



Truro Planning Board Agenda

Remote Meeting

Wednesday, September 21, 2022 – 5:00 pm
www.truro-ma.gov

TOWN OF TRURO
Kyle
SEP 14 2022
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TOWN CLERK

Open Meeting

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

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the Agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free at [1-877-309-2073](tel:1-877-309-2073) and entering the access code [793-660-045#](tel:793-660-045#) when prompted. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing Liz Sturdy, Planning Department Administrator, at esturdy@truro-ma.gov.

Meeting link: <https://meet.goto.com/793660045>

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.

1. Planner Report

2. Chair Report

Board Action/Review (Continued)

2022-009/SPR – Crown Castle, on property located at 344 Route 6 (Atlas Map 39, Parcel 172). Applicant seeks a Special Permit under Section 40.5 of the Truro Zoning Bylaw, and as an Eligible Facilities Request for a minor modification under Section 64091 and the rules of the Federal Communications Commission ("FCC"), to modify an existing tower: remove or replace antennas, ancillary equipment, and ground equipment as per plans for an existing carrier on an existing wireless communication facility; and replace equipment on existing concrete pad. Such modification will not substantially change the physical dimensions of such tower or base station. The modification does not constitute a substantial change to the existing tower under 47 C.F.R. §1.6100. [Material in 9/7/2022 packet]

Board Action/Review (Continued)

2022-005/PB – Regan McCarthy seeks approval of Form A – Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 35A Higgins Hollow Road, Truro MA, Atlas Map 47, Parcel 2, Registry of Deeds title reference: Book 20807, Page 42. *[Material in 8/24/2022 packet] {New material included in this packet}*

Development of Warrant Articles

- ◆ Outreach

Minutes

- ◆ April 7, 2021
- ◆ May 26, 2021
- ◆ August 24, 2022

Work Session: Wednesday, September 28, 2022 at 5:00 pm

Next Meeting: Wednesday, October 12, 2022 at 5:00 pm

Adjourn



STAFF MEMORANDUM

To: Truro Planning Board

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: September 19, 2022

Re: Meeting September 21, 2022 - Supplemental Memorandum on 35A Higgins Hollow ANR

Following circulation of my memo dated August 22, 2022, the Applicant submitted additional materials to the Board in response. This memo addresses issues raised in these supplemental materials.

Applicant's Supplemental Materials

The Applicant has submitted an "**Access Location Sketch**" which is represented to be a detail of the amended Perimeter Plan submitted for the Board's endorsement. Several of the notes on this Plan conform more closely to the language of the Boundary Line Agreement, the terms of which had been misrepresented in the notes on the originally-submitted Plan. As discussed below, several notes on the Perimeter Plan remain problematic.

The Applicant has submitted a **letter dated September 13, 2022**, discussing the Board proceedings in 2021 at the time the two-lot ANR plan was submitted. The memo reviews what it refers to as "findings" by the Board as contained in the meeting minutes. It is true that the Board's ANR endorsement in 2021 was based on certain findings. However, the Board should not rely upon the Board's minutes - or the Applicant's memo describing them - in making the required determinations with respect to the ANR plan *now* before the Board. As previously, advised, the Board should undertake the factual inquiries and address the statutory required findings anew - that is, make fresh determinations. The Applicant's statement that "it is impossible to re-consider or alter [the Board's] findings of 2021" (see p.2) is legally incorrect.¹ The Applicant further states:

¹ First, the Board must make factual findings based on site conditions today; it cannot presume that such conditions are identical to those at the time of the Board's previous review. Second, there is an established doctrine in municipal law that an officer or board is not "estopped" - that is, prevented from - enforcing statutes and bylaws, notwithstanding any earlier actions taken. If the Board's previous decision were in error, there is no municipal estoppel preventing the Board from taking the legally correct action. See Montrose School Park, LLC v. Beverly Planning Board, 2015 WL 161284 (January 13, 2015, Land Court), citing Highland Tap of Boston, Inc. v. Comm'r of Consumer Affairs & Lic. of Boston, 33 Mass.App.Ct. 559, 568 (1992)

"To conclude differently on established findings resulting in your 2021 Endorsement would nullify that endorsement which was properly achieved and executed, *with many consequences for the PB, the Town and [the Applicant]*"

Letter dated September 13, 2022 from Regan McCarthy, Ph.D. (emphasis added). The Board may ask the Applicant (or her counsel) to explain the meaning of this statement.

The Applicant has submitted a **Memorandum from counsel, dated September 13, 2022**. The memo references case law for the proposition that a perimeter plan may remove a line dividing lots. Memo at p. 1. I stand corrected. The Applicant may refer to this plan as a "Perimeter Plan," although the purpose of such plans is typically for purposes of obtaining a zoning freeze, which is not here the case.

Counsel's memorandum addresses the findings required for endorsement of a plan as "Approval Not Required." Similarly to the Applicant's memo, counsel's memo suggests that the Board may not revisit or deviate from its findings in 2021. See pp. 2-3, including footnotes. Again, this is legally incorrect. First, the Board must make its factual findings based on current conditions. Second, if a municipal board has previously taken an action in error, the Board is not precluded thereafter from taking a legally correct action. That is, the Board is not bound by any past error. (There are many cases on municipal estoppel; in the interests of brevity, citations are omitted here).

Counsel's memo suggests that to decline to endorse the submitted plan would be a "rescission" of the Board's 2021 ANR endorsement, and that there is no statutory provision for such rescission (as opposed to rescission of a subdivision plan, for which there is authority). Memo at p. 4. Counsel is correct that there is no statutory authority to rescind an ANR endorsement, but the Board is acting upon submission by the Applicant of a *new* plan; it will either endorse, or decline to endorse the *new* plan. Counsel's characterization of the latter action as "rescission" is inapt.

Counsel's memo discusses the Applicant's common law² rights in the Proprietors Road. See memo at pp. 4-6. Specifically, the memo states that "[i]t is reasonable for Applicant to improve Proprietors Road to the extent necessary (e.g., 14-foot wide road construction, if so required) to achieve compliant access in support of the Lot's single-family residential development." Memo at p. 5. As discussed in my memo of August 22, 2022, the question of whether the Applicant has the right to improve the area of Proprietors Road (and/or the Dirt Path Extension) is contingent upon the rights granted under the Boundary Line Agreement entered into by the Applicant and the Park Service in 2007. Therefore, the question for the Board is not, as counsel suggests, what might be "reasonable" for the Applicant under the common law. Rather, the question is whether the Applicant has the right to improve

² "Common law" is the body of law that has evolved over time through judicial decisions, as opposed to law created by legislative bodies (such as statutes or other codes). Parties may enter into private agreements that modify rights they may have under the common law.

Proprietors Road under the Agreement with the Park Service into which she entered voluntarily. That Agreement states that the Applicant has:

" the right to access the McCarthy Parcel by the Proprietors Road, and to run utilities to the McCarthy Parcel under and upon the Proprietors Road. McCarthy shall apply to the USA for a utility Right of Way permit pursuant to 36 CFR 14 so as to allow utilities to be brought to the McCarthy Parcel via the Dirt Path Extension."

Boundary Line Agreement, para. 5. As earlier noted, there is no provision evident in the Boundary Line Agreement allowing the Applicant to *improve* Proprietors Road on National Seashore property, to 14' width or otherwise. The fact that an abutting or other neighboring properties are in single family residential use (see counsel's memo at pp. 5-6) casts no light on the Applicant's rights. The Applicant voluntarily entered into an agreement with the Park Service that on its face provides her with no right to widen or improve Proprietors Road on National Seashore property - or, for that matter, to widen or improve the Dirt Path Extension without Park Service approval.

Applicant's counsel suggests that the Boundary Line Agreement:

"reflects the intent of the parties to give the Applicant a statutory (utility and access) right of way to a more direct route (a dirt path extension) from Proprietors Road (across the CCNS land) to Higgins Hollow Road (Dirt Path Extension) as long as the Applicant foregoes the exercise of her continued common law right of way to improve Proprietors Road to access Higgins Hollow Road."

Counsel's memo at p. 7. Likewise, counsel states that the Boundary Line Agreement "reflects the parties' desired strategy to achieve *a less environmentally impactful approach* in support of the Applicant's desired residential development of the Lot." Memo at p. 7. That is, counsel suggests there was a *mutual* strategy on the part of the Applicant and the Park Service for residential development of the property.³

That suggestion is not supported by current comment from the Park Service. In fact, it is contradicted by recent comment from the Park Service (see letter of Brian T. Carlstrom, Superintendent dated August 2, 2022) stating, among other comment, that "[t]his property is not a buildable lot." Additional correspondence from the Superintendent to the Applicant dated March 24, 2020 expresses the Park Service's "concern. . . regarding the eligibility of your undeveloped property to receive a building permit", and declining to support zoning relief for access and development of the property. In short, the two parties to the Boundary Line

³ Counsel further suggests that certain language in the "Whereas" section of the Boundary Line Agreement, and a provision of the 2019 Right of Way Permit support a finding of this mutual goal. See footnotes on p. 7 of memo. As discussed above, the two parties to the Agreement and the Right of Way Permit do not agree on the meaning of these documents.

Agreement *that is essential to determining whether the Applicant can demonstrate entitlement to an ANR endorsement* do not agree on the meaning of those Agreements.

Ultimately, it is the Applicant's burden to establish entitlement to ANR endorsement. As outlined in my earlier memo, if the Board finds that the *current condition* of the Dirt Path Extension or the area of Proprietors Road on Seashore property *does not* meet the statutory criteria ("having, in the opinion of the Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land"), then the Board must determine whether the Applicant has the right to improve either area so as to meet the statutory requirement. On its face, the Boundary Line Agreement provides no such authority for improvement of Proprietors Road, and no such authority for improvement of the Dirt Path Extension, unless expressly allowed by the Superintendent. The current comment of the Park Service does not support the Applicant's authority to improve either area. Absent evidence of authority to improve either the Dirt Path Extension or Proprietors Road to meet the statutory requirement, the Applicant is not entitled to an ANR endorsement.

Counsel's memo concludes with the statement:

"Applicant's preference is to continue to utilize the Dirt Path Extension with improvement in a minimally invasive way and *with the approval of the CCNS Superintendent* to achieve the Board's requirements for vital access purposes in support of the Lot buildability."

Counsel's memo at p. 8 (emphasis added). Should the Applicant provide the Board with evidence that the Superintendent has approved widening and otherwise improving the Dirt Path Extension such that it would meet the statutory requirement (of sufficient width, suitable grades and adequate construction, etc.), then the Applicant would be in a position to demonstrate entitlement to an ANR endorsement. The Applicant has not yet provided such evidence, but perhaps discussion between representatives and the Park Service and the Applicant might yield the outcome sought by the Applicant.

Based on the most recent communication between the parties in the Town's possession, this outcome is currently not in hand. Applicant has submitted a copy of a **letter from counsel to the CCNS Superintendent Brian Carlstrom and Lauren McKean dated September 13, 2022.**⁴

⁴ Counsel's letter states that "the solicitation of federal opinion relative to an ANR matter is unwarranted." See p. 1. Translated, this means that I should not have forwarded the ANR application to the Park Service for any comment the agency wished to provide. I (or Liz Sturdy, acting at my direction) did so because 1) as previously discussed, the Applicant's entitlement to an ANR endorsement is contingent upon her rights under Agreements with the Park Service, rendering the agency's comment quite obviously relevant; 2) the Park Service has been involved with the Applicant and this property for at least 15 years, rendering the agency's input of additional relevance; 3) the Park Service commented on the Applicant's recent variance application to the ZBA, so it was reasonable to assume the agency might wish to offer comment

Counsel states that there are "inaccuracies" in the Superintendent's letter and that there are "some misunderstandings," on the part of the Park Service. See p. 1. Counsel suggests that these misunderstandings "if cleared up could reveal that we are in agreement to a greater extent than expressed in [the Superintendent's] letter to the Chair of the Planning Board." See pp. 1-2. Counsel proceeds to explain the Applicant's view of the Boundary Line Agreement and Right of Way permit, and states that if the Seashore does not grant permission for improvements to the Dirt Path Extension, the Applicant will "then proceed with her rights to use and improve Proprietors Road." See pp. 2-3. Counsel then addresses and disputes statements in the Superintendent's letter. See pp. 3-4. Counsel concludes with a request that the two parties "work cooperatively."

Conclusion

Where the Park Service and the Applicant disagree about the meaning of the documents - including the rights of the parties under Boundary Line Agreement - the Board is hindered in its ability to render a determination on the Applicant's entitlement to an ANR endorsement. As stated above, if the Board determines that access to the property does not currently meet the statutory requirements, on the basis of the current record, the Applicant has not established that she has authority to improve the Dirt Path Extension or Proprietors Road to meet such requirements. That is, on its face, the Agreement does not allow such improvement of Proprietors Road, and does not allow for such improvement of the Dirt Path Extension absent the Superintendent's approval.

If discussions between the Park Service and the Applicant result in the Superintendent's approval of widening and other improvements to the Dirt Path Extension or Proprietors Road (or some other agreement between the parties on this subject), then the Board would be in a position to find that the area(s) could be improved sufficiently to meet the statutory requirements, and to endorse the ANR Plan. As noted above, the current comment of the Park Service does not support the Applicant's authority to improve either area. Absent evidence of authority to improve either the Dirt Path Extension or Proprietors Road to meet the statutory requirement, the Applicant is not entitled to an ANR endorsement.

It might serve the Applicant to withdraw the current application without prejudice to allow time for the Applicant and Park Service to discuss the issues raised, and/or for the Applicant to seek the Superintendent's approval for improvement of the Dirt Path Extension.

on this application. If counsel is suggesting that there was something untoward in forwarding the ANR application to the Park Service under these circumstances, such suggestion is unwarranted.

The Applicant has submitted a revised **Approval Not Required Perimeter Plan of Land**. Although some of the plan notes have been revised by the Applicant, several remain that are problematic:

- 2nd note on left states that "The single lot set out on this plan meets the standards of MGL, Chapter 41 and supersedes the ANR Plan recorded at [Plan Book reference]." It is unclear what is meant by "the standards of MGL Chapter 41," and the phrase "single lot" is clearly intended to set up the Applicant's argument that the lot is a buildable lot protected under the "single lot" exemption of G.L. c. 40A, s. 6. No such predicate should be laid on this plan. The note is unnecessary to ANR endorsement.
- Again, unless the surveyor is a certified wetlands scientist, the note stating that "an inspection of the locus property revealed that there are no wetlands on the site" is not something upon which the Board can rely in an endorsement.
- The note stating "Proprietors Road to be 14' if and as required" is not supported by the Boundary Line Agreement.
- The note referencing the Dirt Path Extension should note that the Superintendent's permission is required to improve the area to a consistent width as depicted on the Plan (and reference to "Dirt Road Extension" should be changed to "Dirt Path Extension").
- The last note on the lower left corner stating "Paths to comply with the Town of Truro regulations, as may be required in all relevant areas" should also state "and as allowed by [citation to Boundary Line Agreement recording info]."



TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

April 7, 2021 – 5:00 pm

REMOTE PLANNING BOARD WORK SESSION

Members Present (Quorum): Anne Greenbaum (Chair); Steve Sollog (Vice Chair); Jack Riemer (Clerk); R. Bruce Boleyn; Peter Herridge; Rich Roberts

Members Absent: Paul Kiernan

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Liz Sturdy – Truro Office Assistant; Ben Zehnder (Attorney for William T. Burdick and Richard C. Vanison - Applicants); Sue Areson (Select Board Member); Chris Lucy (\$40.2 Accessory Dwelling Unit Article Petitioner)

Remote meeting convened at 5:02 pm, Wednesday, April 7, 2021, by Chair Greenbaum who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Members introduced themselves.

Public Comment Period

Public comment, for things not on the agenda, was opened by Chair Greenbaum and there were no individuals who made public comments.

Public Hearing

Prior to the Public Hearing, Chair Greenbaum made a statement to reaffirm that the Planning Board was not anti-affordable housing or opposed to the Cloverleaf project despite what some members of the community have stated.

Chair Greenbaum then led the review and discussion of Zoning Bylaw Amendments with the Members along with the assistance of Town Planner/Land Use Counsel Carboni and Truro Office Assistant Sturdy. Members of the public were given the opportunity to provide comment or ask questions. There were none.

Chair Greenbaum announced that Members would vote on each Zoning Bylaw Amendment and whether to recommend at Town Meeting.

Zoning Bylaw Amendments - pursuant to G.L. c.40A - amend the following sections of the Town of Truro Zoning Bylaws:

- Citizen-Petitioned Article to Warrant: §40.2 Accessory Dwelling Unit: to allow property owners to build ADU's "by right".

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

- § 10.4 Definitions: to add a definition for food trucks and remove the definition for affordable accessory dwelling units (subsequently replaced with accessory dwelling units).

Member Herridge made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

- §30.2 Use Table: add food trucks to the use table as a Special Permit use in all zones and grandfather existing locations.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

- §30.9 Parking: provides a process for the modification of parking requirements.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

- §40.2 Accessory Dwelling Unit: allow reduction or waiver of parking requirements; alter or remove application requirements and allow for substitution of documents; remove language about appeals; correct reference to the General Bylaws.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Riemer seconded the motion.

So voted, 5-1, motion carries.

- §40.2 Accessory Dwelling Unit: eliminates submitted requirements that are not germane to the jurisdiction of the Planning Board in their review of ADU permit applications.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

- §40.2 Accessory Dwelling Unit: eliminates the need for ADU permit applications to include building elevation plans for proposals where there are no exterior changes to a building proposed.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Herridge seconded the motion.

So voted, 6-0, motion carries.

- §40.2 Accessory Dwelling Unit: recognizes that a town cannot deny appeal rights through stating such in a zoning bylaw.

Member Herridge made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

- §40.2 Accessory Dwelling Unit: corrects a scrivener's error referencing the General Bylaws and removes an obsolete definition for Affordable Accessory Dwelling Units.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Herridge seconded the motion.

So voted, 6-0, motion carries.

- §40.2 Accessory Dwelling Unit: a citizen petitioned article that was created to allow homeowners to build or convert an existing building to one (1) accessory dwelling unit on their property with the provision that it be rented year-round as opposed to seasonally.

Vice Chair Sollog made a motion that the Planning Board recommend approval of Article N to Town Meeting.

Chair Greenbaum seconded the motion.

So voted, 0-6, motion fails to carry.

Chair Greenbaum then recognized Mr. Lucy to explain the "red changes" in the language for this citizen petitioned article. Member Riemer suggested that this voted be tabled to a later Planning Board workshop. Member Herridge agreed with Member Reimer. Chair Greenbaum announced that the Planning Board would not vote on the "red changes".

- §70.3 Commercial Development: reduce the number of required copies of applications.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Herridge seconded the motion.

So voted, 6-0, motion carries.

- § 70.4 Residential Development: reduce the number of required copies of applications.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Herridge seconded the motion.

So voted, 6-0, motion carries.

- § 70.6 Recording of Decision: alter the procedure for the submittal of recorded decisions.

Member Herridge made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Vice Chair Sollog seconded the motion.

So voted, 6-0, motion carries.

- §70.9 Waiver of Site Plan Review: allow waivers for new structures; clarify conflicting language regarding Residential Site Plan Review; and alter submittal procedures.

Vice Chair Sollog made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Herridge seconded the motion.

So voted, 6-0, motion carries.

- §40.6 Growth Management. A. Purpose: extend the December 31, 2021, expiration date for another three (3) years until December 31, 2024.

Member Herridge made a motion that the Planning Board recommend approval of this bylaw amendment to Town Meeting.

Member Riemer seconded the motion.

So voted, 6-0, motion carries.

Member Riemer made a motion to close the public hearing.

Vice Chair Sollog seconded the motion.

So voted, 6-0, motion carries.

Public Hearing - Continued

2020-006/SPR - Anne Labouisse Peretz; William T. Burdick & Richard C. Vanison, Trustees, Dune House Norn. Tr. for property located at 112 North Pamet Road (Atlas Map 48, Parcel 1). Applicants seek a Residential Site Plan Review under Section 70 of the Truro Zoning Bylaw for demolition and removal of existing single-family dwelling in the Seashore Zoning District and construction of new smaller dwelling at a new location, set back from the coastal bank. The existing dwelling is at risk of sudden destruction due to storm-driven coastal bank erosion in its current location.

Chair Greenbaum announced a requested continuance by the Applicant until April 21, 2021, and Planning Board action on May 5, 2021.

Vice Chair Sollog made a motion to continue the matter of 2020-006/SPR until April 21, 2021.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

Planner Report

Town Planner/Land Use Counsel Carboni reported that she is settling into her role effective April 1, 2021. Town Planner/Land Use Counsel Carboni added that she is also working on scheduling a workshop with the Cape Cod Commission on DRI. Chair Greenbaum and Town Planner/Land Use Counsel Carboni

discussed scheduling a virtual workshop to discuss the Housing Choice legislation, as well as a potential discussion on the ADU articles, on April 28, 2021, from 5:00 pm – 6:15 pm.

Minutes

Chair Greenbaum led the review of the March 17, 2021, meeting minutes for corrections or edits. There were no corrections or edits made.

Vice Chair Sollog made a motion to approve the minutes from March 17, 2021, as written.

Member Roberts seconded the motion.

So voted, 6-0, motion carries.

Member Riemer made a motion to adjourn at 7:05 pm.

Member Herridge seconded the motion.

So voted, 6-0, motion carries.

Respectfully submitted,

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

Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

May 26, 2021 – 5:00 pm

REMOTE PLANNING BOARD WORK SESSION

Members Present (Quorum): Anne Greenbaum (Chair); Steve Sollog (Vice Chair); Jack Riemer (Clerk); Paul Kiernan; R. Bruce Boleyn; Peter Herridge; Rich Roberts

Members Absent:

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Liz Sturdy – Truro Office Assistant

Remote meeting convened at 5:02 pm, Wednesday, May 26, 2021, by Chair Greenbaum who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Interim Town Planner and Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Members introduced themselves.

Public Comment Period

Public comment, for things not on the agenda, was opened by Chair Greenbaum and there were no individuals who made public comments.

Work Session

Chair Greenbaum opened the Work Session with an announcement that Town Planner/Land Use Counsel Carboni has scheduled a DRI Workshop with the Cape Cod Commission on June 2, 2021, at 5:00 pm for the Members of the Planning Board and for a limited number of Members from the Walsh Property Committee. Invitations for attendees will be coordinated among Chair Greenbaum and the co-chairs of the Walsh Property Committee.

Chair Greenbaum led the Work Session with a focus on Truro housing issues with the Members and Town Planner/Land Use Counsel Carboni. Members discussed the following:

- An update on different housing options which were discussed, following a meeting with Habitat for Humanity and the Massachusetts Department of Housing and Community Development (DHCD), as to what can be done to develop more housing in Truro with **“Accessory Apartments”** and how these would affect the ADU Bylaw.
- The Local Action Unit (LAU) approval process.
- A goal should be to add units to the Town’s Subsidized Housing Inventory (SHI).

- Reviewed several conditions which would prohibit unit additions to the SHI.
- Commonwealth of Massachusetts regulations and any overlap situations which may affect the current local ADU Bylaw.
- Septic systems which could bring illegal apartments into compliance with the ADU Bylaw.
- Illegal apartments which would be too expensive to be made legal.
- Reluctance of residents who may have illegal apartments to come forward and take the actions to become legal and affordable.
- Impact of population density in the National Seashore District v. the Residential District for the funding and planning for proper infrastructure and water supply in Truro.
- Review of previous Assessor's Buildout Report with data regarding current lots which are vacant and where a single-family home could be built (approximately 350 lots).

Chair Greenbaum then led the review and discussion of the document entitled "Potential Ways to Change Bylaws to Increase/Diversify Housing" dated May 7, 2021, written by Town Planner/Land Use Counsel Carboni as she reviewed current Truro Bylaws. Members discussed the following items which could be done to increase/diversify the housing stock in Truro:

1. Inclusionary zoning
 - a. Suggested focus on young working families in Truro to create more affordable housing for the Affordable Rental Housing Overlay District (ARHOD).
2. Section 40.1.B
3. Overlay District – Increased Density
4. Rezoning – "Waivers" for affordable units
 - a. May consider seasonal workforce renters and seniors
5. Revision of Section 40.3
6. Over-shop housing/mixed use

Chair Greenbaum and Members then discussed other suggestions offered by Town staff or members of the public during previous Planning Board meetings:

- Create some form of inclusionary zoning when cottage (cabin) colony requests change to condominiums to include affordable units.
- Allow ADU to be owner by different owner – condo set up

- Allow smaller homes, or smaller lots, with deed restricted affordability
- Emily Beebe (Truro Health/Conservation Agent) requested that the Planning Board consider modifications to the Zoning Bylaws to create an allowance for existing multifamily structures, possibly with a license/permit process that will give the Town a better inspectional/regulatory handle on year-round apartments.
- Change the duplex regulations to allow more than 600 sq. ft. in 2nd unit

Chair Greenbaum thanked the Members for their input and noted that the Planning Board will continue to receive input from the members of the public on the topics discussed this evening.

Vice Chair Sollog made a motion to adjourn at 6:25 pm.

Member Kiernan seconded the motion.

So voted, 7-0, motion carries.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Alexander O. Powers". The signature is fluid and cursive, with a large initial "A" and a long horizontal stroke extending to the right.

Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

PLANNING BOARD

Meeting Minutes

August 24, 2022 – 5:00 pm

REMOTE PLANNING BOARD MEETING

Members Present (Quorum): Anne Greenbaum (Chair); Rich Roberts (Vice Chair); Jack Riemer (Clerk); R. Bruce Boleyn; Ellery Althaus; Caitlin Townsend

Members Absent: Paul Kiernan

Other Participants: Town Planner/Land Use Counsel Barbara Carboni; Planning Department Administrator Liz Sturdy; Select Board Liaison John Dundas; Ben Zehnder (Attorney for Rachel Kalin - Trustee/Applicant); Bryan Weiner (Civil Engineer for Rachel Kalin - Trustee/Applicant); Jim Cappuccino (Architect for Rachel Kalin – Trustee/Applicant); Annie Griffenberg (Representative for Rachel Kalin – Trustee/Applicant); Kris Horiuchi (Representative for Rachel Kalin – Trustee/Applicant); Chris Lucy (Resident of Truro)

Remote meeting convened at 5:01 pm, Wednesday, August 24, 2022, by Chair Greenbaum who announced that this was a remote public meeting aired live on Truro TV Channel 18 and was being recorded. Town Planner/Land Use Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Members introduced themselves to the public.

Public Comment Period

Public comment, for items not on the agenda, was opened by Chair Greenbaum. Chair Greenbaum recognized Chris Lucy (Resident) who commented that the Planning Board should have goals and objectives clearly stated approximately one quarter prior to the start of the fiscal year like the Select Board. Mr. Lucy added that Town residents were unsure as to the Planning Board’s achievements throughout the year and that stated goals and objectives would give residents the opportunity to stay better engaged with the activities conducted by the Planning Board.

Planner Report

Town Planner/Land Use Counsel Carboni reported that the Town has hired a consultant, Jeff Thibodeau, for services to update the Town’s Open Space and Recreation Plan. Town Planner/Land Use Counsel Carboni noted that it was a competitive bid process, and that Mr. Thibodeau’s outreach process will commence later this year.

Chair Report

Chair Greenbaum reported that the Local Comprehensive Plan Committee (LCPC) has continued to move forward and will schedule two community meetings in October. One meeting will be in-person and one will be online. The LCPC has a need for two members and the application is on the Town’s website.

Chair Greenbaum stated that the Truro Housing Authority (THA) is working on a new Housing Production Plan. The THA has sent out a “save the date” for Monday, September 19, 2022, when the THA will host an online forum from 6:00 pm – 7:30 pm.

Public Hearings - Continued

2022-004/SPR- Outer Shore Nominee Trust, Rachel Kalin, Trustee for property located at 17 Coast Guard Road (Atlas Map 34, Parcel 3, Registry of Deeds title reference: Book 34387, Page 1). Applicant seeks Residential Site Plan Review under §70 of the Truro Zoning Bylaw for a lot in the Seashore District. Demolition of 5 of 6 pre-existing, non-conforming cottages (multiple dwellings on a lot) and associated structures; construction of a new one-story single-family dwelling with pool and landscaping; renovation of remaining cottage.

Chair Greenbaum recognized Attorney Zehnder who introduced the Applicant's design team present at this evening's meeting. Attorney Zehnder stated that new plans had been submitted to the Planning Board due to the concerns expressed by Members at the previous hearing. Attorney Zehnder provided an update on the project with input from the Applicant's design team.

Members and the Applicant's representatives discussed concerns which were raised at the previous hearings.

Chair Greenbaum recognized Vice Chair Roberts who stated his personal concerns and observations about the project with the use of a slide presentation. Vice Chair Roberts provided both pro and con observations regarding the proposed project. Chair Greenbaum reiterated that Vice Chair Roberts' presentation and observations did not necessarily reflect the opinions of the entire Planning Board.

Chair Greenbaum recognized Attorney Zehnder who thanked Vice Chair Roberts for his presentation and requested that Vice Chair Roberts' presentation be added to the record of these proceedings. Vice Chair Roberts agreed to do so.

Chair Greenbaum reminded the Members what their responsibilities were in considering this proposed project by utilizing the established rules and regulations.

Chair Greenbaum asked if Members had any questions of the Applicant and several Members provided comments and asked the Applicant several questions regarding mass and the dimensions of the proposed pool.

Member Althaus made a motion to close the hearing in the matter of 2022-004/SPR.

Member Boleyn seconded the motion.

So voted, 6-0, motion carries.

Chair Greenbaum led the discussion with Members about the proposed project. Several Members expressed support for the proposed project and others stated their concerns. Town Planner/Land Use Counsel Carboni provided legal insight along with a review of the criteria to approve a Special Permit in accordance with the Zoning Bylaw. Town Planner/Land Use Counsel Carboni opined that the Applicant has met the criteria to approve a Special Permit and further expressed her concern to defend a decision by the Planning Board to deny this Special Permit.

Chair Greenbaum and Town Planner/Land Use Counsel Carboni reviewed the conditions which would be part of the decision which Town Planner/Land Use Counsel Carboni will author.

Member Althaus made a motion to grant Site Plan approval in the matter of 2022-004/SPR.

**Member Townsend seconded the motion.
So voted, 4-2, motion carries.**

Following the vote, Chair Greenbaum commented on the Town's interest in preserving cottage colonies so members of the public should have their voices heard by the Planning Board as this topic is discussed among residents.

Board Action/Review

2022-005/PB - Regan McCarthy seeks approval of Form A- Application for Determination that Plan Does Not Require Approval (ANR) pursuant to Section 2.2 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 35A Higgins Hollow Road, Truro MA, Atlas Map 47, Parcel 2, Registry of Deeds title reference: Book 20807, Page 42.

Chair Greenbaum recognized Town Planner/Land Use Counsel Carboni who stated that the Applicant, through the Applicant's counsel, Attorney Christopher Senie, had requested that the matter be put off until the next meeting on September 7, 2022, meeting. Town Planner/Land Use Counsel Carboni added that since that this was a Planning Board action, and not a hearing, no vote by the Members was required. Chair Greenbaum concurred with Town Planner/Land Use Counsel Carboni's opinion so no vote was taken.

Development of Warrant Articles

Chair Greenbaum led the conversation with Members and Town Planner/Land Use Counsel Carboni regarding the updates for the development of Warrant Articles in coordination with the ZBA, Housing Authority, DPW, and Select Board. Updates will be reviewed at all future Planning Board meetings.

Minutes

Chair Greenbaum led the review of the July 27, 2022, meeting minutes for corrections or edits and there were none.

**Member Boleyn made a motion to approve the July 27, 2022, meeting minutes as written.
Member Townsend seconded the motion.
So voted, 6-0, motion carries.**

**Member Boleyn made a motion to adjourn the meeting at 6:40 pm.
Member Riemer seconded the motion.
So voted, 6-0, motion carries.**

Respectfully submitted,



Alexander O. Powers
Board/Committee/Commission Support Staff

From: [Tim Collins](#)
To: [Elizabeth Sturdy](#)
Cc: [Barbara Carboni](#)
Subject: RE: Hearing tonight - Fw: comment on 35A Higgins Hollow Road ANR application
Date: Wednesday, September 21, 2022 2:33:57 PM

I was asked to look at the property on behalf of the Planning Board, after visiting the property in question 35A Higgins Hollow Road I had a chance to walk the property and in its current condition there is no ability for emergency vehicles to access that property

Respectfully,

Timothy Collins
Fire Chief/EMD
Truro Fire Department
508-487-6589
TCollins@Truro-Ma.gov

Confidentiality Notice: This fax/e-mail transmission, with accompanying records, is intended only for the use of the individual or entity to which it is addressed and may contain confidential and/or privileged information belonging to the sender, including individually identifiable health information subject to the privacy and security provisions of HIPAA. This information may be protected by pertinent privilege(s), e.g., attorney-client, doctor-patient, HIPAA etc., which will be enforced to the fullest extent of the law. If you are not the intended recipient, you are hereby notified that any examination, analysis, disclosure, copying, dissemination, distribution, sharing, or use of the information in this transmission is strictly prohibited. If you have received this message and associated documents in error, please notify the sender immediately for instructions. If this message was received by e-mail, please delete the original message and destroy any hard copies you may have created. The sender does not accept any liability for any errors or omissions in the contents of this message that arise as a result of email transmission. Thank you.

From: Barbara Carboni <bcarboni@truro-ma.gov>
Sent: Wednesday, September 21, 2022 2:26 PM
To: Tim Collins <TCollins@truro-ma.gov>
Subject: Hearing tonight - Fw: comment on 35A Higgins Hollow Road ANR application

Tim, would you have a chance to put this in an email - please see below.

Thanks
Barbara

From: Barbara Carboni
Sent: Thursday, September 15, 2022 2:39 PM
To: Tim Collins <TCollins@truro-ma.gov>

Subject: comment on 35A Higgins Hollow Road ANR application

Chief,

Thank you for visiting the site of the this application and for your report on that visit. As you may remember, you advised me verbally of your conclusion. I incorporated your conclusion into my staff memo to the Planning Board:

It appears from the Plan notes that in their current state, neither the section of Proprietors Road over Seashore property, nor the Dirt Path Extension over Seashore property would meet the criteria for sufficient access under G.L. c. 41, s. 81L. **The Fire Chief recently visited the site and advises that in its current condition, there is no ability for emergency vehicles to access the property over the Dirt Path Extension.** The question of whether these areas might be improved to meet such criteria is necessarily dependent upon the applicant's rights in those areas.

Counsel for the applicant has requested all correspondence between me and you regarding the application. I was remiss in not asking you to put your comments in writing. Would you kindly put your comments in an email and submit to Liz Sturdy, so that they can be part of the meeting packet?

I've attached my complete memo in case it is of interest.

Thank you,

Barbara

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



United States Department of the Interior

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

IN REPLY REFER TO:

1.A.1 (NER/Lands)

September 21, 2022

Anne Greenbaum, Chair
Truro Town Hall
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

Dear Ms. Greenbaum,

We would like to offer additional comments in response to repeated inaccurate assertions by Ms. McCarthy and her Counsel with respect to rights vis a vis use of lands of the USA. To the extent that Ms. McCarthy and her Counsel believe it is inappropriate for the Cape Cod National Seashore to present the Board with its opinions and perspective regarding the use of federal property and the interpretation of Agreements to which the USA is a party, we sincerely disagree.

This response is not intended to be exhaustive or a point-by-point refutation (or acceptance) of all claims, assertions, or arguments raised, but rather to focus on inaccuracies in certain representations made by Ms. McCarthy and her Counsel as to rights she may have on federal property, the meaning of the 2007 Boundary Line Agreement, and the utility Right-of-Way Permit renewed in 2019, as they pertain to the Planning Board's consideration of whether Ms. McCarthy has established the "vital access" and ability to meet specific municipal standards necessary for an ANR endorsement.

The 2007 Boundary Line Agreement reflects an intent on the part of the USA to limit potential future impacts to federal property within the Cape Cod National Seashore should Ms. McCarthy establish or obtain legal authorization to further develop her property. ¹ Neither that Agreement nor the unilaterally revocable utility Permit evidence a "mutual goal" to support or agree to development of the lot or to authorize alterations to federal land (beyond laying of utilities in the Dirt Path Extension) to achieve such purposes.

¹ Ms. McCarthy has represented to the National Park Service for more than a decade that she was entitled to build on her lot "as of right." Ms. McCarthy's earlier application to the Town for relief from certain Zoning regulations and the present proceedings are evidence she is not entitled to such development "as of right."

² The language to which Counsel refers, "except as may be required by the Town of Truro" is an acknowledgement that if the Town of Truro were to require use of the Dirt Path Extension in a manner inconsistent with the Permit, Permittee would not be held to her voluntary agreement not to exercise her right to use Proprietors Road as articulated in the Boundary Line Agreement.

The Boundary Line Agreement contains reciprocal releases by the USA and Ms. McCarthy as to any rights they may have had in the property of the other, and Ms. McCarthy specifically acknowledged and confirmed “that she has no claim, whether through deed, or any other mechanism to any portion of the USA Parcel.” (Boundary Line Agreement, paragraphs 2 & 3). The Agreement does afford “the right to access the McCarthy Parcel by the Proprietors Road, and to run utilities to the McCarthy Parcel under and upon the Proprietors Road.” (Boundary Line Agreement, paragraph 5). However, the right to use Proprietors Road as articulated in the Agreement does not imply a right to improve or expand the road on federal property without consent of the National Park Service.

Federal law prohibits “[c]onstructing or attempting to construct a building, or other structure, boat dock, road, trail, path, or other way, telephone line, telegraph line, power line, or any other private or public utility, upon across, over, through, or under any park areas, except in accordance with the provisions of a valid permit, contract, or other written agreement with the United States,” (36 C.F.R. § 5.7)(emphasis added). Regardless of what right Ms. McCarthy may have in Proprietors Road, courts throughout the country have consistently held that federal agencies have the power to regulate privately held rights over federal land pursuant to the delegated authority of Congress under the Property Clause. (See, e.g., *Burlison v. United States*, 533 F.3d 419, 440 (6th Cir. 2008) (FWS may impose reasonable regulations despite common law easement right and holder must apply for special use permit); *United States v. Jenks*, 22 F.3d 1513, 1518 (10th Cir. 1994) (Patent or easement rights do not defeat requirement to apply for special use permit for access by in-holder over Forest Service land); *United States v. Vogler*, 859 F.2d 638, 641 (9th Cir. 1988) (NPS has authority to require permit for access to and use of heavy machinery in park notwithstanding preexisting private mining right); see also *United States v. Garfield Cty.*, 122 F. Supp. 2d 1202, 1254 (D. Utah 2000) (Construction work in a County’s R.S. § 2477 right of way without a permit or other NPS approval impermissibly frustrated the Park Service’s authority and entitled agency to damages).

Ms. McCarthy has not sought and does not hold a valid permit or other agreement to construct, alter or expand any portion of Proprietors Road that occurs on federal land.

In addition, contrary to the assertion by Ms. McCarthy’s Counsel, the Right-Of-Way Permit issued by the Cape Cod National Seashore does not grant a right of way for access via the Dirt Path Extension. In accordance with its express terms, the permit constitutes only a revocable, non-exclusive license to “construct, operate and maintain underground electric, cable television, telephone, and water utility lines.” (Right-of-Way Permit No. RW CACO-19-001, p. 3). The permit acknowledges that the Boundary Line Agreement states the USA has no objection to the use of the existing Permitted Area for access but it does not grant or provide a right-of-way for such access. (Permit, p. 2). Indeed, the NPS has no general statutory authority to provide a private right-of-way for a non-NPS road or driveway on Park property.

Moreover, the use of the Permitted Area is expressly limited only to the area set out in the legal description, which area reflects an approximate width of 8 feet, on average. (Permit, p. 3). No deviation from the approved Permit Area is allowed without authorization by NPS, which authorization may be given or, in its sole discretion, denied. (Permit, p. 4). The authorized area

of use is not dependent on nor varied by requirements of the Town of Truro. 2 NPS has received no written request for and has provided no authorization to use or occupy additional area beyond the Permitted Area of the Dirt Path Extension.

Sincerely,



Brian T. Carlstrom,
Superintendent

cc:

Barbara Carboni, Truro Town Planner and Land Use Counsel
Attorney Chris Senie



United States Department of the Interior

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

IN REPLY REFER TO:
A90

August 23, 2022

Anne Greenbaum, Chair
Truro Planning Board
Truro Town Hall
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

Dear Ms. Greenbaum:

We strongly concur with Truro's Town Planner/Land Use Counsel staff reports and find the Planning Board application for 35A Higgins Hollow Road in Truro, MA continues to ignore the lack of legal basis for the applicant's repeated submissions. We conclude that:

- The proprietor's road does not provide proper legal road frontage.
- It is not a public way despite prior representations.
- This property is not a buildable lot.
- Dirt path extension rights permitted by the NPS are solely for utilities.
- The right-of-way permit is revocable and is not an easement.

The proposed use of the undeveloped property is simply in compliance with Town zoning bylaws. A right-of-way permit for utilities was issued based on Ms. McCarthy's assurances that she could obtain a building permit by right; over 15 years this continues to be erroneous as no by-right building permit can be issued for construction of a new residence.

Additionally, assertions by Ms. McCarthy and her representatives are repeatedly being made that NPS has granted more rights to the applicant than is authorized.

The repeated misleading assertions stated on the BSC Group plans that are particularly troubling are: "Existing 8'-14' wide dirt path extension with utility easement & access; and deeded easement on proprietor's road."

NPS does not have authority to grant private use of public property for roads or driveways. The right-of-way (ROW) permit on the dirt path extension held by the applicant is for utilities only and is subject to revocation or non-renewal. The revocable ROW permit is not an easement.

We have expressed our concern numerous times to Ms. McCarthy and to the Town of Truro staff and boards regarding the eligibility of this undeveloped property to receive a building permit. Because a building permit is dependent on town relief from zoning bylaw requirements, we cannot support the proposal. We have concluded a thorough review of this matter and do not support a variance or special permit for street frontage and/or access for the property.

Sincerely,



Brian T. Carlstrom
Superintendent

cc:
Town Administrator
Town Planner/Land Use Counsel



United States Department of the Interior

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

IN REPLY REFER TO:
CACO Tract 17-3305

March 24, 2020

[REDACTED]
[REDACTED]
[REDACTED]

Re: 35A Higgins Hollow Road, Truro, MA

Dear [REDACTED],

Thank you for informing us of your intention to apply to the Truro Zoning Board of Appeals for relief from the application of the Town's definition of "street" with respect to the width of the Proprietor's Road as it runs westerly within your property and northwesterly a short distance in the land of USA to Higgins Hollow Road.

In a letter dated May 2, 2019, we informed you that we would not be proceeding with the proposed land exchange due to any administrative efficiencies to be gained by the land exchange being outweighed by the time and resources to be devoted to the project. Additionally, we expressed our concern numerous times regarding the eligibility of your undeveloped property to receive a building permit.

Because a building permit for your land is dependent on town relief from zoning bylaw requirements, we cannot support your proposal. We have concluded a thorough review of this matter and do not support a variance or special permit for street frontage and/or access for your property.

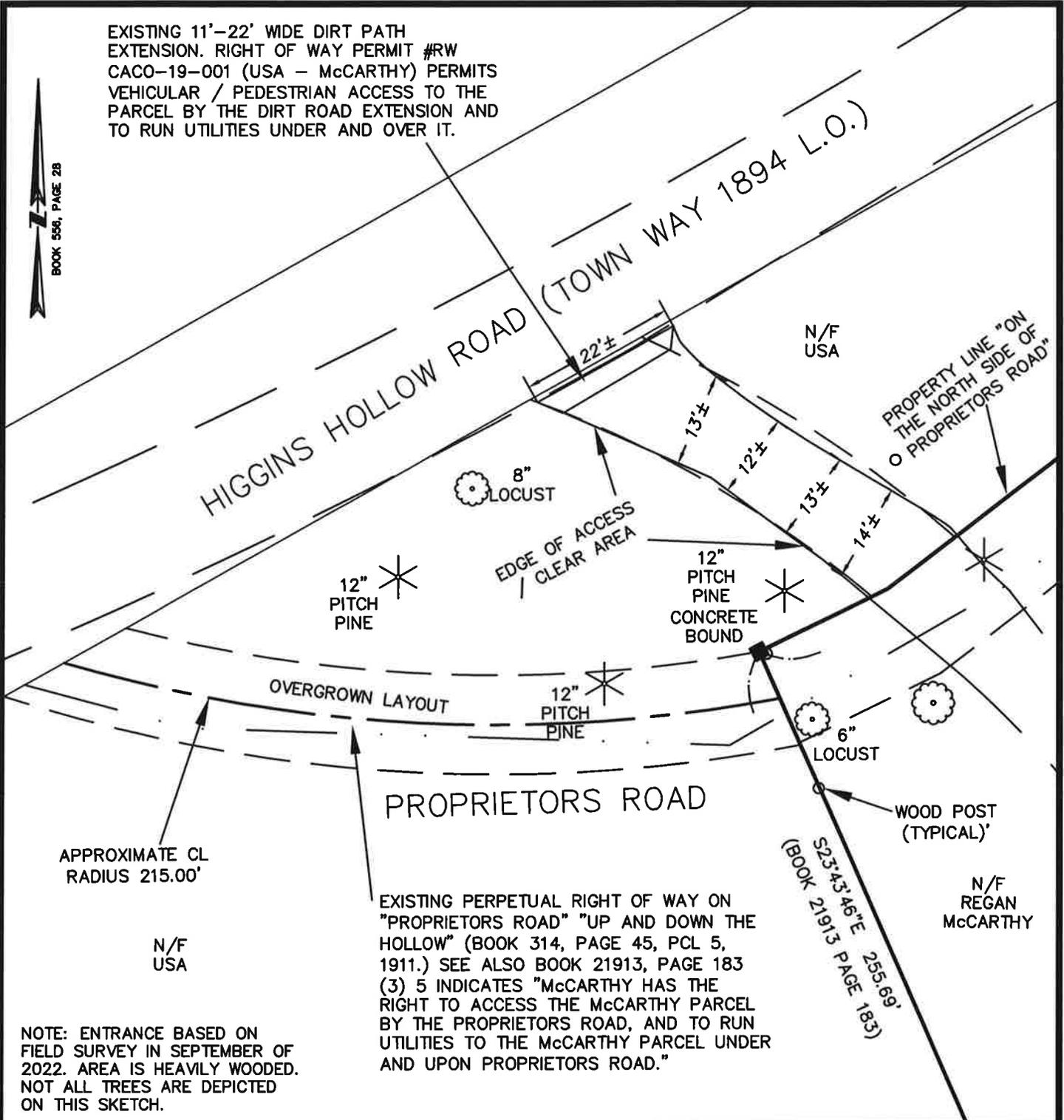
Sincerely,

Brian T. Carlstrom
Superintendent

cc:
Truro Zoning Board of Appeals
Truro Town Planner
Jennifer Cherry, NPS Realty Officer

EXISTING 11'-22' WIDE DIRT PATH
 EXTENSION. RIGHT OF WAY PERMIT #RW
 CACO-19-001 (USA - McCARTHY) PERMITS
 VEHICULAR / PEDESTRIAN ACCESS TO THE
 PARCEL BY THE DIRT ROAD EXTENSION AND
 TO RUN UTILITIES UNDER AND OVER IT.

BOOK 556, PAGE 28



NOTE: ENTRANCE BASED ON
 FIELD SURVEY IN SEPTEMBER OF
 2022. AREA IS HEAVILY WOODED.
 NOT ALL TREES ARE DEPICTED
 ON THIS SKETCH.

EXISTING PERPETUAL RIGHT OF WAY ON
 "PROPRIETORS ROAD" "UP AND DOWN THE
 HOLLOW" (BOOK 314, PAGE 45, PCL 5,
 1911.) SEE ALSO BOOK 21913, PAGE 183
 (3) 5 INDICATES "McCARTHY HAS THE
 RIGHT TO ACCESS THE McCARTHY PARCEL
 BY THE PROPRIETORS ROAD, AND TO RUN
 UTILITIES TO THE McCARTHY PARCEL UNDER
 AND UPON PROPRIETORS ROAD."

I HEREBY CERTIFY TO THE BEST OF
 MY PROFESSIONAL KNOWLEDGE,
 INFORMATION AND BELIEF THAT THE
 LOT CORNERS, DIMENSIONS AS
 DETERMINED BY INSTRUMENT SURVEY
 AND AS SHOWN ON THIS PLAN ARE
 CORRECT.

[Signature]

KIERAN J. HEALY, PLS DATE
 FOR THE BSC GROUP, INC.



THE BSC GROUP, INC
 349 MAIN STREET WEST YARMOUTH MA.

ACCESS
 LOCATION SKETCH
 #35A
 HIGGINS HOLLOW RD
 TRURO
 MASSACHUSETTS

SCALE: 1"=20'

DATE: 9/15/22

BSC# 48039.02

SHEET 1 OF 1

Regan McCarthy, Ph.D.

42 ½ Adrian Ave. • Marble Hill, NY 10463 • regan.mccarthy@songmasters.org • 917.575.0169

September 13, 2022

via email and hand delivered

Town Clerk
Town of Truro
Truro, MA 02666

Re: Perimeter ANR | 35A Higgins Hollow Road

Dear Ms. Fulton,

Pursuant to MGL Ch 41 §81T, with this letter I notify the Town Clerk's office that I hereby submit the following supplemental materials pursuant to my application of August 5 for an ANR endorsement of a perimeter plan on the property at 35A Higgins Hollow Road. This includes:

- 10 copies (full-size) of an ANR Perimeter Plan, updated based upon recent discussions between my Counsel, Christopher Senie, and the Town's Land Use Counsel; and an electronic copy of same in attached packet.
- A note from me to the Planning Board explaining the current basis and reasoning for this application.
- Two memos from Christopher Senie that address various issues raised in recent communications with Truro's Land Use Counsel, with cited attachments.

Per usual procedure, please notify the Planning Board of receipt of this packet and plans. I look forward to presenting this request to the Planning Board on September 21st. As always, I appreciate your consideration and assistance.

Sincerely,



Regan McCarthy

cc: Town Planner/Land Use Counsel
Christopher Senie, Esq

Regan McCarthy, Ph.D.

42 ½ Adrian Ave. • Marble Hill, NY 10463 • regan.mccarthy@songmasters.org • 917.575.0169

September 13, 2022

via email and hand delivered

Truro Planning Board
Town of Truro
Truro, MA 02666

Re: Perimeter Plan ANR | 35A Higgins Hollow Road

Dear Board Members,

I am writing to you as the property owner who has submitted an application for a Perimeter Plan ANR for the above property. The Board will consider this application at its meeting on Sept. 21, 2022. I want to explain why I have asked for your endorsement of a perimeter plan now and what I understand is before the Board and me on this matter.

As most of you will know, I received an ANR to divide the lot into two lots on this property in March 2021. I never divided the lot by deed or conveyance nor took any other steps to create two actual lots. Since that time, I have come to understand that creating two actual lots would have a greater impact on the local natural environment than I intended for my own use or the use of future generations. So I have left them as paper lots. My Perimeter Plan ANR seeks to keep it one lot on paper and one lot on the ground and by deed, as it is now.

Brief Background

For the ANR in 2021, the Board was thorough, engaged and active in considering the ANR request then. Members reviewed lots of material, visited the site (some walked the property and paths), studied the ANR plan and discussed these all in great detail at the meeting where this was reviewed on March 10, 2021. The meeting minutes capture the care, breadth and depth of your deliberations. If you review them, I refer you to pp 8 to 11 for the portion of the 3-10-21 minutes about this property.

Before I applied for an ANR, I earlier sought the informal advice of the Planning Board on the width of roads and paths to be depicted on an ANR plan when I submitted one. I was especially interested in gaining the Board's insight in light of my desire to cooperate with the CCNS to minimize impact on the naturalized areas of my property. I asked the Board's informal views of three things:

1. As to the frontage (495± feet by deed), how wide should I show the Proprietors Road on the plan: 12 feet (per Cater decision), 14 feet (by General Bylaw 1-9-13), 20 feet (by common practice), or 40 feet (per street definition)?
2. How wide should I show any driveway on the property?
 - In response to 1 and 2, the Board recommended 14 feet wide on all paths to be depicted.

3. Given that I have two ways to access the property from Higgins Hollow Road (HHR), would the PB prefer that I use an existing driveway (which both my property and the property at 35 HHR use now) or to improve the unimproved portion at my northwest corner for access to and from HHR? I clarified that one stems from a renewable right of way permit from USA in the “Dirt Path Extension” and the second from my deeded rights to use the unimproved, curved portion of Proprietors Road as it crosses Federal land adjacent to my property to access HHR. My agreements with USA recognize that if USA revokes or does not renew this permit for any reason, I am free to exercise my rights improve and use the Proprietors Road to reach HHR, and that we mutually preferred to have minimal impact on the natural environment while using and enjoying my property.
 - The Board recommended use of the existing driveway, with notation that the unimproved Proprietors’ Road affords permanent deeded access.

In the ANR Plan endorsed in 2021, I followed these recommendations. They remain as recommended on the current Perimeter Plan. For actual paths (such as the Dirt Drive Extension) actual current dimensions are shown.

After a point-by-point discussion in March 2021 based on the Interim Town Planner’s staff memo on what the Board had to find in order to endorse the ANR, the plan was endorsed. To do so, the Board issued and minuted required findings that:

1. The frontage road for this lot, called the Proprietors Road, was “a private way in existence on December 8, 1995” and in fact had been shown to exist on multiple bases since 1848, including USGS maps, Town Way Decisions, recent Land Court decisions, plans, deeds mortgages, and other recorded instruments for both 35A HHR and 45 HHR. The Board also determined it has sufficient frontage of 495± feet for the lot.
2. The Dirt Path Extension area (the entrance to my property at 35A and my abutters’ property at 35 HH) and the portion of the Proprietors Road on Seashore property to the northwest both meet the criteria for sufficient access under G.L. c. 41, s. 81L (“having, in the opinion of the Board,” etc.).
3. The “Applicant has the right to improve the Dirt Path Extension and/or Proprietors Road on Seashore property so as to meet the s. 81L criteria.” The Board determined and found this to be the case.
4. In addition, the Board made additional determinations of note, including that:
 - a. The abutting property to the east at 45 HHR has the same deeded basis for access and frontage using the Proprietors Road, but lacking a right of way permit with USA or any other agreement on use or right to cross of Federal land, nonetheless has developed the property with access to HHR.
 - b. The abutting property to the west at 35 HHR has an easement I granted to use the existing dirt path across the full extent of my land for access, but has no permit or agreement to cross Federal land. Yet their effective use of the Dirt Path Extension to reach HHR is the same as mine. No action was found to bar their use of this Dirt Path Extension or to deny recent Town permits based upon the absence of their rights to cross Federal land.

The Current Application

The decision before the Board now is simple and straightforward. Given what it has already found and established in 2021, it must now consider only one new thing: the removal of a single line on a paper plan to endorse this Perimeter Plan. Otherwise, the underlying facts and findings it endorsed in 2021 are unchanged. In fact, the only thing that is substantively different is removing the “paper” line between the lots as shown on Plan 689-59, to depict it as seen on my recorded plan at 665-80, both of which were provided with my application last month.

The Board has already determined that the original lot - still in existence today – meets the requirements for an ANR: that the Proprietors Road existed on Dec. 8, 1995, has adequate frontage, suitable access, and rights to improve unimproved paths, as and if required by the Town. These facts remain unchanged and are depicted and described on the new Perimeter Plan. Likewise, the criteria for endorsing an ANR today are the same as in 2021. Since endorsement of the Perimeter Plan will result in a less impactful use of the property, there is, IMHO, all the more reason to keep this simple.

Just as in 2021, the Board has been asked to consider matters well beyond the scope of the ANR process. These were irrelevant – and rejected in 2021 - and are still irrelevant. If my understanding is correct, it is impermissible to re-consider or alter your findings of 2021. To conclude differently on established findings resulting in your 2021 Endorsement would nullify that endorsement which was properly achieved and executed, with many consequences for the PB, the Town and me. In any case, it is not in our skill set or appropriate for what is before the Board in this ANR application to act as a judge and jury on legal matters beyond the ANR remit – and no legal decisions need to be made in this matter in any case.

That said, since I submitted my Perimeter Plan on August 24, the Town Planner/Land Use Counsel has been in extensive discussions with my counsel. Accordingly, I am also submitting an updated Perimeter Plan to reflect those discussions, based also upon what my surveyor believes is possible to accommodate while maintaining accuracy on the plan.

The goal of this application is simple as well: to memorialize that the lot will remain a single lot, first described in a 1911 deed, that will be usable on a basis that has the lowest environmental impact possible.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Regan McCarthy". The signature is written in a cursive, flowing style.

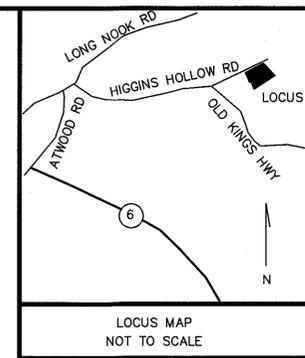
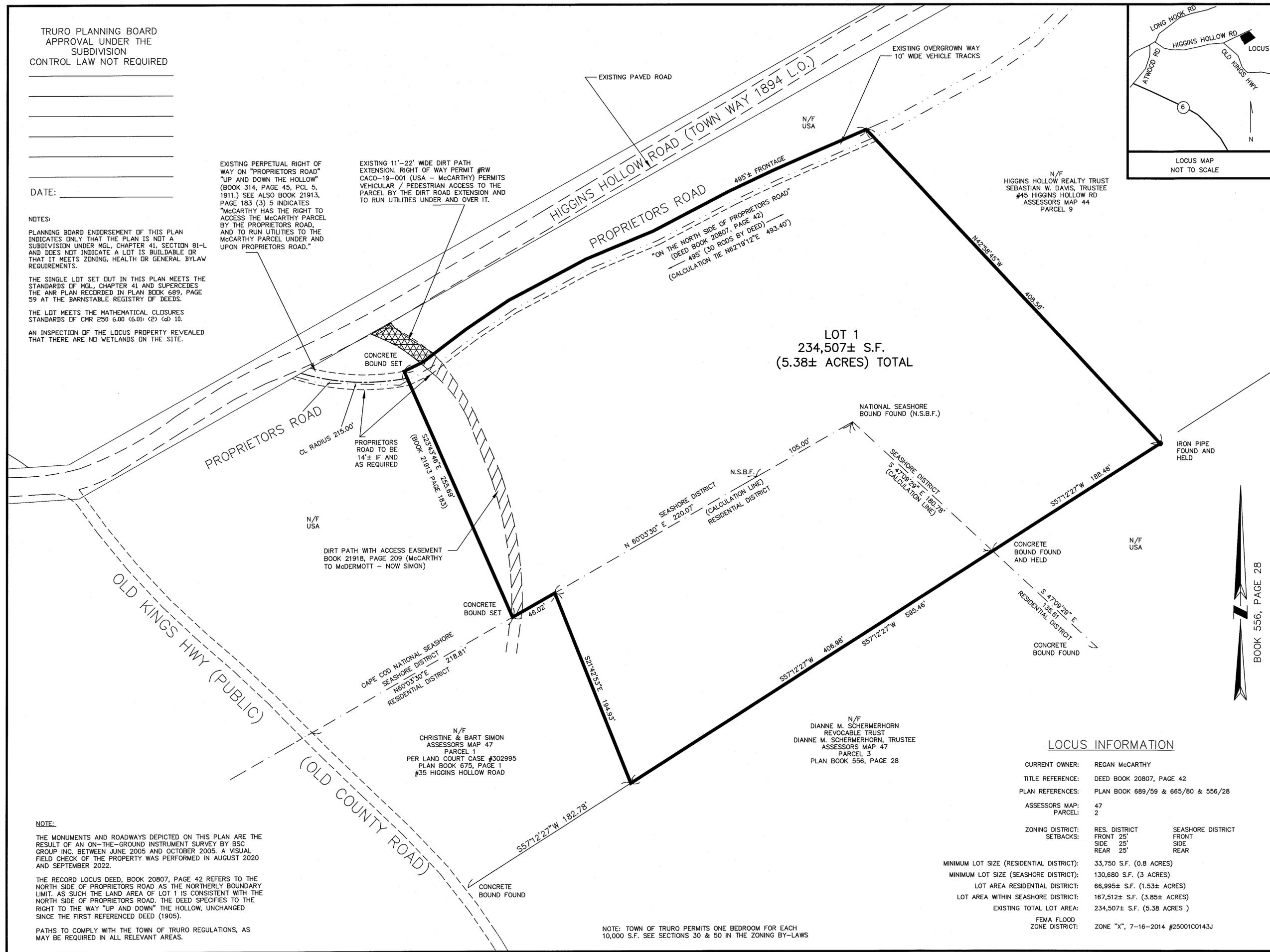
Regan McCarthy

cc: Town Planner/Land Use Counsel
Christopher Senie, Esq

TRURO PLANNING BOARD
APPROVAL UNDER THE
SUBDIVISION
CONTROL LAW NOT REQUIRED

DATE: _____

NOTES:
PLANNING BOARD ENDORSEMENT OF THIS PLAN INDICATES ONLY THAT THE PLAN IS NOT A SUBDIVISION UNDER MGL, CHAPTER 41, SECTION 81-L AND DOES NOT INDICATE A LOT IS BUILDABLE OR THAT IT MEETS ZONING, HEALTH OR GENERAL BYLAW REQUIREMENTS.
THE SINGLE LOT SET OUT IN THIS PLAN MEETS THE STANDARDS OF MGL, CHAPTER 41 AND SUPERCEDES THE ANR PLAN RECORDED IN PLAN BOOK 689, PAGE 59 AT THE BARNSTABLE REGISTRY OF DEEDS.
THE LOT MEETS THE MATHEMATICAL CLDSURES STANDARDS OF CMR 250 6.00 (c) (2) (d) 10.
AN INSPECTION OF THE LOCUS PROPERTY REVEALED THAT THERE ARE NO WETLANDS ON THE SITE.



FOR REGISTRY USE ONLY

I CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.



APPROVAL
NOT REQUIRED
PERIMETER
PLAN OF LAND
AT
#35A
HIGGINS HOLLOW RD.
IN
TRURO
MASSACHUSETTS
(BARNSTABLE COUNTY)

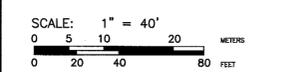
JUNE 28, 2022

REVISIONS:
NO. DATE DESC.
1. 9/13/22 REVISE NOTES PER TOWN PLANNER COMMENTS

PREPARED FOR:
REGAN MCCARTHY
42 1/2 ADRIAN AVENUE
MARBLE HILL, N.Y. 10463

BSC GROUP
349 Route 28, unit D
W. Yarmouth Massachusetts
02673
508 778 8919

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PROJ. MGR.:	C. FIELD
FIELD:	D. GAZZOLO / P. HAGIST
CALC./DESIGN:	P. HAGIST
DRAWN:	K. HEALY
CHECK:	C. FIELD
FILE:	8839-ANR-6-28-2022.DWG
DWG. NO.:	5634-0
JOB. NO.:	4-8839.02
SHEET 1 OF 1	

NOTE:
THE MONUMENTS AND ROADWAYS DEPICTED ON THIS PLAN ARE THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY BY BSC GROUP INC. BETWEEN JUNE 2005 AND OCTOBER 2005. A VISUAL FIELD CHECK OF THE PROPERTY WAS PERFORMED IN AUGUST 2020 AND SEPTEMBER 2022.
THE RECORD LOCUS DEED, BOOK 20807, PAGE 42 REFERS TO THE NORTH SIDE OF PROPRIETORS ROAD AS THE NORTHERLY BOUNDARY LIMIT. AS SUCH THE LAND AREA OF LOT 1 IS CONSISTENT WITH THE NORTH SIDE OF PROPRIETORS ROAD. THE DEED SPECIFIES TO THE RIGHT TO THE WAY "UP AND DOWN" THE HOLLOW, UNCHANGED SINCE THE FIRST REFERENCED DEED (1905).
PATHS TO COMPLY WITH THE TOWN OF TRURO REGULATIONS, AS MAY BE REQUIRED IN ALL RELEVANT AREAS.

NOTE: TOWN OF TRURO PERMITS ONE BEDROOM FOR EACH 10,000 S.F. SEE SECTIONS 30 & 50 IN THE ZONING BY-LAWS

LOCUS INFORMATION

CURRENT OWNER:	REGAN MCCARTHY
TITLE REFERENCE:	DEED BOOK 20807, PAGE 42
PLAN REFERENCES:	PLAN BOOK 689/59 & 665/80 & 556/28
ASSESSORS MAP:	47
PARCEL:	2
ZONING DISTRICT:	RES. DISTRICT
SETBACKS:	FRONT 25' SIDE 25' REAR 25'
	SEASHORE DISTRICT FRONT SIDE REAR
MINIMUM LOT SIZE (RESIDENTIAL DISTRICT):	33,750 S.F. (0.8 ACRES)
MINIMUM LOT SIZE (SEASHORE DISTRICT):	130,680 S.F. (3 ACRES)
LOT AREA RESIDENTIAL DISTRICT:	66,995± S.F. (1.53± ACRES)
LOT AREA WITHIN SEASHORE DISTRICT:	167,512± S.F. (3.85± ACRES)
EXISTING TOTAL LOT AREA:	234,507± S.F. (5.38 ACRES)
FEMA FLOOD ZONE DISTRICT:	ZONE "X", 7-16-2014 #25001C0143J

BOOK 556, PAGE 28

SENIE & ASSOCIATES, P.C.
A T T O R N E Y S A T L A W

15 Cape Lane
Brewster, MA 02631

Phone (774) 323-3027
Fax (774) 323-3008
Cell (508) 330-6640
csenie@senie-law.com
WWW.SENIE-LAW.COM

September 13, 2022

Cape Cod National Seashore
National Park Service
99 Marconi Site Road
Wellfleet, MA 02667

Attention:

Park Superintendent Brian Carlstrom Brian_Carlstrom@nps.gov
Park Planner Lauren McKean Lauren_McKean@nps.gov

Re: Higgins Hollow Road, Truro; your letter to the Truro Planning Board Chair dated August 23, 2022

Dear Superintendent Carlstrom and Park Planner McKean;

My office represents Regan McCarthy, the owner of the above-referenced property. On her behalf I plan to attend a Truro Planning Board meeting on Wednesday September 21, 2022 at which time the Board will discuss a submitted ANR Perimeter Plan, which proposes shifting from the two building lot configuration endorsed by the Board in 2021 to a one building lot configuration. My client believes that proceeding with a single building lot is better for her, the Town and the Cape Cod National Seashore ("CCNS" or Seashore"), as it will have a lesser development impact.

The Town Planner, Barbara Carboni, recently submitted to the Board a staff memo (dated August 22, 2022) in which she mentioned what she believes to be the position of the Seashore on our plan. This caused me to ask to see correspondence in the file, and I was provided a copy of Superintendent Carlstrom's letter of August 23, 2022, addressed to the Chair of the Planning Board as well as an email from Park Planner McKean to the Town Planner dated August 18, 2022, which appears to have served as a template for the Superintendent's formal letter. While we believe the solicitation of federal opinion relative to an ANR matter is unwarranted, because both of these documents are in the public record of this matter, I would like to correct inaccuracies contained therein.

First, let me state the rights I believe my client enjoys as a result of the 2007 Boundary Agreement she entered into with the Seashore and the 2019 Right-of-Way Permit (RW CACO-19-001, renewed from 2008) issued by the Superintendent and also signed by my client (together the "Seashore Documents"). I do so because I think there are some misunderstandings which if cleared

up could reveal that we in agreement to a greater extent than expressed in your letter to the Chair of the Planning Board.

1. As clearly recognized in the Seashore Documents, my client has a right to use and improve Proprietors Road “up and down the hollow” for access and utilities to her property. This right is founded in our common law, as her parcel has been a distinct piece of land since 1905, first described in its 1911 deed as bounded “on the north by the north side of the Proprietors Road.”. The right to use and improve the way to the extent needed to fulfill its purpose, providing for safe access and utilities, is embedded in her title.
2. My client enjoys a right-of-way to use the so-called “Dirt Path Extension” (referenced in the 2019 Right-of-Way Permit also as the “Permitted Area”), for both access and utilities as long as such right is renewed and not cancelled by the Seashore.
3. By both Truro’s rules and regulations and by the terms of the Seashore Documents, the use of the Dirt Path Extension is subject to the requirements of the Town of Truro, in this case, its Planning Board and Building Department. This deference to Truro’s authority to ensure safe and lawful access is found in the Right-of-Way Permit where it states:

“Permittee agrees not to exercise her right to use and develop the Proprietors Road for access and/or utilities as long as Permittor permits her to use the existing Permitted Area except as may be required by the Town of Truro to safely and lawfully provide access from Higgins Hollow Road to all and/or any portion of the McCarthy parcel for her enjoyment and use, as long as Permittor permits her to use the existing Permitted Area.” (underlining provided)

4. The Dirt Path Extension provides longstanding and workable access to my clients property and to the abutting property at 35 Higgins Hollow Road, referenced in the Boundary Line Agreement as the “McDermott” lot. In fact, the Seashore added to the Boundary Line Agreement an obligation that my client must grant an easement to the McDermotts so that they will have a permanent right to cross my client’s property to access Higgins Hollow Road via the Dirt Path Extension. My client did so. It is the Seashore that insisted on this easement burdening my client’s land so that her abutter may use the Dirt Path Extension for vehicular and pedestrian access to and from Higgins Hollow Road.
5. In using her land as a single building lot, my client must satisfy the Planning Board and Building Commissioner that there exists safe and practical access by way of the Dirt Path Extension or in the alternative exercise her rights to use and improve the Proprietors Road, which is not the preferred option. It is unlikely the Town would require any significant modification to the existing Dirt Path extension precisely because it is presently being used for residential access (McDermott) with no apparent problems.

6. In such a case, my client would notify the Seashore that she must make a Town-requested modification to the Dirt Path Extension.
7. The Seashore is not obligated to agree to any such modifications to the Dirt Path Extension. But if it did not assent, the “aim” of the Seashore Documents will become frustrated. The 2019 Right-of-Way Permit states:

“WHEREAS, the Proprietors Road is partially wooded at this time, and the parties wish to minimize removal of trees and brush necessitated in accessing the McCarthy Parcel, and that use of the existing Permitted Area rather than the Proprietors Road, which is undeveloped at this time, best achieves this aim.”

8. If the Town should come to require improvements to the Dirt Path Extension and if permission is not given by the Seashore, my client will then proceed with her rights to use and improve Proprietors Road. It is likely that this would cause a greater degree of disturbance than a slight improvement to the Dirt Path Extension now being used by my client and the successor to McDermott. That this is the solution to any non-permission by the Seashore is set out the paragraph entitled “Reauthorization of Use” in the 2019 Right-of-Way Permit:

“If the NPS does not re-authorize renewal of this Permit, the Permittee is released from terms and conditions voluntarily offered to limit deforestation of the Proprietors Road” (underlining provided).

9. So, without cooperation from the Seashore for what, at worst, might be very minor improvements required by the Town to the Dirt Path Extension, my client would be released and would improve the unimproved portion of the Proprietors Road leading to Higgins Hollow Road. Making the Dirt Path Extension unavailable to my client would leave access to the McDermott successor’s lot in question, as the Seashore would either treat the two parties differently, allowing access to the McDermott lot and not to my client’s property, or, if treating them the same, cause the McDermott lot to lose access to Higgins Hollow Road (the McDermott lot does not abut Proprietors Road and thus lacks a title-based right to its use as a way).

My client wishes to preserve the aim of the Seashore Documents and access her property by use of the existing Dirt Path Extension, which has existed on the ground for more than fifty years.

I will now refer to some statements in the Superintendent’s letter, contained also on the Park Planner’s email that formed the basis of the letter, that I believe are inaccurate.

1. You state that “the proprietor’s road does not provide proper legal frontage.” This is a matter for the Town of Truro to determine. Jurisdiction over this question belongs to the local authorities under the Subdivision Control Law, the State’s zoning statute (Chapter

40A), the local zoning by-laws, and the common law (as contained in our State court decisions). Proprietors Road provides legal frontage, as the Planning Board determined last year. Your assertion is not correct.

2. You state that: “It is not a public way despite prior representations”. My client has not asserted that Proprietors Road is a public way. It does not matter whether Proprietors Road is a public or private way; the common law right to use a way mentioned in a deed and bounding a property apply in either case. We are not proceeding in any respect upon a position that Proprietors Road is a public way.
3. You state that “This property is not a building lot”. Again, this is a matter under the jurisdiction of the local authorities operating under State statutes, with the support of common law decisions. You cite no Federal authority on the subject of building on private lots. You are incorrect that this is not a building lot.
4. You state “The Dirt path extension rights permitted by the NPS are solely for utilities.” It is very clear from the Seashore Documents that it is the wish of both parties that Proprietors Road not be deforested, and the preferred route for both access and utilities is the Dirt Path Extension. That is why the 2019 Right-of-Way Permit states:

“The USA has no objection to the use of the existing Permitted Area by Permittee and her successors’ and assigns for vehicular and pedestrian access to and egress from the McCarthy Parcel.” (underlining provided)

Both access and utilities are envisioned by the permit, as allowing both across the Dirt Path Extension is the only way to achieve the stated aim: “... use of the existing Permitted Area rather than the Proprietors Road, which is undeveloped at this time, best achieves this aim.” Also, were the Seashore to take such a position, it may be in a position of protecting the right of McDermott’s successors to use the Dirt Path Extension for access (which it went out of its way to ensure would always be available) while denying my client the right to do the same.

5. You state that for my client’s lot “a building permit is dependent on town relief from zoning bylaw requirements”. The Seashore Documents do not limit use of the Right-of-Way Permit to uses allowed as of right. Even if my client were seeking zoning relief her rights under the Seashore documents would be the same. Most importantly, though, my client is not seeking any kind of zoning relief. She is not applying for a special permit or variance. She is simply asking that the Board endorse this new plan as not being a subdivision of land so that development can be done as one single large lot, rather than under the two-lot plan the Board endorsed last year.

I ask that we work cooperatively from this point forward, as the Seashore had worked with my client for many years in the past. We would further request that any communication concerning

Cape Cod National Seashore
September 13, 2022
Page 5

this parcel be sent to me and to my client. More direct communication between us might help avoid a situation where the Seashore sends a letter to the Planning Board that contains material inaccuracies without any knowledge of my client. If this new plan is endorsed by the Board, and if, in drawing a building permit, the Building Commissioner wishes to have the Dirt Path Extension improved, I will ensure the Seashore is informed. Again, it is my client's goal to stay within the aim of the Seashore Documents thus preserving the unimproved part of Proprietors Road that would be disturbed if the Dirt Path Extension became unavailable.

Thank you.

Sincerely,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke at the end.

Christopher Senie

To: Truro Planning Board
From: Christopher Senie, Esq.
Re: 35A Higgins Hollow Road, Truro
Date: September 13, 2022

I. Summary of Key Facts

Regan McCarthy (“Applicant”) is the owner of 35A Higgins Hollow Road, Truro MA (“Locus”).¹ In 2021, the Truro Planning Board (“Board”) endorsed the Applicant’s approval not required (“ANR”) plan under the Massachusetts Subdivision Control Law (“SCL”) and the Town of Truro’s Rules and Regulations Governing the Subdivision of Land (“Rules & Regulations”), dividing Locus’s one lot into two lots (“2021 ANR Plan”). Applicant requests that the Board endorse a perimeter plan of Locus, superseding the 2021 ANR Plan, so that Locus is comprised of one lot (“Perimeter Plan”).

II. Summary Analysis

A. Before the Board is an ANR Perimeter Plan (Proposed to Supersede the Board’s Previously Endorsed 2021 ANR Plan); the Board Should Endorse the Perimeter Plan by Ministerial Act

A perimeter plan includes a plan that removes division lines between lots. *See Cumberland Farms, Inc. v. Planning Bd. of W. Bridgewater*, 64 Mass. App. Ct. 902, 902 (2005) (noting the following in the context of a perimeter plan changing boundary lines by consolidating several lots into a single lot: “the argument that perimeter plans, because they do not contain new lines indicating a division of land, are ineligible for submission and endorsement under § 81P flies in the face of decades of contrary practice”). *See also Cumberland Farms, Inc. v. Hurley*, 11 LCR 289, 290 (2003) (involving a perimeter plan consolidating lots and with mention that once the Board finds no subdivision is involved it must endorse the perimeter plan: “[t]he process is a mechanical exercise and is a purely objective test”).² The perimeter plan before the Truro Planning Board in this matter involves a simple plan adjustment (*i.e.*, removal of a division line solely existing on paper in the 2021 ANR Plan) so involves no lot consolidation with deed changes to separately titled lots.³

¹ Truro Assessor Parcel ID 47-2-0.

² M.G.L. c. 41, § 81X refers to “new lines for division” and not a broader concept of “new lines”.

³ Applicant has made no deed change to Locus since the Truro Planning Board’s issuance of the 2021 ANR Plan. While the 2021 ANR Plan sets out a division line on paper, there remains one lot from a zoning perspective. *See* the Truro Zoning Bylaw definition of a lot as follows: “Lot. A parcel of land, undivided by a street, with

Applicant's Perimeter Plan reflects her desire for a single lot approach to Locus, thus superseding the 2021 ANR Plan's two-lot division. Applicant's request is made with reflection to the Board's 2021 ANR Plan endorsement having involved its comprehensive analysis and conscious decision, including its finding of compliant frontage and suitable access under M.G.L. c. 41, § 81L and the Rules & Regulations.

The Board's endorsement of the Perimeter Plan should therefore be a simple ministerial act. Were the Board to revisit and reverse its prior careful and conscious decision regarding Locus's compliant frontage and suitable access under the SCL and Rules & Regulations, it would be problematic for the following reasons:

- Firstly, the 2021 ANR Plan involved a "division" of land at Locus, thus triggering the following comprehensive analysis set out in M.G.L. c. 41, § 81L to qualify the division for ANR characterization:

"Subdivision" shall mean the division of a tract of land into two or more lots and shall include resubdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on ... (c) a way in existence when the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the planning board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet.⁴ [Emphasis added]

definite boundaries, title to which is held in undivided ownership". There also have been no physical changes to Locus, or to its abutting access road, Proprietors Road, or the Cape Cod National Seashore Dirt Path Extension, discussed more fully below in Sections B.1. and B.2. of this memorandum, respectively.

⁴ Rules & Regulations § 1.6 define an ANR plan to include a plan not showing a division and having frontage of at least the "length" required by zoning on:

"a way that was in existence when The Subdivision Control Law became effective in Truro and that has, in the opinion of the Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected therein".

The foregoing analysis was undertaken by the Board with careful reflection to the physical attributes of Locus (including after its site visit) and the nature of its access rights to Higgins Hollow Road (discussed more fully below in Section II.B. of this memorandum). As such, the Board's prior determination of compliant frontage and suitable access in favor of its endorsement should not be disturbed by virtue of Applicant's desire to return to a simpler and less impactful (environmentally and otherwise) single lot development approach to Locus.

- Secondly, the Perimeter Plan before the Board does not involve a "division" of land; it involves the following separate and distinct ANR "subdivision" exception set out in M.G.L. c. 41, § 81L, which only mandates there being no change to "frontage" in the Board's previously endorsed 2021 ANR Plan:

"... instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth, ... shall not constitute a subdivision."⁵

No such change has occurred to the Lot's frontage and suitable access as determined by the Board in the 2021 ANR Plan. The Perimeter Plan's only fundamental change is the removal of the two-lot division line on paper.⁶

Rules & Regulations § 2.2.3 regarding ANR plans provides that the Board's examination of adequacy of ways for proposed lot access should normally result in a finding that "existing ways" provide adequate access.

None of the ANR provisions in the Rules & Regulations specifically provide that the Board may re-examine its prior endorsement of adequate access. Such re-examination power should not be read into the Rules & Regulations particularly in the circumstances involving no change to the physical on the ground conditions of Locus and where the new perimeter plan substantially reduces proposed development impact by removing on paper the division line between two lots. Also note that the Board's disapproval power in Rules & Regulations subsection 3.8 on "Design Standards" in relation to access road adequacy is technically limited to a "subdivision".

⁵ Rules & Regulations § 1.6 mirrors this exception with the following language: "[c]onveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner as not to leave any lot so affected without the frontage above set forth".

⁶ As mentioned above in note 3, Applicant has made no Locus deed change following the Truro Planning Board's issuance of the 2021 ANR Plan endorsement, nor have there been any conveyances of Locus. Thus, notwithstanding a paper division line, the lot remains one lot from a zoning perspective. See the Truro Zoning Bylaw definition of a lot as follows: "Lot. A parcel of land, undivided by a street, with definite boundaries, title to which is held in undivided ownership".

- Lastly, the SCL grants no powers of rescission with respect to Board ANR endorsements. *Cassani v. Planning Board of Hull*, 1 Mass. App. Ct. 451, 453-54 (1973) (noting that SCL rescission powers in M.G.L. c. 41, §§ 81W, 81X and 81DD “do not refer to the power to modify, amend or rescind a[n] ... ‘endorsement’” ..., and further noting the conclusiveness of endorsements under M.G.L. c. 41, §§ 81P and 81X).

A reversal of the Board’s prior conscious decision regarding the 2021 ANR Plan, including of its findings of compliant frontage and vital access for SCL and Rules & Regulations purposes, would in substance effect a rescission of its prior findings to the Applicant’s substantial detriment in the circumstances of a new Perimeter Plan involving *a lesser impactful single residential lot development approach*.

B. Locus’s Lot Frontage & Access Meet the Standards of the SCL and Rules & Regulations

1. *The Lot’s Frontage Road - Proprietors Road – Is a Way in Existence When the SCL Became Effective in Truro & the Lot has an Appurtenant Common Law Right of Way (i.e., Easement) to Pass & Repass on, and to Improve, Proprietors Road*

The Lot’s frontage distance is 495 ± ft. on a private way called “Proprietors Road”.⁷ Proprietors Road is visible on the ground albeit is currently overgrown and requires improvement for compliant access to the Lot.

For access purposes, Locus has an appurtenant common law right of way, which is an easement,⁸ to pass and repass on Proprietors Road to Higgins Hollow Road (a public way). The Lot’s common law right of way on Proprietors Road is set out in a recorded 1911 deed from the heirs of Joseph & Louisa Morris to James Morris.⁹

⁷ The punctuation of “Proprietors Road” (*i.e.*, Proprietor’s Road, Proprietors’ Road or Proprietors Road) varies in context and shall be referred to herein as “Proprietors Road”.

⁸ *150 Main St., LLC v. Martino*, 2016 Mass. App. Unpub. LEXIS 147 (2016) (in overturning on appeal the lower court’s distinguishing of a common law right of way (to pass & repass) on a private way from an express easement to do so, the Appeals Court found “the distinction is without a difference”).

⁹ See Barnstable Registry of Deeds (“Registry”), Book 314, Page 45, attached herewith (“1911 Deed”) as Attachment 1. The following excerpt is the description of Locus in the 1911 Deed:

Also a certain piece of land situated in said Truro, on the south side of Higgin’s Hollow, so-called, in Long Neck, and bounded and described as follows: - Beginning at the northwest corner of said land at a stake and stone **on the north side of the proprietor’s road**; thence southerly in range formerly of the late Benjamin Small **twenty-seven rods** to a stake and stone; thence, easterly in the range of land of heirs of Doane Rick, formerly, now owned by John

Thus, Proprietors Road was in existence prior to Truro's adoption of the Rules and Regulations in 1950s,¹⁰ and, as such, is "... a way in existence when the subdivision control law became effective in the city or town in which the land lies" M.G.L. c. 41, § 81L. Moreover, an abutting property has used the same Proprietors Road on the same deeded basis for frontage and access since at least 1948, further supporting its status as a recognized way.¹¹

In Massachusetts, it is well established that the holder of a common law right of access in a private way (*i.e.*, an easement) is entitled to improve the way where the way is in use, but also "... even more clearly where without improvement the way is impassable and useless." *Guillet v. Livernois*, 297 Mass. 337, 340 (1937). *See also Chatham Conservation Found. v. Farber*, 56 Mass. App. Ct. 584, 589 (2002) (noting that "the right to pass and repass has been found to include all rights reasonably incidental to the enjoyment of the right to pass, including the right to make reasonable repairs and improvements to the right of way").

It is reasonable for Applicant to improve Proprietors Road to the extent necessary (*e.g.*, 14-foot-wide road construction, if so required) to achieve compliant access in support of the Lot's single-family residential development.¹² The reasonableness of Applicant's expectation to do so is

Oliver, to a stake and stone in range of land formerly owned by the late Benjamin S. Kelley; thence northerly in said Kelley's range to a stone **on the north side of proprietor's road**; thence **westerly thirty rods** in said Kelley's range to the bound first mentioned-**reserving the right of proprietors to the way up and down the hollow**; being the same premises conveyed to the above named Joseph Morris by Amelia R. Ryder and Samuel Dyer **by deed dated March 2, 1905**. [Emphasis added.]

¹⁰ In 1918, title to Locus was described and transferred unchanged from Anne Morris¹⁰ to Mary C. Joseph – *see* attached (as Attachment 2) Registry deed, Book 352, page 523 ("1918 Deed") – who owned the Subject Property until her passing intestate in 1944. Thereafter, the next recorded deed documentation in Locus' chain of title was in 2005 at which time the Applicant acquired all interest in the Subject Property (as described in the 1911 Deed) from Mary C. Joseph's heirs. (The 2005 Registry recordation on the conveyance documents title transfer from all heirs of Mary C. Joseph is at Book 19730, Pages 161-62, 165-67, 173-75 and Book 19746, Pages 172, 175 and 187. This was accepted by Land Court in 2005 (CA-302995).) Locus' deed description has never changed since the 1911 deed recorded at Book 314 Page 45.

¹¹ Proprietors Road is cited in several deeds of the adjoining parcel at 45 HHR (Assessor Parcel ID 44-9-0). *See* Registry deeds at Book 706, Page 525 (19480) and Book 7623, Page 185 (1991) included herewith as Attachments 3 & 4, respectively. In these documents and others related to this property at 45 HHR, this private way is cited as the basis for legal frontage and access to this day in language identical to Locus deed. It is further referenced in the Town Road Commissioner Decision of 1894, which created this portion of modern Higgins Hollow Road, as "following nearly the private way already existing," *i.e.*, the Proprietors Road ("1894 Decision"). Included herewith as Attachment 5 is a transcript of the 1894 Decision accompanied by the actual Town Clerk's records of this 1894 Decision (note sender's fax number and name as "Town of Truro").

¹² The Rules & Regulations "Design Standards", including those of application to rights-of-way for access (as per Rules & Regulations § 3.8), are relevant to "subdivisions", which is not what the Perimeter Plan before the Board comprises, and in any event are subject to Board waiver powers under the Rules & Regulations and

evidenced in the similar use of abutting lots to Locus (*i.e.*, likewise reflecting single family residential development as is generally true of Locus’s neighborhood).

2. *The 2007 Boundary Line Agreement & Associated U.S. Federal Statutory Right-of-Way¹³ Permits (2008 & 2019) Between Applicant and the United States Department of the Interior, National Park Service Do Not Extinguish Locus’s Appurtenant Common Law Right of Way (Easement) to Pass & Repass on, and to Improve, Proprietors Road But Do Reflect an Environmentally Less Impactful Strategy to Satisfy Town Access Standards and Thereby Support Lot Buildability*

In 2007, the Applicant and the United States Department of the Interior, National Park Service entered into a “Boundary Line Agreement” (“Agreement”) with a primary purpose of confirming a boundary line between Cape Cod National Seashore (“CCNS”) land and Applicant’s contiguous

M.G.L. c.41, § 81R, as well as the “Rural Road Alternative”. Appendix 2, Table 1 of the Rules & Regulations (“Table 1”), entitled “Recommended Geometric Design Standards for Subdivisions” provides that, for “roadway layout,” the “minimum roadway width – not including berms) is 14’-feet. “Roadway” is defined in Rules & Regulations § 1.6 as “the portion of a road layout designed for vehicular travel; the traveled portion of the roadway”. Truro’s general bylaws § 9 provide as follows in relevant part:

Section 9 PRIVATE AND PUBLIC WAYS AND PLACES

...

1- 9-13 Public Safety Clearing. In order to provide safe passage for safety and emergency vehicles and personnel the following standards/requirements for the clearing of vegetation of private ways (“roadways”) and driveways in excess of fifty (50) feet in length, shall be met:

1-9-13-1 The traveled way of any roadway or driveway shall be no less than eight (8) feet wide.

1-9-13-2 The combined traveled way and clearance of any obstacles including vegetation shall be no less than fourteen (14) feet.

-9-13-3 Height clearance shall be no less than fourteen (14) feet from the road surface.

¹³ The statutory right-of-way granted pursuant to U.S. federal law (*i.e.*, 54 U.S.C. §§ 100902(a) and 100902(b), and 36 C.F.R. Part 14) is distinguishable from Locus’s common law (easement) right of way; for example, the former in this matter is a revocable non-exclusive permit granted under U.S. federal law, whereas the latter deeded right of way exists in perpetuity (*i.e.*, runs with the land).

36 CFR 14.2 defines a right-of-way to include a “license, permit, or easement, as the case may be” and 36 CFR 14.6 elaborates further in relevant part as follows:

“No interest granted by the regulations in this part shall give the holder thereof any estate of any kind in fee in the lands. The interest granted shall consist of an easement, license, or permit in accordance with the terms of the applicable statute; no interest shall be greater than a permit *revocable* at the discretion of the authorized officer unless the applicable statute provides otherwise.” [Emphasis added]

land. Additionally, and further to the Agreement, the Superintendent of the Cape Cod National Seashore (“CCNS”) and the Applicant executed Right-of-Way Permits (“Permits”).¹⁴

The Agreement and Permits reflect the intent of the parties to give the Applicant a statutory (utility and access) right-of-way to a more direct route (a dirt path extension) from Proprietors Road (across the CCNS land) to Higgins Hollow Road (“Dirt Path Extension”) *as long as* the Applicant foregoes the exercise of her continued common law right of way to improve Proprietors Road to access Higgins Hollow Road.¹⁵ In other words, the Agreement and associated Permits reflect the parties’ desired strategy to achieve a *less environmentally impactful* approach in support of Applicant’s desired residential development of the Lot.¹⁶ In so doing, the Applicant may “change,

¹⁴ The Permits each run for a 10-year period; the first permit was issued in 2008, and the second in 2019.

¹⁵ Such intent is for example represented in the following clause in the 2019 Permit in respect of the Permitted Area (comprising “a pre-existing dirt path of uneven width” (*i.e.*, the Dirt Path Extension):

WHEREAS, Permittee agrees not to exercise her right to use and develop Proprietors Road for access and/ utilities *as long as* Permitter permits her to use the existing Permitted Area except as may be required by the Town of Truro to safely and lawfully provide access from Higgins Hollow Road to all and/or any portion of the McCarthy parcel for her enjoyment and use, as long as Permitter permits her to use the existing Permitted Area; ...” [Emphasis added]

The 2019 Permit also states as follows regarding reauthorization of use:

If the [National Park Service] does not re-authorize renewal of this Permit, the Permittee is released from terms and conditions voluntarily offered to limit deforestation of the Proprietors Road.

Similarly, the Boundary Agreement includes the following clause:

WHEREAS, the Proprietors Road is partially wooded at this time, and the parties wish to minimize removal of trees and brush necessitated in accessing the McCarthy [i.e., Applicant’s] Parcel, and the distance from the McCarthy Parcel to Higgins Hollow Road along the Proprietors Road is much greater than the distance from the McCarthy Parcel to Higgins Hollow Road along the portion of the dirt path lying outside the McCarthy Parcel”

In addition, the Boundary Agreement § 5 states the parties acknowledgement in relevant part that “(b) McCarthy [the Applicant] has the right to access the McCarthy Parcel by the Proprietors Road, and to run utilities to the McCarthy Parcel under and upon the Proprietors Road.”

¹⁶ Although the Perimeter Plan at issue does not involve a “subdivision”, the strategy is environmentally aligned with the Subdivision Design Standards of the Rules & Regulations as follows in relevant part:

“3.3 Respect for natural landscape

Proposed roads and lot configuration should be designed with the goal of minimizing the volume of cut and fill, flood damage, the area over which vegetation will be disturbed, the

alter, relocate or improve” the Dirt Path Extension with the written approval of the CCNS Superintendent.

Applicant’s preference is to continue to utilize the Dirt Path Extension with improvement in a minimally invasive way and with the approval of the CCNS Superintendent to achieve the Board’s requirements for vital access purposes) in support of the Lot buildability.

number of mature trees (generally 10 inches in diameter, measured 41.2 feet above existing grade) and specimen trees removed, Consideration should be shown for the protection of natural features, such as large trees, ... scenic view and vistas, historic spots, and similar community assets.”

Further relevant environmental sensitivity is reflected in the “Rural Road Alternative” of the Rules & Regulations as follows in relevant part:

“3.7 Rural Road Alternative

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; however, in no instance shall the width of the road surface be waived.”

Senie Legal Memo to Truro Planning Board

13 Sept 2022

Attachment 1

Registry Deed Book 314, Page 45 (“1911 Deed”)

KNOW ALL MEN BY THESE PRESENTS

that we, Joseph F. Morris, John Morris, Maggie Oliver, Ellen Noons, Mary Alves and Carrie Marshall, heirs at law of Joseph Morris and Louisa Morris both late of Truro, County of Barnstable and Commonwealth of Massachusetts, deceased, in consideration of One dollar and other valuable consideration to us in hand paid by James Morris of said Truro, the receipt whereof is hereby acknowledged, do hereby remise, release and forever quitclaim unto the said James Morris all our right, title and interest in and to the following pieces of land all of which are situated in said Truro:- 1. A certain piece of real estate situated in said Truro, bounded, beginning at the northeast corner of land now or formerly of the heirs of Zoheth Rich by the old county road so-called, running thence easterly and southerly by said road till its comes to the pasture of Samuel H. Smith and Samuel Paine, thence southerly and westerly by said pasture as the fence now stands till its comes to a road known as the lane; thence northerly by said lane to the S. W. corner of land now or formerly of said heirs of Zoheth Rich, thence easterly as the fence stands to a corner; thence northerly along said fence all in the range now or formerly of said heirs of Zoheth Rich to the first mentioned bound. Also a lot of brush land lying to the eastward of the house now or formerly of Benjamin S. Kelley and bounded on the north by land now or formerly of Jeremiah Higgins and Leonard Rich, on the east by land of Frank Williams, on the south by land of Joseph Higgins and others, and on the west by land of Samuel Paine. Also another lot of land situated in said Truro and bounded beginning at the northeast corner of the schoolhouse lot by the old county road, thence easterly by the old county road to the dyke, so-called; thence southerly by said dyke to land formerly of Solomon Paine; thence westerly in said Paine's range to the new county road; thence northerly by said new county road to the school house lot; thence easterly by said schoolhouse lot to the place of beginning. Also one other lot formerly a part of the last named lot, beginning at the northeast corner of said lot on the new county road thence southeasterly by said new county road to land and meadow now or formerly of Joseph Francis; thence westerly to land or meadow now or formerly of Barnabas Paine; thence northerly in said Barnabas Paine's range to the schoolhouse lot; thence easterly by said town's land to the first mentioned bound. The foregoing being the premises conveyed to the said Louisa Morris by Oriana C. Sparrow by deed dated November 9, 1885 and recorded with Barnstable Deeds Book 171 page 13. Also a certain piece of land situated in said Truro, on the south side of Higgin's Hollow, so-called, in Long Nook, and bounded and described as follows:- Beginning at the northwest corner of said land at a stake and stone on the north side of the proprietor's road; thence southerly in range formerly of the late Benjamin Small twenty-seven rods to a stake and stone; thence easterly in the range of land of heirs of Doane Rich, formerly, now owned by John Oliver, to a stake and stone in range of land formerly owned by the late Benjamin S. Kelley; thence northerly in said Kelley's range to a stone on the north side of the proprietors' road; thence westerly thirty rods in said Kelley's range to the bound first mentioned-reserving the right of proprietors to the way up and

down the hollow; being the same premises conveyed to the above named Joseph Morris by Amelia R. Ryder and Samuel Dyer by deed dated March 2, 1905. Also, a certain piece of meadow situated in Long Nook, so-called in Truro aforesaid and bounded on the north by land of the heirs of said Joseph Morris, on the east by the county road, on the south by meadow formerly of Barnabas Paine, and on the west by meadow of said heirs; being the same premises conveyed to the said Joseph Morris by Samuel Dyer by deed dated July 13, 1895. Also a piece of land on the north side of Panet River in said Truro and bounded as follows:- beginning at the southwest corner of said lot at a stake in range now or formerly of Samuel H. Smith, thence northerly in said Smith's range fourteen rods to land now or formerly of the heirs of Michael H. Rich; thence easterly in said heirs' range to the land formerly of Joshua Dyer; thence southerly in said Dyer's range fourteen rods to land now or formerly of Nathaniel Dyer; thence westerly in said Dyer's range to the bound first mentioned. Said lot contains about three and one quarter acres, and is the same land conveyed to said Joseph Morris by Levi L. Higgins by deed dated March 13, 1902. To have and to hold the granted premises with all the privileges and appurtenances thereto belonging to the said James Morris and his heirs and assigns, to their own use and behoof forever. And we do hereby for ourselves and our heirs, executors, and administrators, covenant with the said grantee and his heirs and assigns that the granted premises are free from all incumbrances made or suffered by them, and that they will and their heirs, executors, and administrators shall warrant and defend the same to the said grantee and his heirs and assigns forever against the lawful claims and demands of all persons claiming by, through, or under them, but against none other. And for the consideration aforesaid we, Mary V. Morris, wife of said Joseph F. Morris, Mary Morris, wife of said John Morris, Manuel F. Oliver, husband of said Maggie Oliver, Joaquin Noons, husband of said Ellen Noons, Joseph Alves, husband of said Mary Alves, and John C. Marshall, husband of said Carrie Marshall do hereby release unto the said grantee and his heirs and assigns all right of or to both dower and homestead in the granted premises, and all other rights and interests therein. In witness whereof we the said Joseph F. Morris, Mary V. Morris, John Morris, Mary Morris, Maggie Oliver, Manuel F. Oliver, Ellen Noons, Joaquin Noons, Mary Alves, Joseph Alves, Carrie Marshall, and John C. Marshall hereunto set our hands and seals this seventh day of July in the year one thousand nine hundred and eleven.

Signed and sealed in presence of	Joseph Morris	(LS)
	Joseph Morris	X (LS)
	Mary V. Morris	X (LS)
	Manuel F. Oliver	(LS)
	Maggie F. Oliver	(LS)
Maggie F. Oliver	Jos G. Alves	X (LS)
Maggie F. Oliver	Mary G. Alves	X (LS)
	Carrie M. Marshall	(LS)
	John C. Marshall	(LS)
	John Morris	(LS)
	Mary A. Morris	(LS)
	Ellen K. Noons	(LS)
	Joaquin Noons	(LS)

Commonwealth of Massachusetts.

Barnstable ss. September 7th 1911. Then personally appeared the above-named Joseph Morris and acknowledged the foregoing instrument to be his free act and

deed, before me W. H. Young Justice of the Peace.
Barnstable ss. Received October 31, 1911, and is recorded.

KNOW ALL MEN BY THESE PRESENTS

that I, Patience E. Snow, Executrix of the Will of Charles H. Snow, holder of a certain mortgage given by Thaddeus F. Ellis to Charles H. Snow dated October 15, A. D. 1901, and recorded with Barnstable County Deeds, libro 252 folio 146, do hereby acknowledge that I have received from Thaddeus F. Ellis the mortgagor named in said mortgage, full payment and satisfaction of the same; and in consideration thereof I do hereby cancel and discharge said mortgage, and release and quitclaim unto the said Thaddeus F. Ellis and his heirs and assigns forever, the premises thereby conveyed. IN WITNESS WHEREOF I hereunto set my hand and seal this thirtieth day of October A.D. 1911.

See Mortgage in Book 252 Page 146

Signed and sealed in the presence of) Patience E. Snow (LS)

Commonwealth of Massachusetts.

Suffolk ss. Oct. 30 1911. Then personally appeared the above-named Patience E. Snow and acknowledged the foregoing instrument to be her free act and deed, before me- Charles C. Mellen Justice of the Peace.

Barnstable ss. Received November 1, 1911, and is recorded.

See Mortgage in Book 269 Page 228

WHEREAS Sarah W. Fisher did by mortgage deed, dated August 20, 1904 and recorded in Barnstable County Registry of Deeds, libro 269 folio 228 convey the premises hereinafter described to Lemuel K. Wilbur of Easton, Massachusetts, and whereas in and by said mortgage deed the grantee therein named, his executors, administrators, or assigns, were authorized and empowered, upon any default in the performance or observance of the condition of said mortgage, to sell the said premises, with all improvements that might be thereon, at public auction in North Falmouth first publishing a notice as therein required, and to convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple; and whereas there has been such default, and notice has been published, and a sale has been made, as will more particularly appear in and by the affidavit hereto to be subjoined. NOW THEREFORE KNOW ALL MEN that I the said Lemuel K. Wilbur by virtue and in execution of the power contained in said mortgage deed as aforesaid, and of every other power me hereto enabling, and in consideration of the sum of Ten Hundred Fifteen and 50/100 Dollars to me paid by William E. McIsaac, of Taunton, Massachusetts the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the said William E. McIsaac all and singular the premises conveyed by the aforesaid mortgage deed, namely: Lots No. 409 and No. 410 upon the north side of Grove Street, on Silver Beach, in North Falmouth, in the County of Barnstable, aforesaid Commonwealth, bounded:- Beginning at a stake in the North line of said Grove Street, at the southeast corner of lot No. 408; thence northeasterly one hundred (100) feet, more or less, to a stake and land of one Downer; thence southeasterly by said Downer's land one hundred (100) feet

KNOW ALL MEN BY THESE PRESENTS

that we, Joseph F. Morris, John Morris, Maggie Oliver, Ellen Noons, Mary Alves and Carrie Marshall, heirs at law of Joseph Morris and Louisa Morris both late of Truro, County of Barnstable and Commonwealth of Massachusetts, deceased, in consideration of One dollar and other valuable consideration to us in hand paid by James Morris of said Truro, the receipt whereof is hereby acknowledged, do hereby remise, release and forever quitclaim unto the said James Morris all our right, title and interest in and to the following pieces of land all of which are situated in said Truro:- 1. A certain piece of real estate situated in said Truro, bounded, beginning at the northeast corner of land now or formerly of the heirs of Zoheth Rich by the old county road so-called, running thence easterly and southerly by said road till its comes to the pasture of Samuel H. Smith and Samuel Paine, thence southerly and westerly by said pasture as the fence now stands till its comes to a road known as the lane; thence northerly by said lane to the S. W. corner of land now or formerly of said heirs of Zoheth Rich, thence easterly as the fence stands to a corner; thence northerly along said fence all in the range now or formerly of said heirs of Zoheth Rich to the first mentioned bound. Also a lot of brush land lying to the eastward of the house now or formerly of Benjamin S. Kelley and bounded on the north by land now or formerly of Jeremiah Higgins and Leonard Rich, on the east by land of Frank Williams, on the south by land of Joseph Higgins and others, and on the west by land of Samuel Paine. Also another lot of land situated in said Truro and bounded beginning at the northeast corner of the schoolhouse lot by the old county road, thence easterly by the old county road to the dyke, so-called; thence southerly by said dyke to land formerly of Solomon Paine; thence westerly in said Paine's range to the new county road; thence northerly by said new county road to the school house lot; thence easterly by said schoolhouse lot to the place of beginning. Also one other lot formerly a part of the last named lot, beginning at the northeast corner of said lot on the new county road thence southeasterly by said new county road to land and meadow now or formerly of Joseph Francis; thence westerly to land or meadow now or formerly of Barnabas Paine; thence northerly in said Barnabas Paine's range to the schoolhouse lot; thence easterly by said town's land to the first mentioned bound. The foregoing being the premises conveyed to the said Louisa Morris by Oriana C. Sparrow by deed dated November 9, 1885 and recorded with Barnstable Deeds Book 171 page 13. Also a certain piece of land situated in said Truro, on the south side of Higgin's Hollow, so-called, in Long Nook, and bounded and described as follows:- Beginning at the northwest corner of said land at a stake and stone on the north side of the proprietor's road; thence southerly in range formerly of the late Benjamin Small twenty-seven rods to a stake and stone; thence easterly in the range of land of heirs of Doane Rich, formerly, now owned by John Oliver, to a stake and stone in range of land formerly owned by the late Benjamin S. Kelley; thence northerly in said Kelley's range to a stone on the north side of the proprietors' road; thence westerly thirty rods in said Kelley's range to the bound first mentioned-reserving the right of proprietors to the way up and

down the hollow; being the same premises conveyed to the above named Joseph Morris by Amelia R. Ryder and Samuel Dyer by deed dated March 2, 1905. Also, a certain piece of meadow situated in Long Nook, so-called in Truro aforesaid and bounded on the north by land of the heirs of said Joseph Morris, on the east by the county road, on the south by meadow formerly of Barnabas Paine, and on the west by meadow of said heirs; being the same premises conveyed to the said Joseph Morris by Samuel Dyer by deed dated July 13, 1895. Also a piece of land on the north side of Panet River in said Truro and bounded as follows:- beginning at the southwest corner of said lot at a stake in range now or formerly of Samuel H. Smith, thence northerly in said Smith's range fourteen rods to land now or formerly of the heirs of Michael H. Rich; thence easterly in said heirs' range to the land formerly of Joshua Dyer; thence southerly in said Dyer's range fourteen rods to land now or formerly of Nathaniel Dyer; thence westerly in said Dyer's range to the bound first mentioned. Said lot contains about three and one quarter acres, and is the same land conveyed to said Joseph Morris by Levi L. Higgins by deed dated March 13, 1902. To have and to hold the granted premises with all the privileges and appurtenances thereto belonging to the said James Morris and his heirs and assigns, to their own use and behoof forever. And we do hereby for ourselves and our heirs, executors, and administrators, covenant with the said grantee and his heirs and assigns that the granted premises are free from all incumbrances made or suffered by them, and that they will and their heirs, executors, and administrators shall warrant and defend the same to the said grantee and his heirs and assigns forever against the lawful claims and demands of all persons claiming by, through, or under them, but against none other. And for the consideration aforesaid we, Mary V. Morris, wife of said Joseph F. Morris, Mary Morris, wife of said John Morris, Manuel F. Oliver, husband of said Maggie Oliver, Joaquin Noons, husband of said Ellen Noons, Joseph Alves, husband of said Mary Alves, and John C. Marshall, husband of said Carrie Marshall do hereby release unto the said grantee and his heirs and assigns all right of or to both dower and homestead in the granted premises, and all other rights and interests therein. In witness whereof we the said Joseph F. Morris, Mary V. Morris, John Morris, Mary Morris, Maggie Oliver, Manuel F. Oliver, Ellen Noons, Joaquin Noons, Mary Alves, Joseph Alves, Carrie Marshall, and John C. Marshall hereunto set our hands and seals this seventh day of July in the year one thousand nine hundred and eleven.

Signed and sealed in presence of	Joseph Morris	(LS)
	Mary V. Morris	X (LS)
	Manuel F. Oliver	(LS)
	Maggie F. Oliver	(LS)
Maggie F. Oliver	Jos G. Alves	X (LS)
Maggie F. Oliver	Mary G. Alves	X (LS)
	Carrie M. Marshall	(LS)
	John C. Marshall	(LS)
	John Morris	(LS)
	Mary A. Morris	(LS)
	Ellen K. Noons	(LS)
	Joaquin Noons	(LS)

Commonwealth of Massachusetts.

Barnstable ss. September 7th 1911. Then personally appeared the above-named Joseph Morris and acknowledged the foregoing instrument to be his free act and

deed, before me W. H. Young Justice of the Peace.
Barnstable ss. Received October 31, 1911, and is recorded.

KNOW ALL MEN BY THESE PRESENTS

that I, Patience E. Snow, Executrix of the Will of Charles H. Snow, holder of a certain mortgage given by Thaddeus F. Ellis to Charles H. Snow dated October 15, A. D. 1901, and recorded with Barnstable County Deeds, libro 252 folio 146, do hereby acknowledge that I have received from Thaddeus F. Ellis the mortgagor named in said mortgage, full payment and satisfaction of the same; and in consideration thereof I do hereby cancel and discharge said mortgage, and release and quitclaim unto the said Thaddeus F. Ellis and his heirs and assigns forever, the premises thereby conveyed. IN WITNESS WHEREOF I hereunto set my hand and seal this thirtieth day of October A.D. 1911.

See Mortgage in Book 252 Page 146

Signed and sealed in the presence of) Patience E. Snow (LS)

Commonwealth of Massachusetts.

Suffolk ss. Oct. 30 1911. Then personally appeared the above-named Patience E. Snow and acknowledged the foregoing instrument to be her free act and deed, before me- Charles C. Mellen Justice of the Peace.

Barnstable ss. Received November 1, 1911, and is recorded.

See Mortgage in Book 269 Page 228

WHEREAS Sarah W. Fisher did by mortgage deed, dated August 20, 1904 and recorded in Barnstable County Registry of Deeds, libro 269 folio 228 convey the premises hereinafter described to Lemuel K. Wilbur of Easton, Massachusetts, and whereas in and by said mortgage deed the grantee therein named, his executors, administrators, or assigns, were authorized and empowered, upon any default in the performance or observance of the condition of said mortgage, to sell the said premises, with all improvements that might be thereon, at public auction in North Falmouth first publishing a notice as therein required, and to convey the same by proper deed or deeds to the purchaser or purchasers absolutely and in fee simple; and whereas there has been such default, and notice has been published, and a sale has been made, as will more particularly appear in and by the affidavit hereto to be subjoined. NOW THEREFORE KNOW ALL MEN that I the said Lemuel K. Wilbur by virtue and in execution of the power contained in said mortgage deed as aforesaid, and of every other power me hereto enabling, and in consideration of the sum of Ten Hundred Fifteen and 50/100 Dollars to me paid by William E. McIsaac, of Taunton, Massachusetts the receipt whereof is hereby acknowledged, do hereby grant, bargain, sell, and convey unto the said William E. McIsaac all and singular the premises conveyed by the aforesaid mortgage deed, namely: Lots No. 409 and No. 410 upon the north side of Grove Street, on Silver Beach, in North Falmouth, in the County of Barnstable, aforesaid Commonwealth, bounded:- Beginning at a stake in the North line of said Grove Street, at the southeast corner of lot No. 408; thence northeasterly one hundred (100) feet, more or less, to a stake and land of one Downer; thence southeasterly by said Downer's land one hundred (100) feet

Senie Legal Memo to Truro Planning Board

13 Sept 2022

Attachment 2

Registry Deed Book 352, Page 523 (“1918 Deed”)

Know all men by these presents

That Annie Morris of Provincetown, in the County of Barnstable and Commonwealth of Massachusetts

OFFICIAL OFFICIAL

IN CONSIDERATION OF Six hundred and Fifty dollars (\$650) paid by Mary L. Joseph of Truro, County and Commonwealth aforesaid

NOT NOT
the receipt whereof is hereby acknowledged, do hereby give, grant, bargain, sell, and convey unto the said Mary L. Joseph, her heirs and assigns forever all real estate situated in the County of Barnstable and Commonwealth aforesaid, said estate including my dwelling house in Longnook with land adjoining the same, and all other pieces and parcels of land in Truro of which I am possessed, being the same premises to me conveyed by deed from my husband James Morris, dated April 28, 1914, and recorded with Barnstable County Registry of Deeds Book 327, Page 279, with the exception however of a certain piece of swamp and lowland southerly from the Longnook school house, adjoining the State road on the west, sold to William B. Rose in 1917. All deeds in my possession are surrendered for reference.

TO HAVE AND TO HOLD the granted premises with all the privileges and appurtenances thereto belonging to the said Mary L. Joseph grantee and her Heirs and Assigns to their own use and behoof forever.

And I hereby for my self and my Heirs, Executors and Administrators, covenant with the said grantee and her Heirs and Assigns, that I am lawfully seized in fee simple of the granted premises: that they are free from all incumbrances.

That I have good right to sell and convey the same as aforesaid, and that I will, and my Heirs, Executors, and Administrators shall WARRANT AND DEFEND the same to the said grantee and her Heirs and Assigns forever against the lawful claims and demands of all persons.

And for the consideration aforesaid I James Morris husband of Annie Morris

do hereby release unto the said grantee and her Heirs and Assigns all right of POWER and HOMESTEAD in the granted premises, and all other rights and interests therein.

IN WITNESS WHEREOF We the said Annie Morris and James Morris

have herunto set our hand and seal this eighteenth day of May in the year One Thousand Nine Hundred and eighteen (1918)

Signed, Sealed, and Delivered in presence of
John B. Dyer
Revenue Stamp 50cts. cancelled
Revenue Stamp 50cts. cancelled

Annie Morris (ss)
James Morris (ss)

COMMONWEALTH OF MASSACHUSETTS
Barnstable ss.
May 16, 1918
Then personally appeared the above-named Annie Morris and acknowledged the foregoing instrument to be her free act and deed; before me,
John B. Dyer JUSTICE OF THE PEACE
My commission expires Oct. 25, 1920.
BARNSTABLE, SS. Received May 23, 1918, and is recorded and compared

Senie Legal Memo to Truro Planning Board

13 Sept 2022

Attachment 3

Registry Deed Book 706, Page 525

thence South 24 degrees 19 minutes East, 10.54 feet to a cement bound;

thence South 64 degrees 04 minutes West, 22.69 feet to an iron pipe and land now or formerly owned by J. Jacobson;

thence Northwest by said land now or formerly owned by J. Jacobson 153.8 feet more or less to an iron pipe and point of beginning.

Containing 13100 square feet more or less.

For my title see deed of N. O. T. Jacobson to me dated August 7, 1945, recorded with Barnstable County Deeds, Book 631, Page 505.



NOTARIAL OFFICIAL COPY

husband of said grantor, wife X

release to said grantor all rights, claims, demands and interests therein.

Witness my hand and seal this Thirteenth day of November, 1948

Margorie Eaton
Margorie Eaton

The Commonwealth of Massachusetts

Barnstable, ss. November 3, 1948

Then personally appeared the above named MARGORIE EATON

and acknowledged the foregoing instrument to be her free act and deed, before me



Herbert E. Wanziker Notary Public—Justice of the Peace

My commission expires December 12, 1952

Barnstable, ss., Received November 5, 1948, and is recorded.

1-4200 Revenue Stamp Cancelled M E 11/3/48.

I, John R. Dyer, being married,

of Truro Barnstable County, Massachusetts
for consideration paid, grant to Sebastian W. Davis

of Truro, Barnstable County, Massachusetts with warranty covenants

the land in said Truro on the South side of Higgins Hollow, so called, bounded and described as follows.

Beginning at the Northwest corner thereof at a bound on the North side of the Proprietors Road, it being the Northeast corner bound of land formerly belonging to Elkanah Paine 3d;
thence Easterly in range of land formerly belonging to Benjamin S. Kelly to land formerly owned by Zoeth Rich;
thence Southerly in range of said Rich's land to land now or formerly belonging to Henrietta Paine;
thence Westerly in range of said Paine's land and land formerly owned by Doane Rich until it comes to the land formerly owned by Elkanah Paine 3d;

Senie Legal Memo to Truro Planning Board

13 Sept 2022

Attachment 4

Registry Deed Book 7623, Page 185

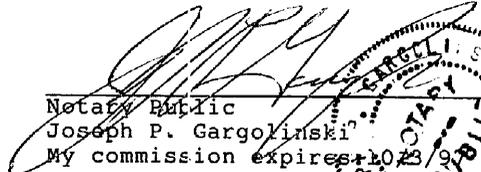
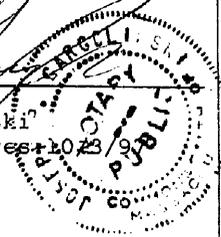
NOT
AN
OFFICIAL
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NOT
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OFFICIAL
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COMMONWEALTH OF MASSACHUSETTS
NOT

Barnstable, ss. AN July 24, 1991
OFFICIAL OFFICIAL
Then personally appeared the above named Sebastian W. Davis
COPY COPY

and acknowledged the foregoing instrument to be his free
act
and deed, before me,


Notary Public
Joseph P. Gargolinski
My commission expires 10/25/91


RECORDED JUL 25 91

Senie Legal Memo to Truro Planning Board

13 Sept 2022

Attachment 5

Transcript, 1894 Decision & Town Clerk's Records of the 1894
Decision (Note sender's fax number and name as "Town of Truro").

Transcript of the Town Way Decision of 1894 Creating Higgins Hollow Road from Old Bridge Road to Ballston Heights
(“following nearly” the Proprietor’s Road, the then road through the Hollow)

Truro Town Road Records Volume B | pgs 16 &17 | Article 3 | March 28, 1894
(provided by Truro Town Clerk email on 9/30/2004; certified copy obtained in 2006)

Article 3 of the meeting describes the course of what is now known as Higgins Hollow Road from Old County Road or King’s Road to Ballston Heights. This article states this course begins near the dwelling of Abigail Higgins (widow of Daniel P. Higgins), This house is clearly marked at this intersection on the historic map from the Library of Congress (HABS).

In current times, the Abigail Higgins property is located at 16 Higgins Hollow Road, opposite the historic Old Bridge Rd and the newer Knight’s Way. The courses cited below are depicted in recorded Plans 665-80 (McCarthy) and 675-1 (McDermott), respectively at 35A and 35 Higgins Hollow Road.

The phrase “*following nearly the private way already existing*” refers to the existing way through the Hollow in 1894, the Proprietor’s Road. This Proprietor’s Road was never discontinued according to Town Road indexes covering 1894 to this day.

Article 3:

“On the above date the Road Commissioner of Truro did lay out a town way from the Old County Road or King’s Road so called at a point near the dwelling house of Abigail Higgins to the entrance of Ballston Heights, so called, following nearly the private way already existing. Beginning at the County Road before mentioned at a stake and running east 4° south 4 rods; thence east 3° north 28 rods; thence east 10° south 20 rods; thence east 16° north 66 rods to the end. Said road is 22 feet wide for the first 22 rods from the point of beginning and 33 feet wide for the remainder of the way.”

The Commissioners voted:

To take up Article 3

To hear the report of the Road Commissioners on the laying out of said road

To accept the report of the Road Commissioners

To accept the road as laid out by the Road Commissioners.....

Attested: *Samuel Dyer, Clerk of Commissioners, Truro, Mass March 28, 1894*

Note: Article 4 of above referenced decision minutes the vote to take up the decision to discontinue the Town Road...” leading to the house of SA Paine “near the old pound” and to “discontinue said road.” This road is unrelated to the road in Article 3.

This affirms that no affirmative decision to discontinue the Proprietor’s Road (‘private way’) in Article 3 was taken, while in the next action on the same day an affirmative vote was taken to discontinue a different Town Road.

Town Records
Volume 13

1894,

17

25 feet
at
Profane's
dwelling
boundary
Commis-

edge of
East 38.0
8 rods,
thence north
19 rods
Dyer
road as
shown from
east, as called

on the
initial
out by the
in the old
ok is Ball-
Road Com-
as follows;
March 28, 1894
Commission-
may from
ad. so
elling
entrance
aving

Recd Recd 31
1894
on file
John B Dyer
Town Clerk

nearly the private way already existing.
The northern boundary of the way laid out
by the Commission is described as follows:
Beginning at the County Road before mentioned
at a stake and running East 4° South
4 rods; thence East 3° North 28 rods, thence
East 10° South 20 rods; thence East 16° North
46 rods to the end. Said road is 22 feet
wide for the first 22 rods from point of be-
ginning, and 33 feet wide for the re-
mains of the way.

Attest Samuel Dyer
Clerk of Commission

Voted to take up article 4 of the warrant.
"To see if the town will discontinue the Town
Road leading from the Old County Road
near the house of S. Adams to the County
Road near the location of the old pond."

Voted to discontinue said road
Voted to adjourn sine die.

Attest John B Dyer
Town Clerk (Signed)

April 10, 1894

Militia for 1894

Truro, July 28, 1894

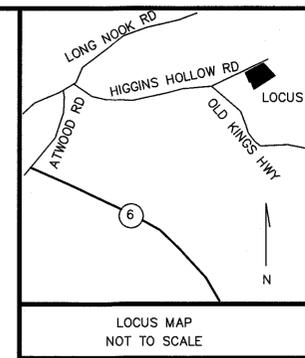
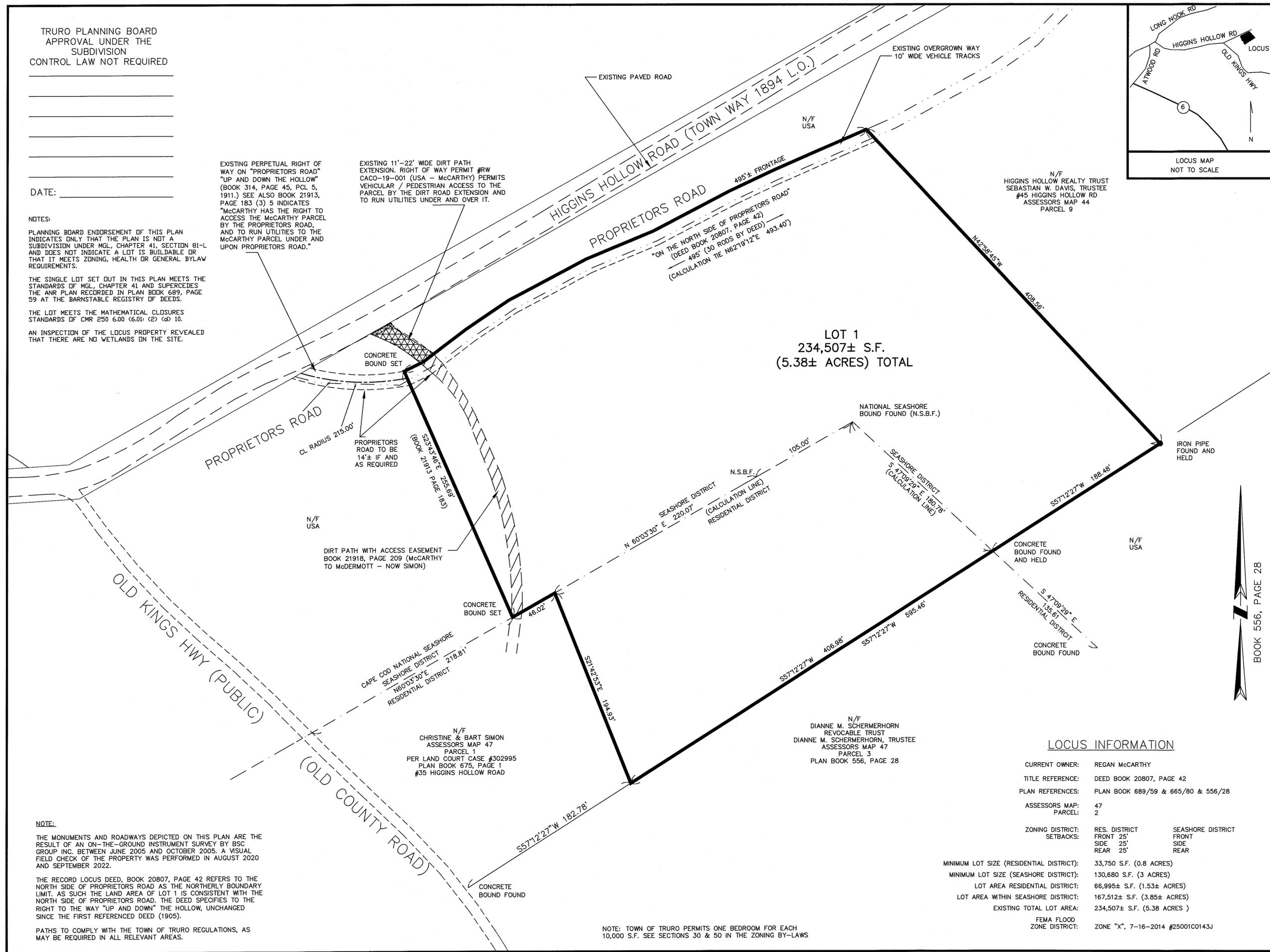
The hereby certify that the following is
a true list of the persons in this town
qualified to do military duty on the
first day of May, 1894:

- | | |
|----------------------|---------------------|
| Frank S. Adams | Isaiah T. Hatch |
| John Adams | Edwin L. Snow |
| George Adams | Edwin O. Snow |
| Charles E. Board | Jerre Paine |
| John B. Dyer | Elisba Prozier |
| Horace W. Hutchinson | Charles E. Aydelott |
| George W. Faine | Jamies E. Brown |
| George W. Snow | Charles J. Brown |
| Charles H. Snow | Angus Campbell |
| John H. Blatchford | Frank W. Freeman |

TRURO PLANNING BOARD
APPROVAL UNDER THE
SUBDIVISION
CONTROL LAW NOT REQUIRED

DATE: _____

NOTES:
PLANNING BOARD ENDORSEMENT OF THIS PLAN INDICATES ONLY THAT THE PLAN IS NOT A SUBDIVISION UNDER MGL, CHAPTER 41, SECTION 81-L AND DOES NOT INDICATE A LOT IS BUILDABLE OR THAT IT MEETS ZONING, HEALTH OR GENERAL BYLAW REQUIREMENTS.
THE SINGLE LOT SET OUT IN THIS PLAN MEETS THE STANDARDS OF MGL, CHAPTER 41 AND SUPERCEDES THE ANR PLAN RECORDED IN PLAN BOOK 689, PAGE 59 AT THE BARNSTABLE REGISTRY OF DEEDS.
THE LOT MEETS THE MATHEMATICAL CLDSURES STANDARDS OF CMR 250 6.00 (c) (2) (d) 10.
AN INSPECTION OF THE LOCUS PROPERTY REVEALED THAT THERE ARE NO WETLANDS ON THE SITE.



FOR REGISTRY USE ONLY

I CERTIFY TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, INFORMATION AND BELIEF THAT THIS PLAN CONFORMS TO THE RULES AND REGULATIONS OF THE REGISTRY OF DEEDS.



APPROVAL
NOT REQUIRED
PERIMETER
PLAN OF LAND
AT
#35A
HIGGINS HOLLOW RD.
IN
TRURO
MASSACHUSETTS
(BARNSTABLE COUNTY)

JUNE 28, 2022

REVISIONS:
NO. DATE DESC.
1. 9/13/22 REVISE NOTES PER TOWN PLANNER COMMENTS

PREPARED FOR:
REGAN MCCARTHY
42 1/2 ADRIAN AVENUE
MARBLE HILL, N.Y. 10463

BSC GROUP
349 Route 28, unit D
W. Yarmouth Massachusetts
02673
508 778 8919

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SCALE: 1" = 40'
0 5 10 20 METERS
0 20 40 80 FEET

PROJ. MGR.: C. FIELD
FIELD: D. GAZZOLO / P. HAGIST
CALC./DESIGN: P. HAGIST
DRAWN: K. HEALY
CHECK: C. FIELD
FILE: 8839-ANR-6-28-2022.DWG
DWG. NO: 5634-0 SHEET 1 OF 1
JOB. NO: 4-8839.02

NOTE:
THE MONUMENTS AND ROADWAYS DEPICTED ON THIS PLAN ARE THE RESULT OF AN ON-THE-GROUND INSTRUMENT SURVEY BY BSC GROUP INC. BETWEEN JUNE 2005 AND OCTOBER 2005. A VISUAL FIELD CHECK OF THE PROPERTY WAS PERFORMED IN AUGUST 2020 AND SEPTEMBER 2022.
THE RECORD LOCUS DEED, BOOK 20807, PAGE 42 REFERS TO THE NORTH SIDE OF PROPRIETORS ROAD AS THE NORTHERLY BOUNDARY LIMIT. AS SUCH THE LAND AREA OF LOT 1 IS CONSISTENT WITH THE NORTH SIDE OF PROPRIETORS ROAD. THE DEED SPECIFIES TO THE RIGHT TO THE WAY "UP AND DOWN" THE HOLLOW, UNCHANGED SINCE THE FIRST REFERENCED DEED (1905).
PATHS TO COMPLY WITH THE TOWN OF TRURO REGULATIONS, AS MAY BE REQUIRED IN ALL RELEVANT AREAS.

NOTE: TOWN OF TRURO PERMITS ONE BEDROOM FOR EACH 10,000 S.F. SEE SECTIONS 30 & 50 IN THE ZONING BY-LAWS

LOCUS INFORMATION

CURRENT OWNER:	REGAN MCCARTHY
TITLE REFERENCE:	DEED BOOK 20807, PAGE 42
PLAN REFERENCES:	PLAN BOOK 689/59 & 665/80 & 556/28
ASSESSORS MAP:	47
PARCEL:	2
ZONING DISTRICT:	RES. DISTRICT
SETBACKS:	FRONT 25' SIDE 25' REAR 25'
	SEASHORE DISTRICT FRONT SIDE REAR
MINIMUM LOT SIZE (RESIDENTIAL DISTRICT):	33,750 S.F. (0.8 ACRES)
MINIMUM LOT SIZE (SEASHORE DISTRICT):	130,680 S.F. (3 ACRES)
LOT AREA RESIDENTIAL DISTRICT:	66,995± S.F. (1.53± ACRES)
LOT AREA WITHIN SEASHORE DISTRICT:	167,512± S.F. (3.85± ACRES)
EXISTING TOTAL LOT AREA:	234,507± S.F. (5.38 ACRES)
FEMA FLOOD ZONE DISTRICT:	ZONE "X", 7-16-2014 #25001C0143J

BOOK 556, PAGE 28