can you please supplement by letter or comment on these items. I assume that the limits of work on the subdivision plan are the same as (d) proposed limit of clearing and request confirmation.
9. Has section 2.5.3 Staking of Proposed Subdivision been done?
10. The subdivision plan lists by area a "restricted" portion of each lot. What restriction(s) exist or are to be applied to the lots?
11. Truro General Bylaws, Section 2-3-3 authorize withholding of permits to delinquent taxpayers. MGL c. 60, §23 requires a "clean" certificate of municipal liens prior to presenting a plan for recording at the registry of deeds. The locus for the proposed subdivision is currently appears on the delinquent tax list and has a significant outstanding balance which the owner or applicant should be prepared to address.

Please feel free to contact me regarding any of these items or any other questions or comments you may have. In light of the extensive list of questions it may be beneficial for us to meet to review this application. If you agree, please let me know and we can setup an appointment.

Respectfully yours,

Harry Sarkis Terkanian  
Interim Town Planner

Cc: Rae Ann Palmer (email only)  
Steven Sollog (email only)





**Health/Conservation Agent  
Town of Truro**

**Phone: (508) 214-0202**

# MEMO

**To:** Harry Terkanian, Interim Town Planner

**From:** Patricia Pajaron

**CC:**

**Date:** July 6, 2017

**Re: Definitive Subdivision Plan Review for Steven F. Rogers Revocable  
Trust 25 & 25A Pond Road, Map 36, Parcels 39 & 35**

---

I have reviewed the Definitive Subdivision Plan of Land prepared by Slade Associates, Inc., dated January 11, 2017, RLS stamp, signed and dated 5/25/17. The health department received copies of this plan as well as the MESA Overlay Plan dated 10/3/13 with a most recent revision date of January 25, 2016 that includes the location of the proposed wells and septic systems.

## CONSERVATION

1. The October 2008 NHESP map shows that the proposed lots in the subdivision, Pond Road, Pond Village Avenue, portion of Pilgrim Pond Road and adjacent properties are within the estimated habitat, mapped as PH15, as delineated by the Natural Heritage and Endangered Species Program of the Division of Fisheries. A determination from NHESP dated March 27, 2015 has been submitted with the application that indicates the project "will not result in a prohibited take of state listed rare species." The MESA Overlay Plan shows the proposed work limit.

2. The 100 foot buffer zone to Village (Pilgrim) Pond is shown on the plan. A portion of Lot 1, Rogers Way and Lot 9 are included in the buffer zone. Any work proposed in this area will require Conservation Commission review and approval. According to the OLIVER GIS maps available online at the MassDEP website, there appear to be no other Wetland Resource Areas subject to protection under the Massachusetts Wetlands Protection Act (310 CMR 10.00).

The Conservation Commission at their June 5, 2017 meeting voted unanimously to support the pending application of the Truro Conservation Trust to request a State Conservation Partnership grant to enable TCT to purchase and preserve the 10-acre Twine Field property across from Pilgrim Pond on Pond Road in North Truro.

## HEALTH

1. This is a proposed nine lot subdivision. The lots range from 40,008± to 50, 921 ± sq.ft square feet and are subject to Nitrogen Loading Limitations of 1 bedroom per 10,000 square feet.

2. Per Health Department records for Lot 1, assessor's map 36 parcel 39, it appears that property is served by a cesspool. Cesspools are non-conforming systems and will require an upgrade to Title 5 prior to the subdivision per BOH Regulation Section VI Article 3(1)c\*.

3. The Master Well and Septic Plan and Definitive Subdivision Plan will need to be reviewed and approved by the BOH. Because of the location and size of the subdivision and distance from Pilgrim Pond, the Board will most likely require that a hydrogeological study be conducted per Section VII, Article 2, Hydrogeological Studies.\*\* of the BOH regulations, unless a variance is requested by the applicant.

**\*Section VI, Article 3 -Upgrading Septic Systems**

**(1) Required Upgrades.**

*In order to improve the quality of water for the Town of Truro by elimination of old septic systems which do not comply with Title 5 and the more protective regulations adopted by the Truro Board of Health, persons who own property with Nonconforming Septic Systems shall bring those systems into compliance in accordance with the following schedule:*

- c. Prior to the subdivision or partitioning of a parcel on which a Nonconforming Septic System is located*

**\*\*Section, VII Article 2 -Hydrogeological Studies**

*If the Truro Board of Health, in its sole discretion, determines that it is necessary in order to more fully protect the public's health, safety and welfare, and to protect the groundwater and surface waters located within the Town of Truro, the Board may require an applicant to submit a hydrogeological study, prepared by a qualified professional, showing the locations of the proposed system in relation to the groundwater and all surrounding surface waters and describing the estimated effects on the water quality of those resources.*

# Memo

To: Harry Terkanian, Interim Town Planner

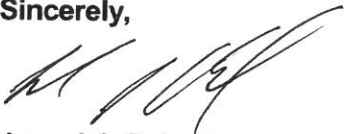
From: Jarrod J. Cabral, DPW Director

Date: July 13, 2017

Re: Development Application, Stephan F. Rogers, and Kristen Hall

After review of the definitive plan for the property located at 25 & 25A Pond Road, it has been determined that there is adequate drainage and storm-water management proposed for this development application.

Sincerely,



Jarrod J. Cabral  
Director  
Department of Public Works  
Truro Ma 02666



COMMONWEALTH OF MASSACHUSETTS  
TOWN OF TRURO  
PLANNING BOARD – NOTICE OF ACTION

**PRELIMINARY SUBDIVISION**

**Map 36 Parcels 39 & 35**

25 & 25A Pond Road, Truro

**Reference No. 2016-003PB**

**Applicant:** Steven F. Rogers

**Meeting Dates March 15, 2016**

**Decision Date March 15, 2016**

At a duly posted public meeting held March 15, 2016, the Town of Truro Planning Board, acting in the matter of Reference Number **2016-003PB** voted to **approve with conditions** a Preliminary Subdivision Plan in accordance with the Town of Truro Rules and Regulations Governing the Subdivision of Land, §2.4 and M.G.L c.41, §81-S and as shown on the following plan:

“Rogers Landing” Preliminary Subdivision of Land in Truro for Steven F. Rogers, revised 3/15/16, by Slade Associates, Inc., at 1”=50’.

At the meeting Slade Associates, Inc. presented a preliminary plan as submitted with the Town Clerk on June 9, 2015. This Notice of Action refers to that plan. No waivers were discussed or granted at this time.

The Board also considered the following information submitted to the Town Clerk of Truro in support of this application:

- Executed Form B, Application for Approval of a Preliminary Plan, and \$275 fee, received by the Town Clerk on January 23, 2016
- Letter from Slade Associates dated February 16, 2016 requesting and extension on the period of the Board’s final action to April 13, 2016
- Letter from Thomas W. French, Massachusetts Natural Heritage and Endangered Species Program, dated March 27, 2015, re: 25 & 25A Pond Road, 9-lot Preliminary Subdivision, MNHESP file #15-34228
- Plan entitled “MESA Overlay ‘Rogers Landing’ Preliminary Subdivision of Land in Truro Made for Steven F. Rogers” by Slade Associates, Inc., Revised 3/15/16, scale 1”=50’
- A certified list of abutters to 25 and 25A Pond Road

The Board considered the information provided by the applicant in light of the requirements and the general purposes and intent of the Town of Truro Rules and Regulations Governing the Subdivision of Land and §2.4 thereof, and M.G.L c.41, §81-S. The Board also heard public comment and reviewed letters submitted by abutting property owners.

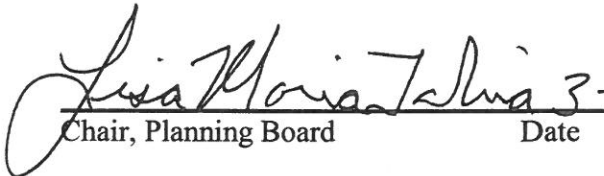
**PRELIMINARY SUBDIVISION DECISION**

On a motion from Mr. Sollog, seconded by Mr. Boleyn, the Board voted to approve the preliminary plan for Steven F. Rogers, pursuant to MGL c.41, §81-S and §2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land, with the following conditions:



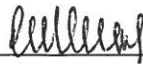
- Demonstrate that the subdivision will not have a negative impact on Pilgrim Pond (providing a hydrogeological study if required by Conservation Commission)
- Demonstrate compliance with all roadway requirements under the zoning or obtain ZBA relief as needed
- Conduct a traffic study using a consultant acceptable to the Planning Board to estimate annual-, daily- and weekly- peak traffic conditions on Pond Road and nearby roads and intersections, including the additional traffic generated from the additional nine house lots
- Demonstrate compliance with §3.6.7 of the Truro Rules and Regulations Governing the Subdivision of Land
- Itemize and provide justification for any waivers from road specifications or other requirements of the Truro Rules and Regulations Governing the Subdivision of Land that may be necessary for the subdivision, consistent with §1.5 thereof
- Demolish the derelict structure on lot 1
- Meet all nitrogen loading limitations and Board of Health requirements, including the disposition of an existing cesspool on lot 1
- Remove or relocate the structure shown on the plan to be located on the property line between lot 9 and adjacent property
- Provide adequate drainage and storm-water management to the satisfaction of Truro Department of Public Works and Truro Conservation Commission
- Provide a road profile demonstrating conformance with road grade requirements in §3.6.8 and Appendix 2 of the Truro Rules and Regulations Governing the Subdivision of Land

So voted 5-0-0 with members voting in favor: Ms. Tobia, Mr. Boleyn, Mr. Sollog, Mr. Herridge and Mr. Riemer.

 3-29-16  
 Chair, Planning Board Date

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Received, Office of the Town Clerk:

  
 Signature

MARCH 29, 2016  
 Date

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[illegible]



# TOWN OF TRURO

Planning Department  
P.O. Box 2030, Truro, MA 02666  
Tel: (508) 349-7004 x 127; Fax: (508) 349-5505  
hterkanian@truro-ma.gov

June 13, 2017

By Email Only

Timothy J. Brady, PE/PLS  
East Cape Engineering, Inc.  
P. O. Box 1525  
Orleans, MA 02653

RE: Truro Planning Board 2017-003PB, Nickerson Realty Corp. (Steven F. Rogers Rev. Trust.)  
Application for Approval of Definitive Plan:

Dear Tim:

Pending hiring of a permanent Town Planner, I will be Acting Town Planner. I understand from Chet Lay that you will be representing the applicant in this matter.

The public hearing on this application is scheduled for Tuesday, July 18, 2017 at 6:00 PM in the Selectmen's Chambers at the Truro Town Hall, 24 Town Hall Road, Truro.

A review of the application discloses some incomplete or missing information and raises questions as follows:

1. Section 2.5.2.a.5 requires 2 copies of the plan at a scale of 1" = 100'. I did not see this item in the application package.
2. Section 2.5.2.a.8 requires an electronic copy of the plan. I did not see this item in the application package.
3. Section 2.5.2.b.6 requires "Area(s) subject to the Wetlands Protection Act and approval and/or restriction(s) of the Conservation Commission or the Board." Other than that portions of Lots 1 & 9 and the adjacent roadway which lie within 100 feet of Village Pond I assume that there are none and request confirmation.
4. Section 2.5.2.b.6 also requires gross and net areas of wetlands within each lot or parcel. I assume that there are none and request confirmation.
5. Section 2.5.2.b.6 also requires the area of contiguous upland on each lot. I assume that all upland on each lot is contiguous so the total area figures would suffice, but request confirmation.

6. Section 2.5.2.b.14 requires base flood elevation data. I don't see this information on the plan and assume that the locus elevation is outside of any flood hazard area and request confirmation.
7. Section 2.5.2.b.31 requires the location of "ancient ways, historic walls, foundations or other similar structures." I assume that there are none (other than the "vehicle tracks shown on the plan) and request confirmation.
8. Section 2.5.c.16 requires (b) drainage patterns and watershed boundaries; (c) existing vegetation, (f) temporary driveway apron and (g) narrative of construction schedule, etc. Can you please supplement by letter or comment on these items. I assume that the limits of work on the subdivision plan are the same as (d) proposed limit of clearing and request confirmation.
9. Has section 2.5.3 Staking of Proposed Subdivision been done?
10. The subdivision plan lists by area a "restricted" portion of each lot. What restriction(s) exist or are to be applied to the lots?
11. Truro General Bylaws, Section 2-3-3 authorize withholding of permits to delinquent taxpayers. MGL c. 60, §23 requires a "clean" certificate of municipal liens prior to presenting a plan for recording at the registry of deeds. The locus for the proposed subdivision is currently appears on the delinquent tax list and has a significant outstanding balance which the owner or applicant should be prepared to address.

Please feel free to contact me regarding any of these items or any other questions or comments you may have. In light of the extensive list of questions it may be beneficial for us to meet to review this application. If you agree, please let me know and we can setup an appointment.

Respectfully yours,

Harry Sarkis Terkanian  
Interim Town Planner

Cc: Rae Ann Palmer (email only)  
Steven Sollog (email only)



**TRURO PLANNING BOARD**

**DRAFT**

**June 27, 2017 – 6:00 p.m.**

**Truro Public Safety Building, 344 Route 6, Truro**

**MEETING MINUTES**

**Planning Board Members present:** Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog, Karen Tosh

**Other participants:** Chuck Steinman, John Marksbury, Chris Clark, Attorney Ben Zehnder, Elizabeth Grunig, Tim Brady, Drew Perry, Joanne Citron, AnnMarie Cormer; Harry Terkanian, Interim Town Planner.

**Mr. Sollog opened the meeting at 6:01 pm.**

**Public Comment Period**

Chuck Steinman wanted to know if public comment will be accepted for the hearings listed on the agenda. Mr. Sollog said yes, they are public hearings, so the public is welcome to comment.

**Temporary Sign Permit Friends of Truro Meeting House** – seeks approval seeks approval for second application for a Temporary Sign Permit pursuant to §11 of the Truro Sign Code for two (2) Temporary Signs for events being held between June 20 and August 20, 2017. Signs would be installed in front of the First Parish Congregational Church and 3Harbors Realty, 11 Truro Center Road five days in advance of the event and removed the day after the event. The signs would be 30" by 24" wide. First permit approved May 16, 2017 subject to filing second application. (Added June 23, 2017)

A second application is included for the additional months. Mr. Herridge made a motion to approve the sign permit, Mr. Kiernan seconded. So voted, 6-0. (Mr Boleyn had not yet arrived at the meeting.)

**Temporary Sign Permit First Parish Church (Eric Spencer)** – seeks approval of two applications for Temporary Sign Permits pursuant to §11 of the Truro Sign Code for one sign to be placed on the shoulder of Route 6 at the northeast corner of the intersection of Route 6 and Union Field Road for church services Sundays during July and August. Sign installed July 1 and removed August 31. Sign is 46.4" tall and 27.1" wide. (Added June 23, 2017)

Mr. Sollog mentioned that the applicant should ensure that traffic site lines are not obstructed. Mr. Riemer expressed concern that if it's a sandwich-type sign, it needs to be weighted. Mr. Herridge made a motion to approve the temporary sign permit with site lines not obstructed and sandwich board weighted, Mr. Kiernan seconded. So voted, 6-0.

**Temporary Sign Permit The Truro Group (Marian Averback)** – seeks approval for a Temporary Sign Permit pursuant to §11 of the Truro Sign Code for two signs for an art

exhibit at the Library, Library Lane, to run from June 30, 2017 to July 28, 2017. Signs will be installed on June 30 and removed on July 28. Banners two (2) feet by eight (8) feet per plan included with the application and will be located at two locations on Route 6, one at the intersection of Routes 6 & 6A, the second at the intersection of Route 6 and Standish Way. Louise Paquette will attend for the applicant.

Mr. Herridge made a motion to approve the temporary sign permit, Ms. Tosh seconded. So voted, 6-0. (Mr. Boleyn arrived late to the meeting after this agenda item had been voted on.)

**Temporary Sign Permit Truro Yoga (Genevieve Morin)** – seeks approval for a Temporary Sign Permit pursuant to §11 of the Truro Sign Code for one sign for yoga classes. Sign will be installed on Friday pm and removed on Sunday am beginning July 2 and ending August 27. Sign will be 3 feet high by 2 feet wide per plan included with the application and will be located at “side of road by Snows Park.” The applicant was advised by email on June 13 of the 30 day limit for temporary sign permits and the need to file an additional application for signs in August.

Mr. Terkanian stated that a second application had come in to cover the second month. Mr. Herridge made a motion to approve the temporary sign permit for both months, Ms. Tosh seconded. So voted, 7-0.

#### **Residential Site Plan Review**

**2017-006SPR Christopher and Jane Clark**, seek approval of an application for Residential Site Plan Review pursuant to §70.4 of the Truro Zoning Bylaw for demolition of an existing dwelling and construction of a new dwelling on a pre-existing nonconforming developed lot in the Seashore Zoning District. The property is located at 1 Higgins Hollow Road, Map 46 Parcel 289.

Mr. Terkanian stated that correspondence from the Dept. of the Interior came in late today, which he distributed to the Board.

Chris Clark and Attorney Ben Zehnder came forward to present the application. The applicant has been before the Zoning Board of Appeals and received approval for a special permit to alter a non-conforming structure on their lot. The determination is free from appeal. The application needs residential site plan review because it's in the National Seashore. Then it will have to go back before the ZBA, because the site coverage is above the “as of right” limit. The property has been in the family since 1923. It is heavily screened on three sides. They plan to leave the studio and writing hut where they are, but remove and replace the dwelling. A new spreadsheet on the site coverage was submitted. Mr. Zehnder gave the Board the new copy of the spreadsheet. The writing hut is 198 sq. ft. and the studio is 1,032 sq. ft., neither of which are changing. The dwelling is 1,599 sq. ft. and that would go to 3,028 sq. ft. Then there is a garage of 578 sq. ft. attached to the structure. So the total is going from 2829 sq. ft. to 4258 sq. ft., divided between three buildings.

Mr. Zehnder discussed the criteria for building in the Seashore. Mr. Sollog asked if this is an older house. Mr. Clark said the house was built in 1719, and in 1978 it was deeded to him and his sister. They worked at repairing the house beginning in 1984. A new foundation, new flooring were installed and a new roof was put on. They saved the post and beam construction, and saved the floor in the upstairs bedroom. There are still pieces of wood from the original house. Applicant has been through the Historic Commission review. The Clarks consulted four different builders and architects. They came to the conclusion that the house should be replaced. They saved the round cellar, but there is no basement. Mr. Riemer said that there were no materials to see on line for tonight's meeting. Mr. Terkanian had a few sets available to distribute. He doesn't know why the materials were not on line. Mr. Sollog talked about the new Seashore amendment. He said he likes the fact that Mr. Clark has tried to save the house. Mr. Sollog said he is, however, a little uncomfortable with a few things. There has not been a site visit yet. Mr. Zehnder said that seeing the site would be helpful. Mr. Riemer asked if they could hear from the public. Mr. Sollog asked about the elevations. Is the elevation that's handwritten accurate? Mr. Zehnder said the only number that he thinks would be helpful would be the ridge height. An engineer can add that to the site plan. Mr. Clark said he went through this with David LaJoie and explained where the hand-written number came from. Mr. Sollog mentioned the set backs which evidently were attended to by the ZBA.

Mr. Sollog invited the public to speak. Chuck Steinman, a member of the Historic Review Board and the Historic Commission, came forward and said he was speaking as a private citizen, since this application hasn't been discussed recently by his Board. He said that this might be the oldest house in Truro. He said he doesn't have a problem with the basic design. It is an improvement over the original design presented to the Historic Board. There are not architectural drawings, so it's hard to evaluate. The Planning Board will need to request drawings. The intent of site plan review, in part, is to be sure that a new house is consistent with the prevailing neighborhood. He thinks it is. Mr. Steinman spoke briefly about the trend to replace historic houses with larger houses and the concern about preserving and protecting the National Seashore District. The Historic Commission has looked at whether the Clarks could add to the original house. Secondly, the Historic Board agreed that the kitchen wing could be removed and replaced without impacting the historic structure. The house is eligible to be listed on the National historic register, since it is in an eligible historic district. If it were on the historic register, you can apply to the State for exemptions so you could modify the 7 foot ceilings. It is a concern to Mr. Steinman that the Paine family, who originally owned the house, is one of the oldest families of Truro. Mr. Riemer asked about an advertisement to rent the house, which appeared in the packet that Mr. Steinman distributed.

Mr. Clark said he would not be here if he thought he could save the house. The house has a lot of sentimental value to his family, but the many builders he spoke with didn't give them hope that the house could be saved. It needs insulation, heat, windows, etc.. There are issues with mold. There is nothing elaborate about the proposal. He also explained that he was not advised that architectural plans were required. The floor plan he submitted is to scale.



Mr. Kiernan talked about his own experience restoring old homes. He thinks he can help them find a happy medium. He spoke about how you can make a new building look like an old building. He would like to see architectural drawings. He would like to see the Historic Commission's report. The writing studio was built so long ago that it is not on the assessor's map. He asked Mr. Clark to check on that. He thinks that with a little tweaking, everyone could be satisfied. You can bead your clapboards to make them look old. He said that making the house look old doesn't have to cost more.

Mr. Clark said he has spoken to a builder who had similar suggestions. There was discussion about a continuance in order to schedule a site visit. Mr. Terkanian asked if the Board is asking for complete architectural drawings. Mr. Riemer asked if the existing studio is connected to the septic system. The answer was yes. They do not need to be stamped architectural drawings. They just need to be construction drawings, 1/8 inch to one foot, sufficiently detailed so the Board can understand the basics of the plan.

Elizabeth Grunig, 25 Longnook Road, came forward. She said she is confused about renovations in the Seashore. She talked about her own experience renovating her home around 1980, which took 30 years. They were told they had to go through the Town and the Park. Her concern is that she feels very privileged to live in the Seashore. We were told we had to save at minimum one room. We were told that it was a rule. Now we are told it is a recommendation. Mr. Sollog said he sympathized with her and that is one of the reasons why they created a new by-law. Ms. Grunig said that she is not sorry they saved the one room. She hopes that whatever comes out of this preserves the historic significance of the house.

Mr. Sollog read into the record a letter from the U.S. Department of Interior dated June 27, 2017. From the Superintendent's Office, re: Clark hearing, 2017-006SPR, 1 Higgins Hollow Road (NPS) Tract# 13-2623). "Please enter our comments into the record concerning this proposal. This is a large-scale tear down and redevelopment in a historic neighborhood and we presume the Truro Planning Board will consider the neighborhood in its deliberations. One concern would be the intensity of use if the studio is used as a second single-family dwelling unit. Also, while "onion lamps" and other similar fixtures are in the Cape Cod style, we would prefer to see a shielded variety put in use or a shield added to serve as a downlighting feature that is more night-sky friendly. Thank you for your consideration. Signed, Lauren McKean, Park Planner."

John Marksbury, 21 Shore Road, cofounder of "Save Truro Seashore," spoke next. As they worked on the Seashore amendment, he said, he did a lot of reading about the National Park, and he feels that the Seashore is sacred ground, which hopes the Board will keep in mind. The primary reason for "Save Truro Seashore" was to save the old Cape. Here we are looking at probably the oldest house, 1719, even though it has been renovated. He hopes that the Board's decision will respect the significance of the Park.

Mr. Terkanian said it sounds like the Board's issue is elevation. The footprint has been dimensioned by a civil engineer. The other issue seems to be the outside of the building. Mr. Kiernan said he thinks a site visit will answer a lot of the questions. It was agreed to



visit the Clark property on Friday at 11:00 am. Mr. Zehnder stated that he feels that the Board needs to educate itself about restorations, and it should do this before the next meeting regarding the Clark application. There was further discussion about what the applicant needs to provide. Mr. Herridge made a motion to continue the hearing to July 18, 2017, Mr. Boleyn seconded. So voted, 7-0.

#### **5 minute break**

#### **Continued Public Hearing - Residential Site Plan Review (Request to Withdraw Application)**

**2017-005 SPR Anne Labouisse Peretz c/o Benjamin Zehnder, La Tanzi, Spaulding & Landreth, P.C.,** seeks approval of a Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for removal of an existing single family dwelling and construction of a new residential dwelling at a location away from the coastal bank. Property is a 143,776 s.f. pre-existing, non-conforming developed lot in the Seashore zoning district north of Ballston Beach. The property is located at 112 North Pamet Road, Map 48, Parcel 1. Continued from May 2, 2017 and June 6, 2017.

Mr. Terkanian reported that last night the Zoning Board of Appeals allowed the applicant to withdraw their application without prejudice. The Planning Board has in their packet a request to withdraw as well. Mr. Herridge made a motion to accept the applicant's request to withdraw without prejudice, Mr. Boleyn seconded. So voted, 7-0.

#### **Continued Public Hearing - Commercial Site Plan Review (continuance suggested by Planner and requested by applicant)**

**2016-008 SPR Maria Kuliopulos** seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Atlas Map 39 Parcels 131, 158. Continued from March 7, 2017, May 2, 2017 and June 6, 2017.

Mr. Terkanian said that this application was on the Zoning Board of Appeals agenda and was continued to July 31; the applicant was asked for a complete set of drawings. He has a request for a continuance of the Planning Board hearing until July 18, but he expects a further continuance request due to the July 31st ZBA date. Mr. Boleyn has a problem with them not understanding what is being asked of them. Mr. Terkanian said, not in their defense, but one of the things your Board has asked me to do is to try to avoid a continuance at the last minute, so that's why we have the request for July 18th. Their site plan shows 8 units combined into 4, while a different plan shows a different 8 units combined into 4. So the ZBA asked for consistent plans.

Mr. Boleyn does not want to agree to further continuances. Mr. Terkanian said that the alternative would be to make a decision based on the merits of the application. Mr. Sollog said he would rather not take up more time tonight on this matter. Mr. Herridge agreed. Mr. Sollog said that because the ZBA is involved we should not limit continuances. Mr. Riemer suggests

that the applicant might want to withdraw and reapply. Mr. Kiernan made a motion that Mr. Terkanian send a letter to the applicant suggesting as much so their proposal could be heard by a full board, Mr. Boleyn seconded. So voted, 7-0. Mr. Kiernan made a motion to continue the hearing to July 18, Mr. Herridge seconded. So voted, 7-0.

### **Definitive Subdivision Plan**

**2017-002PB Claire Perry**, seeks approval of a Definitive Subdivision Plan creating two lots on property located at 27 Perry Road, Map 45, Parcel 144. The preliminary plan was approved on June 30, 2016.

Tim Brady, professional land surveyor and engineer, presented the application. He said he was taking over this project from Chet Lay of Slade Associates. Two lots are being creating. There's one lot with a house on it, and the Perrys want a second lot to build on. Drew Perry lives on lot 10. They are dividing lot 10 into lot 10A and lot 10B. To make this happen there are also two other parcels being shifted around, noted as "A" and "B" on the plan. The road is an approved private way. Mr. Sollog asked about elevations. Mr. Brady said they are not on the plan, but they are available. The Town fire truck has been able to go down the road and can turn around. Approval of the conservation commission will be needed, since the lot being created is in a marsh buffer zone. There were questions about the road. It is gravel and is hardened. It is used and maintained regularly. There was a note in the Board's packet about endangered species. When construction happens there will need to be an application for natural heritage approval. This is only a subdivision proposal tonight, the applicant is not asking for approval for construction. The project will include Title 5 septic. The Truro Board of Health has allowed a variance regarding the wetlands. It will be a two bedroom house. Septic is designed for 4 bedrooms, just in case. Run off will be dealt with later. The property is in a flood zone, an A Zone, slopes are all stable and well vegetated. The house will be well above the flood zone. The waivers requested are listed on the plan. The driveway will be on a 12% grade. Mr. Terkanian said he had a conversation with the DPW director. After reviewing this proposal, the DPW Director recommends not waiving drainage calculations or methods of drainage. He also said that the Board of Health will have to weigh in on other aspects besides the septic system for the subdivision, so the application can't be approved tonight. There is a revised plan with three additional waivers requested, subdivision name, homeowner's association and the setting of monuments. They are on the plan, but were not on the original filing.

Mr. Riemer brought up the issue of the 2009 subdivision of the Perry property which he thinks the Board should be aware of. There are conditions listed that should be considered for the current application. Mr. Terkanian referred to a subdivision plan dated March 10, 2009. Conditions don't appear on the approved plan. A member of the public asked for clarification of what the Board is talking about. Mr. Sollog read the 2008-09, subdivision plan for Stephen R. Perry, the decision to approve with conditions. There was a question about covenants. Mr. Brady said he would look into the covenants. On the new plan there is a request for a waiver for a home owners association. It was suggested that they could do a boiler plate home owners association form.

Mr. Kiernan discussed Perry Road and the old plan which says there is a T turn at the end of it. The Planning Board is supposed to make sure the road is safe. A circle at the end of the road would be better. He suggested the Board make a site visit. Mr. Riemer read from the rules and regulations for subdivisions that may be waived, which are in the public interest and not inconsistent with the surrounding area. Any such requests must be submitted to the Board in writing.

Joanne Citron came forward and asked about the responsibility of a subdivision in terms of planning around the issues of the marsh. She thinks this subdivision and the run off are going to impact the marsh. This is not just any subdivision. In the years I have lived here, I have seen the marsh drying up. It is a nesting site. She would like the Planning Board to address the concerns of the marsh and what role it has in the deliberations. Mr. Terkanian said that the Planning Board has responsibility as it relates to the road. As to the construction, the Conservation Commission will be involved. Mr. Riemer said that he would urge the Board to read chapter 8 of the Town of Truro By-Laws regarding the Truro Conservation Commission.

Mr. Brady said that what we are doing today is not about the wetlands. Drainage is a separate issue. Mr. Kiernan explained the process the Board uses to consider the safety of the roads. Mr. Terkanian explained that we do circulate plans to all the regulatory departments for them to review.

AnnMarie Cormer said that the health of the marsh is of paramount concern. The idea of additional houses is of great concern. She asked the Board to please consider a holistic approach regarding development around the marsh.

A site visit was scheduled for Friday, July 7th at 1:00 pm. Mr. Sollog asked that the applicant provide a written explanation of the waivers requested. The covenants need to be tracked down. Mr. Perry responded to the concern about the Little Pamet River by stating that it is a Town culvert causing the problem, not what the farm is doing. Mr. Kiernan made a motion to continue the hearing to July 18th, Mr. Herridge seconded. So voted, 7-0.

Brief discussion occurred on a possible site visit for the Rogers application on Pond Road. It was decided to wait until the hearing has been opened (July 18, 2017).

## **5 minute break**

### **Discussion**

#### **2016-001SPR Winkler, response to correspondence**

Mr. Terkanian referred to information from Attorney Zehnder, Attorney Veara and the Town Manager, which he put into a memo. He explained that the Planning Board doesn't have a hook into the process for a year. Mr. Sollog said they have installed a white noise back up alarm on one of their vehicles. Mr. Boleyn said he has talked to a neighbor across the way, and there is still a lot of noise. He would like to see a photograph of the white noise alarm. It would be good if it were on the front loader that gets backed up all the time. Mr. Kiernan said there are no pictures of the run off. They did put in a pile of sand on the

Noons property, but it didn't work. The sand around the telephone poles has washed away. The Winklers have said they will make a berm in 90 days. There is also a requirement to protect the fuel tank, which is of great concern. Mr. Kiernan thinks they should put a discussion about this case and how to conduct site plan review on the agenda for the workshop.

**Planning Board Workshop**, possible program contents: a list of topics was provided by Mr. Terkanian. Mr. Riemer mentioned community planning council, Barnstable County, continuing education courses that could supplement our own workshop. Mr. Kiernan suggested we work on the web site, for one thing. He suggested each member weigh in on what they think would be useful. Open meeting law, Executive sessions, Public records law, Conflict of interest law, Open meeting law, for example. Mr. Terkanian said that when you know you are heading for litigation, you want to make sure you are procedurally sound, so you can consider the merits of the case. Making sure we meet our time limits and how you conduct the public hearing, is a good starting point. Mr. Terkanian will let the Board know when he has put together a proposal for the workshop.

#### **Review and Approval of Meeting Minutes**

June 6, 2017 Regular Meeting

Mr. Kiernan and Mr. Sollog brought up four or five word corrections which were duly noted.

Mr. Herridge made a motion to approve the minutes as corrected, Mr. Boleyn seconded. So voted, 7-0.

#### **Reports from Board Members and Staff**

Mr. Terkanian reported that commercial site plan review application, 618 Shore Road, has come in. The ZBA's ruling of the upholding of the building commissioner's decision regarding the Adventure Bound Camping Resort has come in. The Board has a memo in their packet of other items.

Mr. Boleyn brought his concern about questionable activity occurring on Parker Drive. Mr. Terkanian said that he would bring it to the appropriate authorities if concerns are brought to him.

Mr. Herridge made a motion to adjourn, Mr. Roderick seconded. So voted, 7-0. Meeting adjourned at 9:11 pm.

Respectfully submitted,  
Katherine Black





# TOWN OF TRURO

## Planning Department

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### Memorandum

To: Planning Board  
From: Harry Terkanian, Acting Town Planner  
Date: July 14, 2017  
RE: July 18, 2017 Agenda Items

### Temporary Sign Permit: Sustainable CAPE Educational Farmer's Market

Approval on May 16, 2017 subject to submittal of paperwork for months two and three. No application had been received as of the date of this memorandum.

### Temporary Sign Permit: First Parish Church

The Mr. Spencer has been advised by telephone of the two conditions imposed by the Board in approving the two applications (do not obstruct Route 6 sight lines and weight down sign).

### 2017-007SPR - Commercial Site Plan Review, 618 Shore Road, East Harbor

Attorney Lester J. Murphy, Jr. as agent for Lexvest East Harbor, LLC has filed an application for commercial site plan review. Proposed public hearing date (pending receipt of additional information) is August 15, 2017. Project proposal is for a reduction of 4 units (net bedroom reduction is one bedroom) and miscellaneous site work (walks, decks, parking, etc.) Staff and department head review in process.

### Training Workshop

Selectmen's goals include training boards and commissions on open meeting law, so I won't pursue a separate training session for the Board on this.

### Correspondence Received:

July 6, 2017: Community Access Monitor training session (attached).  
July 6, 2017: Email inquiry from Elena Rice about commercial site plan as built signoff (2016-006SPR)  
July 7, 2017: Inquiry from Steve Phillips about construction requirements for Rose Hill Lane.  
July 7, 2017: Inquiry from Steve Phillips about construction requirements for Fisher Hill Road.