

TRURO PLANNING BOARD AGENDA
Wednesday, December 20, 2017 – 6:00 p.m.
Truro Town Hall, 24 Town Hall Road, Truro

Public Comment Period

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

Discussion of Date/Time for Public Hearing - Rose Hill Lane

The Planning Board will discuss a date/time for a public hearing for the Becker subdivision. The property is located at 3, 5, 7 Rose Hill Lane, Assessor's Atlas Map 54, Parcel 33.

Public Hearing – Definitive Plan

2017-006PB Kevin Shea, Barbara D. Rybeck, and Joan Siniscalco seek approval of a Definitive Plan filed with the Town Clerk on November 27, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject properties are known and numbered as 402 and 408 Shore Road, North Truro and shown as Parcel 22 and 41 on Truro Assessor's Map, Sheet 10.

Application for Determination that Plan Does Not Require Approval

2017-007PB Anna M Endicott seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 2 Holsbery Road and 32 Depot Road, Assessor's Atlas Map 50, Parcel 111 and 112.

Application for Determination that Plan Does Not Require Approval

2017-008PB Lucy Perry seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 14 Perry's Road, Assessor's Atlas Map 45, Parcel 136.

Discussion of driveway leading to habitable studio

The Planning Board will discuss the status of permission from the National Park Service to construct the driveway to the garage/habitable studio at 12 Ocean Bluff Lane, Map 37, Parcel 6 (ref. 2017- 010 SPR Kenneth S. Kuchin).

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Review and Approval of Meeting Minutes

December 6, 2017

Reports from Board Members and Staff

Next Meeting Agenda

Wednesday January 10 at 5 PM – Please note the new date and time!

Adjourn



TOWN OF TRURO

Planning Department

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

To: Truro Planning Board
From: Cally Harper PhD, Town Planner
Date: December 13, 2017 (Hearing on 12/20/17)
Re: 2017-006PB Definitive Plan Staff Report #1

2017-006PB Kevin Shea, Barbara D. Rybeck, and Joan Siniscalco seek approval of a Definitive Plan filed with the Town Clerk on November 27, 2017 pursuant to MGL c. 41 §81U and Section 2.5 of the Town of Truro Regulations Governing the Subdivision of Land. The subject properties are known and numbered as 402 and 408 Shore Road, North Truro and shown as Parcel 22 and 41 on Truro Assessor's Map, Sheet 10.

Project Description:

The submitted plan shows two pre-existing, non-conforming lots located in the Limited Business Beach Point District. The properties have frontage on Shore Road (Route 6A), a paved public way. The properties will have private Title V septic systems, private water and electrical services off of existing power lines located on Shore Road. The applicant is requesting a frontage waiver and other waivers (see section on page 4). No roads are being constructed and no subdivision infrastructure will be installed.

Projects before other Town Boards:

Zoning Board of Appeals:

To date, the applicants have received the following decisions from the Zoning Board of Appeals:

- **January 30, 2017 (2016-017 ZBA):** ZBA granted a variance for Kevin Shea and Judith Richland for the construction of a single-family residence on a pre-existing, nonconforming lot located at 408 Shore Road which lacked the required frontage. The ZBA decision is contained within the application.
- **January 30, 2017 (2016-013 ZBA):** ZBA granted a variance for Barbara Rybeck and Joan Siniscalco for construction of a new single family residence which lacked the required minimum lot size. The ZBA decision is contained within the application.

- **November 1, 2017 (2017-014 ZBA):** ZBA granted a six-month extension for the variance granted for Kevin R. Shea and Judith Richland for property located at 408 Shore Road (ref. 2016-017ZBA).

At the next Zoning Board of Appeals meeting on **December 18, 2017**, Barbara Rybeck and Joan Siniscalco are seeking a six-month extension of the variance for the construction of a new single-family residence (ref. 2016-013 ZBA).

Conservation Commission:

To date, the applicants have received the following decisions from the Conservation Commission:

- **SE# 75-0998:** Order of Conditions for 408 Shore Road with Special Conditions, Order of Conditions is included in the application.
- **SE# 75-0879:** Amended Order of Conditions for 408 Shore Road with Special Conditions, Amended Order of Conditions is included in the application.
- **SE#75-0872:** Amended Order of Conditions for 402 Shore Road with Special Conditions, Amended Order of Conditions is included in the application.

Board of Health:

To date, the applicants have received the following decisions from the Board of Health:

- **October 7, 2016:** the Board voted to grant a Title 5 variance and variances for construction in Velocity Zones and Floodways and for the required setback for system components for property located at 402 Shore Road, full decision from Board of Health is included in the application as a letter from Pat Pajaron, former Truro Health Agent.
- **November 6, 2016:** the Board voted to grant a variance for the required setback for system components for property located at 408 Shore Road, full decision from Board of Health is included in the application as a letter from Pat Pajaron, former Truro Health Agent.
- **December 6, 2017:** Definitive Plan approved by Truro Board of Health

Public Notice:

Notice was published in the *Banner* on December 7 and 14, 2017 and in the *Cape Cod Times* on December 1 and 8, 2017. Notice to the abutting parties in interest was mailed on November 27, 2017. As of November 17, 2017 notice of hearing was posted in Town Hall.

Contents and Completeness of the Application:

The applicant submitted the following materials on November 27, 2017:

1. Fully executed Form C Application for Approval of a Definitive Plan dated November 20, 2017 signed by William Rogers, accompanied by emails from Mr. Kevin Shea and Mrs. Judith Richland and Attorney Kevin Kirrane stating that William Rogers has permission to sign Form C on behalf of the applicant.
2. Filing Fee was waived.
3. Certified list of abutters.
4. Definitive subdivision plan titled: "Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin Shea et ux. & Barbara D. Rybeck and Joan Siniscalco" prepared by William N Rogers, Professional Civil Engineers and Land Surveyors, dated November 2017, Scale 1" = 20'.
5. Table of Contents for the application
6. Agreement For Judgment from Barnstable Superior Court 88-847, June 25, 1991
7. Decision/Motion of the Zoning Board of Appeals of Truro, MA for 408 Shore Road, dated February 22, 2017
8. Decision/Motion of the Zoning Board of Appeals of Truro, MA for 402 Shore Road, dated February 22, 2017
9. WPA Form 5 – Order of Conditions for 408 Shore Road
10. WPA Form 5 – Amended Order of Conditions for 408 Shore Road
11. WPA Form 5 – Amended Order of Conditions for 402 Shore Road
12. Letter from Pat Pajaron, Former Health Agent from the Town of Truro, letter dated October 6, 2016
13. Letter from Pat Pajaron, Former Health Agent from the Town of Truro, letter dated November 3, 2016
14. Site and Sewage Disposal System for Proposed 3 Bedroom Single Family Dwelling at 402 Shore Road, Truro, MA dated September 12, 2016, prepared by Bennett Environmental Associates, Inc.
15. Architectural Site Plan Preliminary Landscaping Plan for Shea/Richland Residence at 408 Shore Road, Truro, MA dated November 16, 2017. Applicant refers to this plan in the Table of Contents as a "Site and Landscaping Plan for 408 Shore Road."
16. Certified Lists of Abutters for 402 and 408 Shore Road
17. Deed from Norfolk Holdings Corp. to Kevin R. Shea and Judith Richland for 408 Shore Road recorded in Book 7711 Page 069 at Barnstable Registry of Deeds on October 11, 1991.

18. Plan of Land in Truro, MA prepared for North Truro Associates, Inc. dated August 18, 1987. Applicant refers to this plan in the Table of Contents as the “ANR Plan for 402 & 408 Shore Road – Dated August 18, 1987.”
19. Plan of Land in (North) Truro, Norfolk Holdings Corp, Recorded in Book 482, Page 43, dated August 13, 1991. Applicant refers to this plan in the Table of Contents as the “ANR Plan for 402 & 408 Shore Road – Dated August 13, 1991.”
20. Waiver Requests Definitive Subdivision 402 & 408 Shore Road Kevin Shea et ux. & Barbara Rybeck and Joan Siniscalco
21. Letter from Edward E. Veara dated September 3, 2003 regarding 402 Shore Road (former For’N Aft Motel) to Deputy Assessor in the Town of Truro.
22. Quitclaim Deed from Anne Fortier and David Ditaccio to Kevin Shea and Judith Richland, dated January 27, 2012

An Amended Waiver Request was submitted by Mr. Chris Snow on December 13, 2017 as supplemental information to the original application.

Waiver Requested:

Below is a list of waivers as requested by the applicant. The reason for requesting the waiver is shown in Bold.

- Section 3.2 Conformance with Zoning: waiver from frontage requirement for 408 Shore Road
- Section 3.2 Conformance with Zoning: waiver from lot size requirement for 402 Shore Road
- Section 2.5.2a Submission Requirements for Definitive Plans – General:
 - #4: Twelve copies of plan, Profile and Cross Sections, showing proposed design and location of streets, drainage and utilities. **No profile plans are presented as no new roads are being constructed.**
 - #5: Two (2) copies of the subdivision plan prepared at a scale of 1 inch = 100’ feet. The plan shall include the lot numbers and lot areas in acres and square footage. Distances and bearing need not be shown.
 - #6: Two (2) copies of drainage calculations based on a fifty (50) year storm, stamped and signed by an engineer, along with a topographic plan delineating contributing areas.
 - #10: Three proposed road name(s) for each new street. The Board reserves the right to reject proposed street names. **No new roads are being constructed.**
 - #11: A written statement stating the time within which the applicant/subdivider agrees to complete the proposed ways and to install all utilities required by the Board. **Construction is expected to be undertaken pursuant to the statutory timeframe for use of a variance grant.**

- Section 2.5.2b Submission Requirements for Definitive Plans – Contents of the Plan:
 - #1: Subdivision Name: **There is no subdivision name as two single family homes without roadways are represented on the plan.**
 - #5: The existing and proposed methods of providing road drainage and utilities
 - #6: Gross area of roads and cul-de-sacs, in square feet and acres
 - #6: Area(s) subject to the Wetlands Protection Act and approval and/or restriction(s) of the Conservation Commission or the Board.
 - #6: Gross area of wetlands, in square feet and acres, for the entire subdivision.
 - #6: Net area of wetlands within each lot or parcel, in square feet and percentage
 - #6: Net area of contiguous upland of each lot or parcel, in square feet and percentage
 - #7: Easements, covenants, rights-of-way, and/or restrictions applicable to the area shown on the plan.
 - #8: The existing and proposed lines of streets, ways, lots, easements and any public or common areas within the subdivision.
 - #9: The existing and proposed lines of any easements access or other purposes. The location, ownership and expiration date(s) of any conservation restrictions or easements.
 - #10: The topography of the land, using two (2) foot contours, derived from an actual survey or photogrammetry based on USGS Datum. This may be shown on a separate plan.
 - #13: The location of any wetlands on the land to be subdivided or within one hundred (100) feet of its boundaries.
 - #14: Base flood elevation data, as shown on the Flood Insurance Rate Map, as most recently revised, published by the U.S. Department of Housing and Urban Development. The Base Flood Elevation date shall be provided for all proposals where any portion of the subject property lies within the 100-year flood plain.
 - #15: Sufficient data to determine the location, direction and length of every way, lot lines and boundary lines including lengths and radii of all curves, to establish and reproduce these lines on the ground, and to comply with the requirements of the Registry of Deeds and/or Land Court.
 - #16: For all ways involved in access for the proposed subdivision, whether within, abutting or without the subdivision, the grade and width of road layout, the location of the roadway within the layout, sight distances at intersections, and the physical condition of the roadway including actual width, surface type, depth of surface materials and condition of the road surface
 - #17: A notation on the plan indicating that permanent bounds shall be set at all points of curvature and changes in direction of street side lines and at all lot corners, as appropriate.
 - #18: A notation on the plan indicating any waiver to these Rules and Regulations being requested.
 - #22: Two benchmarks taken from U.S.G.S. datum shall be established within the subdivision. Selection of the benchmark location shall be a point that will not be disturbed during construction operations.

- Section 2.5.2c: Contents of Plan and Profiles and Cross-sections – waiver from all provisions of this section except Subsection 15 (see submitted landscape plan). **No new roads are being constructed.**
- Section 2.5.3 Staking of Proposed Subdivision
- Section 2.5.4c Performance Guarantee
- Section 3.5: Utilities **The property will be serviced through existing utility lines located on Shore Road.**

•

Town Staff Comments

Fire Department: The Fire Chief has no issues with the project

Police Department: No comments received

Health and Conservation: The Health Agent noted that the Definitive Plan was approved by the Board of Health on December 6, 2017.

Department of Public Works: No comments received

Building Department: The Building Commissioner identified one error on the plan. There is a note on the left side of the plan that says “Parcel 1 & Parcel 3 are claimed by.....” but the actual plan shows two Parcel 3’s.

Possible Motions:

*The applicant requested the following waivers and Board voted to grant the following waivers:
<list specific waivers granted, see above>*

Approval:

*I move to approve <OR approve with conditions> **2017-006PB** for Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on 402 and 408 Shore Road as shown on the Definitive subdivision plan titled: “Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin Shea et ux. & Barbara D. Rybeck and Joan Siniscalco” prepared by William N Rogers, Professional Civil Engineers and Land Surveyors, dated November 2017, Scale 1” = 20’.*

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

registry of deeds. It is also required the applicant be required to reference the decision on the plan and record the decision with the plan.

Denial:

If the motion is to deny, the Board must cite reasons for denial.

I move to deny 2017-006PB for Kevin Shea, Judith Richland, Barbara Rybeck and Joan Siniscalco for a Definitive Plan as filed with the Clerk of the Town of Truro pursuant to MGL c.40A, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to their property located on 402 and 408 Shore Road as shown on the Definitive subdivision plan titled: “Definitive Subdivision Plan of Land in (North) Truro as prepared for Kevin Shea et ux. & Barbara D. Rybeck and Joan Siniscalco” prepared by William N Rogers, Professional Civil Engineers and Land Surveyors, dated November 2017, Scale 1” = 20’. This negative motion is based on the following: <list specific reasons for denial>

TOWN OF TRURO



PLANNING BOARD

Form C

APPLICATION FOR APPROVAL OF A DEFINITIVE PLAN

Date NOVEMBER 20, 2017

To the Planning Board of the Town of Truro, MA

The undersigned, being the applicant as defined under Chapter 41, Section 81-L, for approval of a proposed subdivision shown on a plan entitled DEFINITIVE SUBDIVISION PLAN OF LAND IN NOTEN TRURO, AS PREPARED FOR KEVIN R. SHEA ET UX & BARBARA D. REBECK AND JOHN S. WISCALB, SCALE 1 IN. = 20 FT., NOVEMBER, 2017.

by William N. Rogers II, PE, PLS dated NOVEMBER, 2017 and described as follows:

Located: 402, 408 SHORE ROAD, NOTEN TRURO, MASSACHUSETTS

Assessor's Map(s) and Parcel(s): MAP 10, PARCELS 22 & 41

Number of Lots Proposed: 2 Total acreage of Tract: 34,099 ± SQ. FT.

Said applicant hereby submits said plan as a *Definitive* subdivision plan in accordance with the Rules and Regulations of the Truro Planning Board and makes application to the Board for approval of said plan.

The undersigned's title to said land is derived under deed from 408 - NORFOLK HOLDINGS CORP 402 - HENRY B. MILLER JR. ET AL dated OCTOBER 10, 1991 JANUARY 2, 2001, and recorded in the Barnstable

Registry of Deeds Book and Page: 408 BOOK 7711 PAGE 69
402 BOOK 13530 PAGE 12

or by Land Court Certificate of Title No. _____ registered in Barnstable County, and said land is free of encumbrances except for the following:

Said plan has has not (circle appropriate) evolved from a preliminary plan submitted to the Board on _____ and approved/approved with modifications/disapproved (circle appropriate) on _____

Applicant's Signature William N. Rogers II, PE, PLS Applicant's Telephone Number 1-508-481-1565

41 OFF CEMETERY ROAD

Applicant's Legal Mailing Address P.O. BOX 631, PROVINCETOWN, MA 02657

* Owner's Signature if not the applicant
or applicant's authorization if not the owner *NOTE: SEE ATTACHED AUTHORIZATION!!

Owner's Legal Mailing Address 402: 16 STONEGATE CIRCLE 408: 357 HARBOR STREET, APT. 1
CHESHIRE, CT 06460 CAMBRIDGE, MA 02138

Surveyor Name/Address WILLIAM N. ROGERS II, PE, PLS
41 OFF CEMETERY ROAD, P.O. BOX 631, PROVINCETOWN, MA 02657
(Or Person responsible for preparation of the plan)

File twelve (12) copies each of this form and applicable plan(s) with the Town Clerk

William Rogers

From: Kevin Shea <kevinshea356@gmail.com>
Sent: Tuesday, November 21, 2017 2:55 PM
To: William Rogers
Cc: Snow and Snow Law; Judy
Subject: Authorization to Sign on Our Behalf.

TO: William N. Rogers II, PE, RLS

Dear Billy,

Please know that you are hereby authorized to sign as our agent the Definitive Subdivision Application for 408 Shore Road, Truro, MA.

Sincerely,

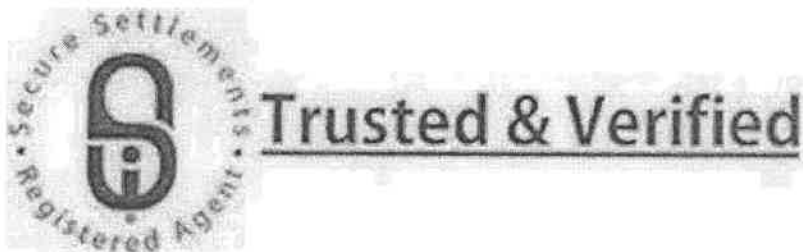
Kevin R Shea & Judith Richland
Owners, 408 Shore Road, Truro, MA

William Rogers

From: Kevin Kirrane <kkirrane@dunningkirrane.com>
Sent: Monday, November 20, 2017 1:05 PM
To: billsier@verizon.net
Cc: Snow and Snow Law
Subject: Shore Rd.

Bill, You have my and my clients' authorization to sign the Planning Board Application in regard to the Definitive Plan, relating to the above referenced property. Kevin

Kevin M. Kirrane, Esquire
Dunning, Kirrane, McNichols & Garner, LLP
PO Box 560
133 Falmouth Road, Suite A
Mashpee, MA 02649
508-477-6500
508-477-5697 (fax)



This message contains information which may be confidential and privileged. Unless you are the addressee (or authorized to receive for the addressee), you may not use, copy or disclose to anyone the message or any information contained in the message. If you have received the message in error, please advise the sender by reply e-mail, and deleted or destroy the message. Thank you.

KEVIN SHEA ET UX & BARBARA D. RYBECK and JOAN SINISCALCO
402 and 408 SHORE ROAD
APPLICATION FOR APPROVAL OF DEFINITIVE PLAN
TABLE OF CONTENTS

PAGE	Description
1	Agreement For Judgment – Barnstable Superior Court Case 88-847
4	Grant of Variance from Truro ZBA for 408 Shore Road dated January 30, 2017
6	Grant of Variance from Truro ZBA for 402 Shore Road dated January 30, 2017
8	Truro Conservation Commission Orders of Conditions for 408 Shore Road
35	Truro Conservation Commission Order of Conditions for 402 Shore Road
50	Board of Health Approval for Subsurface Sewage Disposal System for 408 Shore Road
51	Board of Health Approval for Subsurface Sewage Disposal System for 402 Shore Road
52	Site and Sewage Disposal System Plan for 402 Shore Road with restorative planting
53	Site and Landscaping Plan for 408 Shore Road
54	Certified List of Abutters for 408 Shore Road
58	Certified List of Abutters for 402 Shore Road
62	Deed from Norfolk Holdings Corp, to Kevin R. Shea and Judith Richland for 408 Shore Road recorded in Book 7711 Page 069 at Barnstable Registry of Deeds on October 11, 1991
64	ANR Plan for 402 & 408 Shore Road – Dated August 18, 1987
65	ANR Plan for 402 & 408 Shore Road – Recorded on August 13, 1991
66	Request for Waivers
69	Correspondence from Truro Town Counsel to Deputy Assessor Maloney dated Sept. 3, 2003
73	Quitclaim Deed from Anne Fortier and David J. Ditaccio to Kevin Shea and Judith Richland dated January 27, 2012

COMMONWEALTH OF
MASSACHUSETTS

BARNSTABLE, ss.

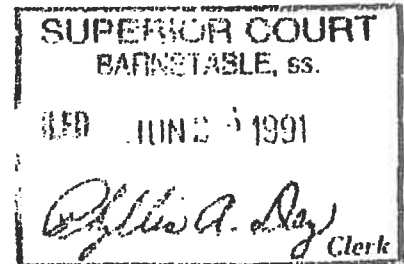
SUPERIOR COURT
CIVIL ACTION
NUMBER 88-847

STEPHEN WILLIAMS as the
BUILDING COMMISSIONER of the
TOWN OF TRURO,
PLAINTIFF

v.

US TRUST/NORFOLK,
DEFENDANT

AGREEMENT FOR JUDGMENT



It is hereby agreed that judgment shall be entered in this action on the complaint filed by the plaintiff as follows:

1. US Trust/Norfolk, a Massachusetts banking corporation with a business address of Batterymarch Park, Quincy, Massachusetts (the "Bank") and Norfolk Holdings Corporation, a Massachusetts corporation with a business of Batterymarch Park, Quincy, Massachusetts ("Norfolk"), the substituted defendants in the above-referenced litigation shall record forthwith the perimeter plan for certain premises in Truro (North), Massachusetts dated October, 1990 and entitled "Plan of Land in (North) Truro as surveyed for Norfolk Holdings Corp." a copy of which is attached hereto as Exhibit "A." Such plan, upon its recording, shall create one lot combining

lots A, C, D, E, and F, as shown on a plan of said premises entitled "Plan of Land in Truro, Massachusetts prepared for North Truro Associates, Inc., dated August 18, 1987 prepared by McKinnon & Sons, 469 Slokum Road, North Dartmouth, Massachusetts" and recorded in the Barnstable Registry of Deeds in Plan Book 438, Page 48.

2. Neither the Bank nor Norfolk shall thereafter convey less than all of their interests in the premises as depicted on the consolidated perimeter plan attached hereto as Exhibit "A."

3. The parties hereto agree that the Bank and Norfolk's interest in a portion of the property shown on Plan Book 438, Page 48 as Lot A, is subject to a mortgage recorded in Barnstable Registry of Deeds at Book 5825, Page 47. In the event the holder of such mortgage forecloses its interest therein and the same is not acquired by the Bank or Norfolk, neither the Bank or Norfolk shall make separate conveyances of Lots C, D, E, and F, and shall only convey all of their remaining interests in the premises as shown on the plan attached hereto as Exhibit "A."

4. Neither party shall be awarded interest or costs and the parties to this agreement waive notice otherwise required by Rule 77.

5. This Agreement for Judgment is intended to dispose of all claims asserted in plaintiff's Complaint.

Dated this 25th day of June 1991.

Howard M. Brown

HOWARD M. BROWN
Attorney for Defendant
Kaye, Fialkow, Richmond & Rothstein
100 Federal St.
Boston, MA 02110
(617) 482-6800
BBO# 547948

Edward E. Veara

EDWARD E. VEARA
Attorney for Plaintiff
Zisson & Veara
828 Main St., Box 2031
Dennis, MA 02638
(508) 385-6031
BBO# 508500

2/1/30
345**DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.****Property Owner(s) and/or Applicant(s): Kevin Shea and Judith Richland.****Property Location: 408 Shore Rd.****Atlas Sheet: 10 Parcel(s): 41 (2016-017/ZBA) (Reg. of Deeds Title Ref: Book 7711, Page 069.)****Hearing Date: Monday, January 23, 2017 (as continued from 11/28/16 & 12/19/16 w/time waiver)**

Special Permit	<input type="checkbox"/>	Vote: <u>5</u> Approve
Variance	<input checked="" type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	— Abstain
& Other	<input type="checkbox"/>	

Motion (Hultin, 2nd Todd): Move to grant a Variance to Kevin Shea and Judith Richland for the construction of a Single-Family Residence on a pre-existing, non-conforming lot which also lack required frontage with ref. to Sec. 50.1. of the Truro Zoning Bylaw for property located at 408 Shore Rd. (Atlas Sheet 10, Parcel 41(2016-017/ZBA) and based on the following Findings and Conditions approved:

(w/ref. to MGLC40A § 10: The circumstances relating to the soil conditions, shape or topography of such land and structures but not affecting in general the Beach Point Limited Business District are:

A) the unique legal proceedings and circumstances giving rise to the creation of the subject shape and size of the lots distinguish them from every other lot in the Zoning District;

B) in addition, the unique coastal dynamics influencing topographical size and shape of the lots and their soil conditions contribute to the financial and other hardships;

C) the two lots were defined by the structures constructed on 408 Shore Rd. and 402 Shore Rd. in 1945 and 1962 respectively, confine and dictate the lot lines and lot size;

D) Absent the Grant of Variance relief, the lots will continue to remain unbuildable and potentially result in the degradation of the resource and surrounding areas;

E) The intent of the Bylaw is not being derogated as the introduction of a single-family use eliminates the possibility of more intensive uses such as cottage, motel and condominium conversions.

The Board accepts the findings subject to the following Conditions: (1) Any landscape or privacy fencing be limited to three (3) feet in height; (2) the proposed seawall at 408 Shore Rd. shall be maintained in accordance with the Conservation Commission Order of Conditions.

The ZBA notes it would be preferable to have two distinct lots diligently processed by an application to the Planning Board for ANR endorsements.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Barbara P. P. Chair
Signature

1/30/17
Date

Received, Office of the Town Clerk:

Cynthia A. Slade
Signature

JANUARY 30, 2017
Date

1 of 2 2016-017ZBA

A true copy, attest: *Cynthia A. Slade* Cynthia A. Slade, Town Clerk, Town of Truro / February 22, 2017/ pages 1-2

ZBA Decision pg 2

2016-017/ZBA

I hereby certify that this decision was filed with the Office of the Town Clerk on JANUARY 30, 2017
and 20 (twenty) days have elapsed since the date of filing, and:

☒ No Appeal has been filed.

☐ An Appeal has been filed and received in this office on: _____

FEBRUARY 23, 2017

Signature

Date

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

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

2 Of 2 2016-017ZBA

JOHN F. MEADE, REGISTER
BARNSTABLE COUNTY REGISTRY OF DEEDS

26 1/2
H.S.

2nd DECISION/MOTION OF THE ZONING BOARD OF APPEALS OF TRURO, MA.

Property Owner(s) and/or Applicant(s): Barbara Rybeck & Joan Siniscalco, by Atty. Kevin M. Korrane.

Property Location: 402 Shore Rd.

Atlas Sheet: 10 Parcel(s): 22 (2016-013/ZBA) (Title Ref: Book 13530, Page 012).

Hearing Date: Monday, January 23, 2017

Special Permit	<input type="checkbox"/>	Vote: <u>5</u> Approve
Variance	<input checked="" type="checkbox"/>	<u>0</u> Disapprove
Building Commissioner Decision	<input type="checkbox"/>	___ Abstain
& Other	<input type="checkbox"/>	

Motion (Hultin, 2nd Todd): Move in the matter of 2016-013/ZBA – Barbara Rybeck & Joan Siniscalco, for property located at 402 Shore Rd., (Atlas Sheet 10, Parcel 22)(title ref: Book 13530, Page 012). to Grant a Variance w/reference to Sec. 50.1. lot size for the construction of a new Single Family Residence, as per plans filed with the ZBA. The ZBA grants said variance based on the following Conditions and Findings: (w/ref. to MGLC.40A § 10: The circumstances relating to the soil conditions, shape or topography of such land and structures but not affecting in general the Beach Point Limited Business District are:

A) the unique legal proceedings and circumstances giving rise to the creation of the subject shape and size of the lots distinguish them from every other lot in the Zoning District;

B) in addition, the unique coastal dynamics influencing topographical size and shape of the lots and their soil conditions contribute to the financial and other hardships;

C) the two lots were defined by the structures constructed on 408 Shore Rd. and 402 Shore Rd. in 1945 and 1962 respectively, confine and dictate the lot lines and lot size;

D) Absent the Grant of Variance relief, the lots will continue to remain unbuildable and potentially result in the degradation of the resource and surrounding areas;

E) The intent of the Bylaw is not being derogated as the introduction of a single-family use eliminates the possibility of more intensive uses such as cottage, motel and condominium conversions.

The Board accepts the findings subject to the following Conditions: (1) Any landscape or privacy fencing be limited to three (3) feet in height; (2) the proposed seawall at 408 Shore Rd. shall be maintained in accordance with the Conservation Commission Order of Conditions. The ZBA also notes the parties shall obtain and process an application to the Planning Board for ANR endorsement.

I hereby certify this as a true and accurate record of the Zoning Board of Appeals:

Barbara Rybeck
Signature

1/30/17
Date

Received, Office of the Town Clerk

Barbara Rybeck
Signature

JANUARY 30, 2017
Date

1 of 2 2016-013ZBA

A true copy, attest: Cynthia A. Slade Cynthia A. Slade, Town Clerk, Town of Truro / February 22, 2017/ pages 1-2

T8 / 20
KTS

ZBA Decision pg 2

2016-013/ZBA

I hereby certify that this decision was filed with the Office of the Town Clerk on JANUARY 30, 2017
and 20 (twenty) days have elapsed since the date of filing, and:

☒ No Appeal has been filed.

☐ An Appeal has been filed and received in this office on: _____

[Signature]

FEBRUARY 22, 2017

Signature

Date

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

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

2 of 2 2016-013ZBA

BARNSTABLE REGISTRY OF DEEDS
John F. Meade, Register

- 7 -



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0998
MassDEP File #

eDEP Transaction #
Truro
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Truro
Conservation Commission
2. This issuance is for
(check one): a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

Kevin Shea
a. First Name b. Last Name

c. Organization
47Studio Road
d. Mailing Address

Auburndale MA 02466
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name

c. Organization

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

408 Shore Rd Truro
a. Street Address b. City/Town

10 41
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known:

d m s d m s
d. Latitude e. Longitude



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0998
MassDEP File #

eDEP Transaction #
Truro
City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Barnstable
- | | |
|-------------|--|
| a. County | b. Certificate Number (if registered land) |
| <u>7711</u> | <u>069</u> |
| c. Book | d. Page |
7. Dates: October 27, 2016 November 7, 2016
- | | | |
|--------------------------------|-------------------------------|---------------------|
| a. Date Notice of Intent Filed | b. Date Public Hearing Closed | c. Date of Issuance |
|--------------------------------|-------------------------------|---------------------|
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
Plan of Land Depicting a Sanitary Subsurface Sewage Disposal System"
- | | |
|---|--|
| a. Plan Title | b. Certificate Number (if registered land) |
| <u>William N. Rogers</u> | <u>069</u> |
| b. Prepared By | c. Signed and Stamped by |
| <u>October 2016</u> | <u>as shown</u> |
| d. Final Revision Date | e. Scale |
| <u>Architectural site plan, House, foundation & elevation plans</u> | <u>October 18, 2016</u> |
| f. Additional Plan or Document Title | g. Date |

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|--|--|---|
| a. <input type="checkbox"/> Public Water Supply | b. <input type="checkbox"/> Land Containing Shellfish | c. <input type="checkbox"/> Prevention of Pollution |
| d. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0998

MassDEP File #

eDEP Transaction #

Truro

City/Town

B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet	b. square feet	c. square feet	d. square feet
	e. c/y dredged	f. c/y dredged		
7. <input type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0998

MassDEP File #

eDEP Transaction #

Truro

City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
12. <input checked="" type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
14. <input type="checkbox"/> Coastal Dunes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. nourishment	<u> </u> d. nourishment
15. <input type="checkbox"/> Coastal Banks	<u> </u> a. linear feet	<u> </u> b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	<u> </u> a. square feet	<u> </u> b. square feet		
17. <input type="checkbox"/> Salt Marshes	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	<u> </u> a. square feet	<u> </u> b. square feet		
	<u> </u> c. c/y dredged	<u> </u> d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	<u> </u> a. c/y dredged	<u> </u> b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	<u>6000</u> a. square feet	<u>6000</u> b. square feet		



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0998

MassDEP File #

eDEP Transaction #

Truro

City/Town

B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on _____ unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0998

MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE 075-0998 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0998
MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) ☐ is subject to the Massachusetts Stormwater Standards
 - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0998

MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0998

MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0998
MassDEP File #

eDEP Transaction #
Truro
City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Truro Conservation Commission hereby finds (check one that applies):

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Truro Conservation Bylaw

Chapter 8

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See pages 10-A through 10-C

TOWN OF TRURO—ORDER OF CONDITIONS
408 SHORE ROAD ; Map 10, parcel 41
DEP file # SE 75-0998
KEVIN R. SHEA, JUDITH RICHLAND; OWNERS

DOCUMENTS

1. Notice of Intent, WPA form 3 dated October 18, 2016; abutters list and notice; proof of mailings.
2. DEP notice of file number
3. **Architectural site plan, house drawing plans, foundation plans and elevations, pages 1-3, dated 10-18-16; prepared by Kevin R. Shea, RA**
4. **"Plan of land depicting a sanitary subsurface sewage disposal system as prepared for Kevin R. Shea & Judith Richland"; prepared by William Rogers, PE, dated October 2016.**

PROJECT DESCRIPTION

1. The former "Fore and Aft" cottages located at this site were demolished in September 2016. The proposal filed under the Notice of Intent included construction of a single family home, septic system and driveway area.
2. A separate filing was made in 2012 to replace the existing wood bulkhead on the seaward side of the property. The project was issued an order of conditions under SE# 75-0879. The new bulkhead will be aligned with an existing bulkhead located north of the subject property, and will terminate on the southeast property line with a wooden return.
3. The southwest side of the property fronts Cape Cod Bay; Shore Road borders the property to the northeast. Resource Areas on this property include Barrier Beach, Coastal Beach, Coastal Dune and Land Subject to Coastal Storm Flowage.
4. The flood zone on this property is defined as a Ve zone at elevation 15' (NAVD 88) across approximately half of the property; a Coastal A zone is defined across the balance of the property.

The Commission determined that the Order can be issued with the following special conditions. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

CONDITIONS

A. Pre-construction

1. **The Commission shall be provided with 48 hour written notice prior to work start.** The applicant shall also provide the Commission with the names and cellphone numbers of those persons responsible on-site for compliance with this Order. The applicant shall give written notice to the Commission upon completion of the project. Prior to work-start, a sign shall be displayed at the site showing the DEP file number assigned to this project.
2. Prior to the commencement of any work, a pre-construction site visit shall be scheduled by the applicant's representative, and shall include the project contractor, and the Conservation Agent. During this site visit the Order of Conditions, construction protocols work limit and site plan details shall be reviewed.
3. Prior to commencement of construction the applicant shall submit **a written construction protocol** that details the installation of pilings, staging of materials, parking of equipment and work vehicles, and the location of dumpster and portajohn.
4. Prior to commencement of construction **a planting and landscape plan** shall be submitted that shows the location, quantity, size and species of all plantings, and location of pathways.
5. Any changes to the approved plans require the applicant to return to a public hearing with the Conservation Commission.

B. Excavation and Site Disturbance

1. Prior to construction a high-visibility 4' orange (plastic) construction fence shall be set up as the limit of work. The area within the work-limit shall be policed daily for construction and worker debris. The contractor shall not allow debris to migrate into adjacent resource areas or private properties. The apron on Shore Road shall be swept clean daily.
2. The dumpster used at this site shall be covered. The portajohn at this site shall be properly tied down to prevent blow-overs.

C. Construction and Re-vegetation

1. Prior to construction and not later than December 16, 2016 all disturbed area on the lot shall be planted with American beach grass in a 12" matrix; snow fence shall be firmly installed to collect sand. At least 3 rows of fencing shall be installed to run parallel with the beach with diagonal fencing set in between the rows.
2. Following future construction disturbance, all disturbed area shall be re-planted with American beach grass in a 12" matrix. Use of fertilizer is not allowed at this location. All other plantings shall be native plants.
3. The area under the building shall not be enclosed or used for storage. The Coastal Dune shall be allowed to migrate and change form and volume. Beach grass shall be planted and allowed to migrate.
4. The stairs from the decks to the beach as shown on the site plans shall be seasonal and designed to be removed and stored/secured outside of the flood zone.

D. General Conditions

1. Prior to the commencement of work or pre-construction site meeting, the form provided at the end of this Order (part G. "Recording Information") shall be completed and stamped at the appropriate Registry of Deeds, after the expiration of the 10-day appeal period and if no request for appeal has been filed with the Department of Environmental Protection.
2. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract requirements. It is the responsibility of the Applicant, Owner, General Contractor and/or successor(s) to ensure that all Conditions of this Order of Conditions are complied with. A copy of this Order shall be available at the work site, during normal work hours, or posted, until the work is complete.
3. Work shall be halted on the site if the Commission, Conservation Agent or DEP determines that any of the work is not in compliance with this Order of Conditions. Work shall not resume until the Commission is satisfied that the work will comply, and has so notified the applicant in writing.
4. Any changes in the work described in the Notice of Intent or in the plans and specifications submitted to the Commission shall be submitted to the Commission in writing for a determination of whether the change is significant enough to the interests of the Act to require a new Notice of Intent. No changes shall be made or implemented in the field prior to the Commission's determination. Should issuance of additional permits result in a change in the project, the applicant shall promptly submit such changes to the Commission for evaluation under this provision.
5. Members of the Commission or its Agent or the Department of Environmental Protection (DEP) reserve the right to enter and inspect the property at all reasonable times, until a Certificate of Compliance is issued, to evaluate compliance with this Order of Conditions,

the Act, 310 CMR 10.00 and Town regulations, and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission for that evaluation.

6. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans. These obligations shall be expressed in covenants in all deeds to succeeding owners of portions of the property.
7. Upon completion of this project the applicant shall submit a request to the Conservation Commission to receive a Certificate of Compliance. The Applicant or Owner shall certify in writing that the work was completed as shown on the plans and documents referenced above. At the request of the Commission, the applicant may be required to submit a written statement from a registered professional engineer of the Commonwealth certifying that the work has been conducted as shown on the plan(s) and documents referenced above and as conditioned by the Commission; and/or (b) an "as built" plan prepared and signed and stamped by a registered professional engineer or land surveyor of the Commonwealth, for the public record.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0998
MassDEP File #

eDEP Transaction #
Truro
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

11/28/16
1. Date of Issuance

4
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

James C. Buscaglia
Henry H. Fum

Deborah L. McClellan

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

Date

Date

11/28/16

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0879
MassDEP File #
eDEP Transaction #
Truro
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: Truro
Conservation Commission
2. This issuance is for
(check one): a. ☐ Order of Conditions b. ☒ Amended Order of Conditions
3. To: Applicant:

Kevin Shea
a. First Name b. Last Name

47Studio Road
c. Organization

Auburndale MA 02466
d. Mailing Address f. State g. Zip Code

e. City/Town

4. Property Owner (if different from applicant):

a. First Name b. Last Name

c. Organization

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

408 Shore Rd Truro
a. Street Address b. City/Town

10 41
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Barnstable

a. County

7711

c. Book

b. Certificate Number (if registered land)

069

d. Page

7. Dates: Amendment 10/18/2016 November 7, 2016

a. Date Notice of Intent Filed

b. Date Public Hearing Closed

c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

Plan of Land in (North) Truro Depicting a Proposed Replacement Bulkhead

a. Plan Title

William N. Rogers

William N. Rogers II

b. Prepared By

c. Signed and Stamped by

March 2012

as shown

d. Final Revision Date

e. Scale

f. Additional Plan or Document Title

g. Date

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☐ Land Containing Shellfish c. ☐ Prevention of Pollution
d. ☐ Private Water Supply e. ☐ Fisheries f. ☒ Protection of Wildlife Habitat
g. ☐ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u> </u> a. square feet <u> </u> e. c/y dredged	<u> </u> b. square feet <u> </u> f. c/y dredged	<u> </u> c. square feet	<u> </u> d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



Massachusetts Department of Environmental Protection

Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
14. <input type="checkbox"/> Coastal Dunes	a. square feet	b. square feet	c. nourishment cu yd	d. nourishment cu yd
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	a. square feet	b. square feet		



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 4/10/2019 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE 075-0879 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) ☐ is subject to the Massachusetts Stormwater Standards
 - (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
 - ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
 - iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0879
MassDEP File #

eDEP Transaction #

Truro

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

SE# 075-0879

MassDEP File #

eDEP Transaction #

Truro

City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Truro hereby finds (check one that applies):
Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

Truro Conservation Bylaw

Chapter 8

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

See pages 10-A through 10-B

TOWN OF TRURO—ORDER C. CONDITIONS -AMENDED

408 SHORE ROAD ; Map 10, parcel 41

DEP file # SE 75-0879

KEVIN R. SHEA, JUDITH RICHLAND; OWNERS

DOCUMENTS

1. Letter to Conservation Commission requesting amendment of Order of Conditions SE 75-0879
2. Copy of original Order of Conditions issued April 12, 2012 and valid until April 12, 2019
3. Copies of site plan prepared by William Rogers, PE, dated March 2012.

PROJECT DESCRIPTION

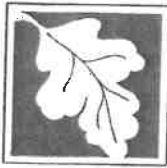
1. In 2012 an Order of Conditions was issued to allow the replacement of the existing wood bulkhead that runs across the seaward side of this property. The Conservation Commission approved construction of a taller (the beach elevations at this location are approximately 8' MSL; the height of the wall will be at 16' MSL) and more robust sheet-pile structure. The new bulkhead will be deeply-anchored with 25' steel tie rods with helical anchors. Backfill behind the new wall will approximate a finished grade of 15' MSL.
2. Condition # 3 in the Order of Conditions specifically required the applicant to submit new plans showing the bulkhead shifted 4' landward. The condition would have facilitated alignment of the seaward face of Mr. Shea's new bulkhead with the face of a potential new bulkhead serving the adjacent property to the east; this was reportedly anticipated by the Commission at the time. The 4' shift would place the bulkhead closer to Shore Road than the existing wood bulkhead.
3. The present amendment addresses the concern of the applicant that a bulkhead will not be proposed for shorefront protection of the abutting property to the east, as no bulkhead presently protects the property. Instead a Coastal Dune runs across the seaward side. The property owner has requested that condition 3 be removed from the Order. This amendment allows the site plans to remain unchanged, and the bulkhead to be installed as proposed.

The Commission determined that the Order can be amended with the following special conditions. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

SPECIAL CONDITIONS

1. the Commission shall be provided with 48 hour written notice prior to work start. The applicant shall also provide the Commission with the names and cellphone numbers of those persons responsible on-site for compliance with this Order. The applicant shall give written notice to the Commission upon completion of the project. Prior to the commencement of work, a sign shall be displayed at the site showing the DEP file number assigned to this project.
2. Prior to the commencement of any work, a pre-construction site visit shall be scheduled by the applicant's representative, and shall include the project Contractor, and the Conservation Agent. During this site visit the Order of Conditions, construction protocols work limit and site plan details shall be reviewed.
3. Access for equipment shall be across the applicant's property. Equipment storage shall be upland and not on the coastal beach or coastal dune. Materials shall be stored upland.
4. Backfill material shall be clean, compatible sand. Compatibility shall include naturally deposited sand from the Coastal Beach and Coastal Dune. Compatibility shall be determined using sieve analysis; a hard copy of the analysis shall be provided to the Conservation office prior to placement of any backfill.

5. Disturbed upland shall be replanted with American beach grass in a 12" matrix. Beach grass that does not survive the summer planting shall be replaced in the spring. Use of fertilizer is not allowed at this location.
6. All notes on the approved plan are adopted as a special condition.
7. All previous conditions remain active and in place with the singular exception of condition #3.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
SE# 075-0879
MassDEP File #

eDEP Transaction #
Truro
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

11/28/16
1. Date of Issuance

4
2. Number of Signers

Signatures:

James C. Buscegh
Henry W. H. Lamm
John C. McArthur

☐ by hand delivery on

☒ by certified mail, return receipt requested, on

Date

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
75-0872
MassDEP File #

eDEP Transaction #
TRURO
City/Town

A. General Information

Please note:
this form has
been modified
with added
space to
accommodate
the Registry
of Deeds
Requirements

Important:
When filling
out forms on
the
computer,
use only the
tab key to
move your
cursor - do
not use the
return key.



1. From: TRURO
Conservation Commission
2. This issuance is for
(check one): a. ☐ Order of Conditions b. ☒ Amended Order of Conditions

3. To: Applicant:

Joan Siniscalco
a. First Name b. Last Name

16 Stonegate Circle
c. Organization

Cheshire CT 06410
d. Mailing Address e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

a. First Name b. Last Name

c. Organization

d. Mailing Address

e. City/Town f. State g. Zip Code

5. Project Location:

402 SHORE ROAD TRURO
a. Street Address b. City/Town

MAP 10 PARCEL 22
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: 42d3m10s 70d7m00s
d. Latitude e. Longitude



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
BARNSTABLE
- | | |
|--------------|--|
| a. County | b. Certificate Number (if registered land) |
| 13530 | 012 |
| c. Book | d. Page |
| | |
7. Dates: (12-7-11) AND 10-3-16 (4-2-12) AND 11-7-16 (4-10-12) AND
a. Date Notice of Intent Filed b. Date Public Hearing Closed **11-28-16**
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
SITE AND SEWAGE DISPOSAL SYSTEM
- | | |
|--|--------------------------|
| a. Plan Title | |
| BENNETT ENVIRONMENTAL ASSOC. INC. | LINDA PINTO, PE |
| 11-01-16 | c. Signed and Stamped by |
| | 1"= 20' |
| d. Final Revision Date | e. Scale |
| NEW HOUSE FOR RYBECK/SINISCALO, pgs A1-A4 | 11-2-16 |
| f. Additional Plan or Document Title | g. Date |

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- | | | |
|--|--|---|
| a. <input type="checkbox"/> Public Water Supply | b. <input checked="" type="checkbox"/> Land Containing Shellfish | c. <input checked="" type="checkbox"/> Prevention of Pollution |
| d. <input type="checkbox"/> Private Water Supply | e. <input type="checkbox"/> Fisheries | f. <input checked="" type="checkbox"/> Protection of Wildlife Habitat |
| g. <input type="checkbox"/> Groundwater Supply | h. <input checked="" type="checkbox"/> Storm Damage Prevention | i. <input checked="" type="checkbox"/> Flood Control |

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

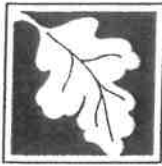
B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input type="checkbox"/> Bank	<u> </u> a. linear feet	<u> </u> b. linear feet	<u> </u> c. linear feet	<u> </u> d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	<u> </u> a. square feet <u> </u> e. c/y dredged	<u> </u> b. square feet <u> </u> f. c/y dredged	<u> </u> c. square feet	<u> </u> d. square feet
7. <input type="checkbox"/> Bordering Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet	<u> </u> c. square feet	<u> </u> d. square feet
Cubic Feet Flood Storage	<u> </u> e. cubic feet	<u> </u> f. cubic feet	<u> </u> g. cubic feet	<u> </u> h. cubic feet
8. <input type="checkbox"/> Isolated Land Subject to Flooding	<u> </u> a. square feet	<u> </u> b. square feet		
Cubic Feet Flood Storage	<u> </u> c. cubic feet	<u> </u> d. cubic feet	<u> </u> e. cubic feet	<u> </u> f. cubic feet
9. <input type="checkbox"/> Riverfront Area	<u> </u> a. total sq. feet	<u> </u> b. total sq. feet		
Sq ft within 100 ft	<u> </u> c. square feet	<u> </u> d. square feet	<u> </u> e. square feet	<u> </u> f. square feet
Sq ft between 100-200 ft	<u> </u> g. square feet	<u> </u> h. square feet	<u> </u> i. square feet	<u> </u> j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
12. <input checked="" type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	a. square feet	b. square feet	c. ^{cu yd} nourishment	d. ^{cu yd} nourishment
14. <input checked="" type="checkbox"/> Coastal Dunes	5700 a. square feet	5700 b. square feet	^{cu yd} c. nourishment	^{cu yd} d. nourishment
15. <input type="checkbox"/> Coastal Banks	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	a. square feet	b. square feet		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	a. c/y dredged	b. c/y dredged		
21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage	19, 256+/- a. square feet	19, 256+/-		
22. <input type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
75-0872
MassDEP File #

eDEP Transaction #
TRURO
City/Town

B. Findings (cont.)

* #23. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

23. ☐ Restoration/Enhancement *:

a. square feet of BVW

b. square feet of salt marsh

24. ☐ Stream Crossing(s):

a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. The work is a maintenance dredging project as provided for in the Act; or
 - b. The time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
 - c. If the work is for a Test Project, this Order of Conditions shall be valid for no more than one year.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order. An Order of Conditions for a Test Project may be extended for one additional year only upon written application by the applicant, subject to the provisions of 310 CMR 10.05(11)(f).
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 4-10-19 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act

8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.
9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 75-0872 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.
18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.
19. The work associated with this Order (the "Project")
- (1) ☐ is subject to the Massachusetts Stormwater Standards
- (2) ☒ is NOT subject to the Massachusetts Stormwater Standards

If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

- a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.
- b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:
- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;

v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.

c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following:

i.) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and

ii.) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.

d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.

e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.

f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



**Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands**

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

20. For Test Projects subject to 310 CMR 10.05(11), the applicant shall also implement the monitoring plan and the restoration plan submitted with the Notice of Intent. If the conservation commission or Department determines that the Test Project threatens the public health, safety or the environment, the applicant shall implement the removal plan submitted with the Notice of Intent or modify the project as directed by the conservation commission or the Department.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The TRURO hereby finds (check one that applies):
Conservation Commission
- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☒ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

TRURO CONSERVATION BYLAW

CH.8,S.1

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

PAGES 10 A,B,C

TOWN OF TRURO—ORDER OF CONDITIONS -AMENDED
402 SHORE ROAD ; Map 10, parcel 22
DEP file # SE 75-0872-A
JOAN SINISCALCO & BARBARA D. RYBECK, OWNER

DOCUMENTS

1. All documents included in original order and August 2016 amendment.
2. Abutters list dated 7-12-16; abutter notification letter dated 9-13-16; proof of mailings; narrative letter to the commission, submitted by Bennett Environmental Associates, Inc. dated 9-14-16; email signatures from applicant; Site photos
3. Email from D. Bennett dated 10-3-16
4. Letter from Truro Health department dated 10-7-16
5. Email from E. Beebe dated 10-20-16
6. Email from D. Bennett dated 10-21-16
7. Copy of DEP policy on amended orders
8. Letter from Bennett Environmental Associates, Inc. dated 11-2-16
9. "Site & Sewage disposal system Plan" prepared by Bennett Environmental Associates, Inc. and dated 9-12-16; revised date 11-1-16
10. "Agreement to waive participation requirements", signed by David Bennett of Bennett Environmental Associates, Inc.
11. Minutes from October 3, 2016 and November 7, 2016

PROJECT DESCRIPTION

1. The application associated with this amendment includes revised site plans and house plans for the former "Fore and Aft" motel building which was demolished in September 2016.
2. The south side of the property fronts Cape Cod Bay; Shore Road borders the property to the north. Resource Areas on this property include Barrier Beach, Coastal Beach, Coastal Dune and Land Subject to Coastal Storm Flowage defined as a Ve zone at elevation 15' (NAVD 88.)
3. The original Notice of Intent to demolish the motel and construct a single family dwelling was filed on December 7, 2011. An Order of Conditions was issued on April 10, 2012; under the benefit of the permit extension act it expires April 10, 2019. Board of Health approval was obtained in 2012; the application for dwelling approved by the Conservation Commission and Board of Health was withdrawn without prejudice from consideration by the Zoning Board of Appeals.
4. An amendment request was made in August 2016 to substitute the owners name as the applicant to expedite demolition of the structure; at that time they disclosed their intentions to downsize the dwelling approved in 2012 but did not submit revised house plans.
5. The current amendment request was made in September 2016 to substitute revised site plans that depicted a new footprint for a single family dwelling and a revised septic design. The revised plans were first reviewed by the Commission at their October 3 public hearing.
6. At the October 3 hearing the Commission discussed the role of the Coastal Dune at this location as the only available measure of shorefront protection in a velocity zone; properties to the east and west have wooden bulkheads. The Commission found that they needed more information about how the dune at this site would be restored and how the proposed foundation would be constructed; they continued the hearing to allow the applicant to provide additional information and specifically requested that the applicant submit a foundation plan.
7. The foundation plans and revised site plans were submitted to the Commission for the November 7 public hearing. The new materials included details about how they would re-build the Coastal Dune and aggressively revegetate the site. The Coastal Dune will be restored to a height to match the existing elevations at the east side of the property; the volume of this

restoration was estimated by Bennett Environmental Associates, Inc. (BEA) at more than 500 cubic yards of sand. The sand will be collected on the site using snow fences and vegetation.

The Commission determined that the Order of Conditions can be further amended with the following special conditions. To the extent that these conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

SPECIAL CONDITIONS

1. Notes on the plan and BEA letter dated 11-2-16 are incorporated as special conditions.
2. Aggressive sand collection using snow fence shall be constantly underway at this property to rebuild the coastal dune to match the 17'+ elevations on the east side of the property. Snow fencing will be installed on an as-needed basis; exposed height of the snow fence slats shall not be less than 12". New fencing shall be installed as the fence below is covered with sand.
3. Snow fencing shall be installed across the property in multiple rows parallel and perpendicular to the beach, and installation shall commence no later than December 5, 2016.
4. Prior to construction of the pile foundation a pre-construction site visit shall be scheduled by the applicant to include the building contractor, foundation contractor, BEA and the Truro Conservation Agent to review the Orders of Conditions, approved plans and work limit. In order to prevent impacts to Coastal Dune and vegetation the pre-construction onsite will also include review of the site layout for location of: construction materials and deliveries, the covered dumpster, the portajohn and worker parking. These elements will be located on a sketch prepared by the applicant and submitted to the Conservation department and approved by the Commission or their Agent prior to commencement of construction.
5. The dumpster used at this site shall be covered. The portajohn at this site shall be properly tied down to prevent blow-overs.
6. Prior to construction a high-visibility 4' orange (plastic) construction fence shall be set up as the limit of work. The area within the work-limit shall be policed daily for demolition and worker debris. The contractor shall not allow debris to migrate into adjacent resource areas or private properties. The apron on Shore Road shall be swept clean daily.
7. Clean, compatible sand may be placed on the site to restore Coastal Dune elevations to pre-storm grades. Prior to placing sand fill the contractor must notify the conservation office in writing at least 48 hours in advance; this notice shall include the amount of material to be placed, and a sieve analysis demonstrating compatibility with adjacent beach sands.
8. Destruction of vegetation at this site shall be prevented; care shall be taken to protect beach grass on this site whenever possible. Pathways to the water shall be established using snowfence and shall not be set perpendicular to the beach.
9. The area under the building shall not be enclosed in any way or used for storage. The Coastal Dune shall be allowed to migrate and change form and volume. Beach grass shall be planted and allowed to migrate.
10. The stairs from the decks to the beach as shown on the site plans shall be seasonal and designed to be removed and stored/secured outside of the flood zone.
11. The septic tank tie-downs shall be secured with helical anchors.
12. Pile-driving for the foundation shall be staged from the shore road side of the property.
13. Temporary use of staked jute to hold the sand is acceptable after review with Conservation staff.

14. All previous conditions adopted under the original and amended Order of Conditions are still valid conditions that pertain to this property.
15. Any changes to the approved plans require the applicant to return to a public hearing with the Conservation Commission.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

11-28-16
(amended)

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

4
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

James A. Buscaglia
Henry W. Lane
Deborah C. McArthur

☒ by hand delivery on

11/28/16
Date

☐ by certified mail, return receipt requested, on

Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request for Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
75-0872

MassDEP File #

eDEP Transaction #

TRURO

City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

TRURO

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

TRURO

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

402 SHORE ROAD

Project Location

75-0872

MassDEP File Number

Has been recorded at the Registry of Deeds of:

BARNSTABLE

County

13530

Book

12

Page

for: JOAN SINISCALCO AND BARBARA D. RYBECK, OWNERS
Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

APRIL 10, 2012 and amended 11-28-16

Date

If recorded land, the instrument number identifying this transaction is:

Bk 30119 Pg 54 #61957
11-29-2016 @ 09:50a

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant



TOWN OF TRURO

HEALTH DEPARTMENT

P.O. Box 2030, Truro MA 02666

Tel: 508-349-7004 Fax: 508-349-5508

November 3, 2016

William N. Rogers II, PE, PLS
Professional Civil Engineers and land Surveyors
41 Off Cemetery Road
Provincetown, MA 02657

RE: Kevin R. Shea and Judith Richland, 408 Shore Rd, Request for Variance to Truro Board of Health Regulation Section VI, Article 8: Required Setback for System Components

Dear Mr. Rogers:

Please be advised that the Truro Board of Health at their meeting held on November 1, 2016 the Board voted unanimously to approve the requested variances for the above reference property.

FOR YOUR INFORMATION THE MOTION STATED:

Jason Silva made a motion to approve the variances as requested:
Section VI, Article 8, Required Setback for System Components

- (1) Proposed Septic tank is less than 100' from the proposed wetland (coastal dune). (100' required, 0 proposed).
- (2) Proposed soil absorption system is less than 150 feet from the proposed wetland (coastal dune). (150' required, 0 proposed).

With the following conditions:

1. a revised plan be submitted to show the date of deep observation hole test, and the names of the representative of the Approving Authority and soil evaluator.
2. any proposed changes such as the footprint of the dwelling, location of the septic system or the approved variances will require further review by the Board of Health.
3. pending approval by the Conservation Commission.
4. that the septic tank be counterweighted or secured with tie downs.

Peter Van Stratum seconded. Vote 3-0-0, motion carries.

Please feel free to contact me with any questions you may have.

Sincerely,

Patricia Pajaron, R.S.
Health/Conservation Agent

cc: Board of Health
Kevin R. Shea & Judith Richland



TOWN OF TRURO

HEALTH DEPARTMENT

P.O. Box 2030, Truro MA 02666

Tel: 508-349-7004 Fax: 508-349-5508

RECEIVED OCT 14 2016

October 7, 2016

David C. Bennett
Bennett Environmental Associates, Inc.
1573 Main Street
PO Box 1743
Brewster, MA 02631
& EMAIL

RE: Joan Siniscalco and Barbara Rybeck, 402 Shore Road, Request for Title 5 Variance, 15. 213: Construction in Velocity Zones and Floodways and Truro Board of Health Regulation Section VI, Article 8, Required Setback for System Components

Dear Mr. Bennett:

Please be advised that the Truro Board of Health at their regularly scheduled meeting on October 4, 2016 made a motion regarding the above-referenced variance approval.

FOR YOUR INFORMATION THE MOTION STATED:

Mark Peters moved to approve the variances as requested:

15. 213: Construction in Velocity Zones and Floodways

(1) Proposed septic tank to be installed below the velocity zone elevation.

Truro Board of Health Regulation Section VI, Article 8, Required Setback for System Components

(1) Proposed Septic tank is less than 100' from the proposed wetland (barrier beach & coastal dune). (100' required, 0 proposed).

(2) Proposed soil absorption system is less than 150 feet from the proposed wetland (barrier beach & coastal dune). (150' required, 0 proposed).

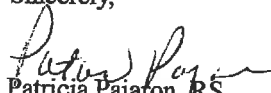
With the following conditions:

1. any proposed changes such as the footprint of the dwelling, location of the septic system or the approved variances will require further review by the Board of Health.
2. pending approval by the Conservation Commission.
3. that the septic tank be secured with tie downs.

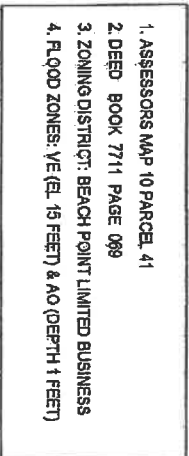
Ansel Chaplin seconded. Vote 5-0-0, motion carries.

Please feel free to call me at 508-349-7004 x32 with any questions you may have.

Sincerely,


Patricia Pajaron, RS
Health Agent

cc: Board of Health
Property Owner



REVISIONS	1/11/16 3D SETBACK (Z)
	8/19/17 PARCEL 3 ADDED
	11/11/17 LANDSCAPING

DRAWINGS : ARCHITECTURAL SITE PLAN
: PRELIMINARY LANDSCAPING PLAN
:
SCALE : 1" = 20'
DATE : 10 / 18 / 2016

SHEA / RICHLAND RESIDENCE
408 SHORE ROAD
TRURO, MA

KEVIN R SHEA R A
357 HARVARD STREET
CAMBRIDGE, MA 02138
Tel: 617-413-7970



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form

DATE: November 9, 2017

NAME OF APPLICANT: Christopher J. Snow, Esq., Snow and Snow

NAME OF AGENT (if any): _____

MAILING ADDRESS: P.O. Box 291, Provincetown, MA 02657

PHONE: HOME _____ WORK 508-487-1160

CELL _____ FAX _____

PROPERTY LOCATION: 408 Shore Road

(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 10 PARCEL 41

ABUTTERS LIST NEEDED FOR: (Fee must accompany the application unless other arrangements are made)

Please check applicable:

	FEE: /		FEE:
____ Board of Health	\$15.00	____ Planning Board	
____ Cape Cod Commission	\$15.00	____ Special Permit	\$15.00
____ Conservation Commission	\$15.00	____ Site Plan	\$15.00
____ Zoning Board of Appeals	\$15.00	____ Preliminary Subdivision	\$15.00
____ Licensing	\$15.00	____ XXX Definitive Subdivision	\$15.00
____ Other _____			Inquire

(Please Specify)

*Please Note: Per MGL, processing may take up to 10 calendar days
Please plan accordingly.*

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 11/13/2017 Date completed: 11/13/2017

List completed by: Kathleen Sullivan

Revised 1/21/17



TRURO ASSESSORS OFFICE

P.O. Box 2012 Truro, MA 02666

Telephone: (508) 349-7004 Ext. 117

Fax: (508) 349-5506

Date: November 13, 2017

To: Christopher J. Snow, Esq.; Snow and Snow

From: Assessors Department

Certified abutters list for: Planning Board Definitive Subdivision

Attached is a list of abutters for the property located at *408 Shore Road* on Assessor's *Map 10, Parcel 41*. The current owner(s) as of *October 11, 1991* is/are *Kevin R. Shea and Judith Richland*. The names and addresses of the abutters are as of *November 3, 2017* according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: *Kathleen M. Sullivan*

Kathleen M Sullivan

Assessor's Clerk

Town of Truro

P.O. Box 2012

Truro, MA 02666

Telephone: 508-349-7004, x117

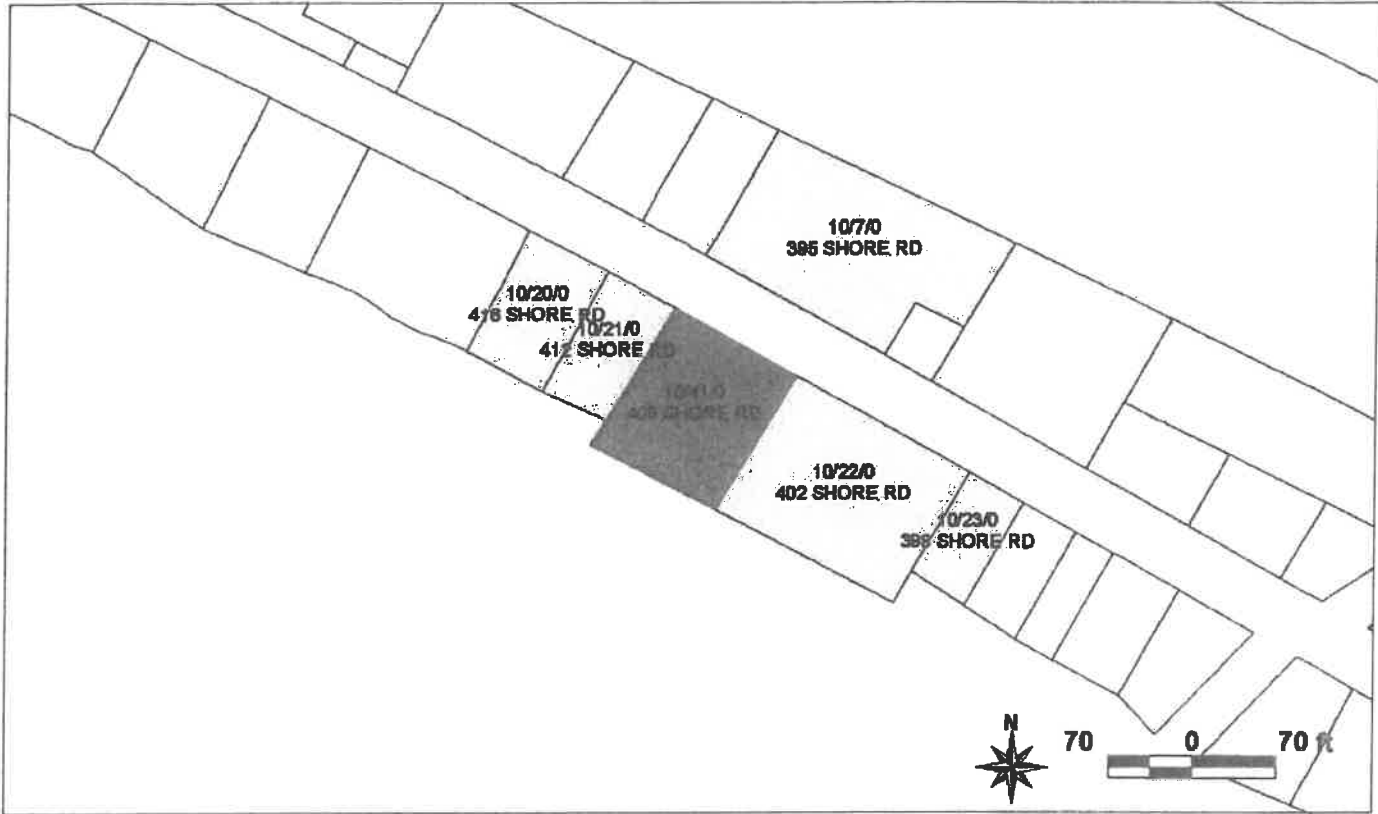
Fax: 508-349-5506

ksullivan@truro-ma.gov

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

408 SHORE ROAD
MAP 10 PARCEL 41

PLANNING BOARD DEFINITIVE SUBDIVISION Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
302	10-7-0-R	MURTAGH JULIE & PORZIO MARIE	395 SHORE RD	1302 APOLLO BEACH BLVD SOUTH	APOLLO BEACH	FL	33572
315	10-20-0-R	SHAPIRO KENNETH	416 SHORE RD	460 HILLSIDE AVE	NEEDHAM	MA	02484
316	10-21-0-R	DITACCHIO ANNE S	412 SHORE RD	PO BOX 829	NO TRURO	MA	02652-0829
317	10-22-0-R	SINISCALCO JOAN & RYBECK BARBARA D	402 SHORE RD	16 STONEGATE CIR	CHESHIRE	CT	06410
318	10-23-0-R	COTTAGE REALTY TRUST TRS: MCDERMOTT JAMES E ET AL	398 SHORE RD	C/O ANANIA PAT PO BOX 331	WEST OSSIPEE	NH	03890-0331
5688	10-41-0-R	SHEA KEVIN R & RICHLAND JUDITH	408 SHORE RD	357 HARVARD ST APT 1	CAMBRIDGE	MA	02138

10-7-0-R

MURTAGH JULIE & PORZIO MARIE
1302 APOLLO BEACH BLVD SOUTH
APOLLO BEACH, FL 33572

10-20-0-R

SHAPIRO KENNETH
460 HILLSIDE AVE
NEEDHAM, MA 02494

10-21-0-R

DITACCHIO ANNE S
PO BOX 829
NO TRURO, MA 02652-0829

10-22-0-R

SINISCALCO JOAN &
RYBECK BARBARA D
16 STONEGATE CIR
CHESHIRE, CT 06410

10-23-0-R

COTTAGE REALTY TRUST
TRS: MCDERMOTT JAMES E ET AL
C/O ANANIA PAT
PO BOX 331
WEST OSSIPPEE, NH 03890-0331

10-41-0-R

SHEA KEVIN R &
RICHLAND JUDITH
357 HARVARD ST APT 1
CAMBRIDGE, MA 02138



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form

DATE: November 9, 2017

NAME OF APPLICANT: Christopher J. Snow, Esq.; Snow and Snow

NAME OF AGENT (if any): _____

MAILING ADDRESS: P.O. Box 291, Provincetown, MA 02657

PHONE: HOME _____ WORK 508-487-1160

CELL _____ FAX _____

PROPERTY LOCATION: 402 Shore Road

(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 10 PARCEL 22

ABUTTERS LIST NEEDED FOR: (Fee must accompany the application unless other arrangements are made)

Please check applicable:

	FEE: /		FEE:
<input type="checkbox"/> Board of Health	\$15.00	<input type="checkbox"/> Planning Board	
<input type="checkbox"/> Cape Cod Commission	\$15.00	<input type="checkbox"/> Special Permit	\$15.00
<input type="checkbox"/> Conservation Commission	\$15.00	<input type="checkbox"/> Site Plan	\$15.00
<input type="checkbox"/> Zoning Board of Appeals	\$15.00	<input type="checkbox"/> Preliminary Subdivision	\$15.00
<input type="checkbox"/> Licensing	\$15.00	<input checked="" type="checkbox"/> Definitive Subdivision	\$15.00
<input type="checkbox"/> Other _____			Inquire

(Please Specify)

*Please Note: Per MGL, processing may take up to 10 calendar days
Please plan accordingly.*

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 11/13/2017

Date completed: 11/13/2017

List completed by: Kathleen Sullivan

Revised 1/21/17



TRURO ASSESSORS OFFICE

P.O. Box 2012 Truro, MA 02666

Telephone: (508) 349-7004 Ext. 117

Fax: (508) 349-5506

Date: November 13, 2017

To: Christopher J. Snow, Esq.; Snow and Snow

From: Assessors Department

Certified abutters list for: Planning Board Definitive Subdivision

Attached is a list of abutters for the property located at *402 Shore Road* on Assessor's *Map 10, Parcel 22*. The current owner(s) as of *January 4, 2012* is/are *Joan Siniscalco and Barbara D. Rybeck*. The names and addresses of the abutters are as of *November 3, 2017* according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: *Kathleen Sullivan*

Kathleen M Sullivan

Assessor's Clerk

Town of Truro

P.O.Box 2012

Truro, MA 02666

Telephone: 508-349-7004, x117

Fax: 508-349-5506

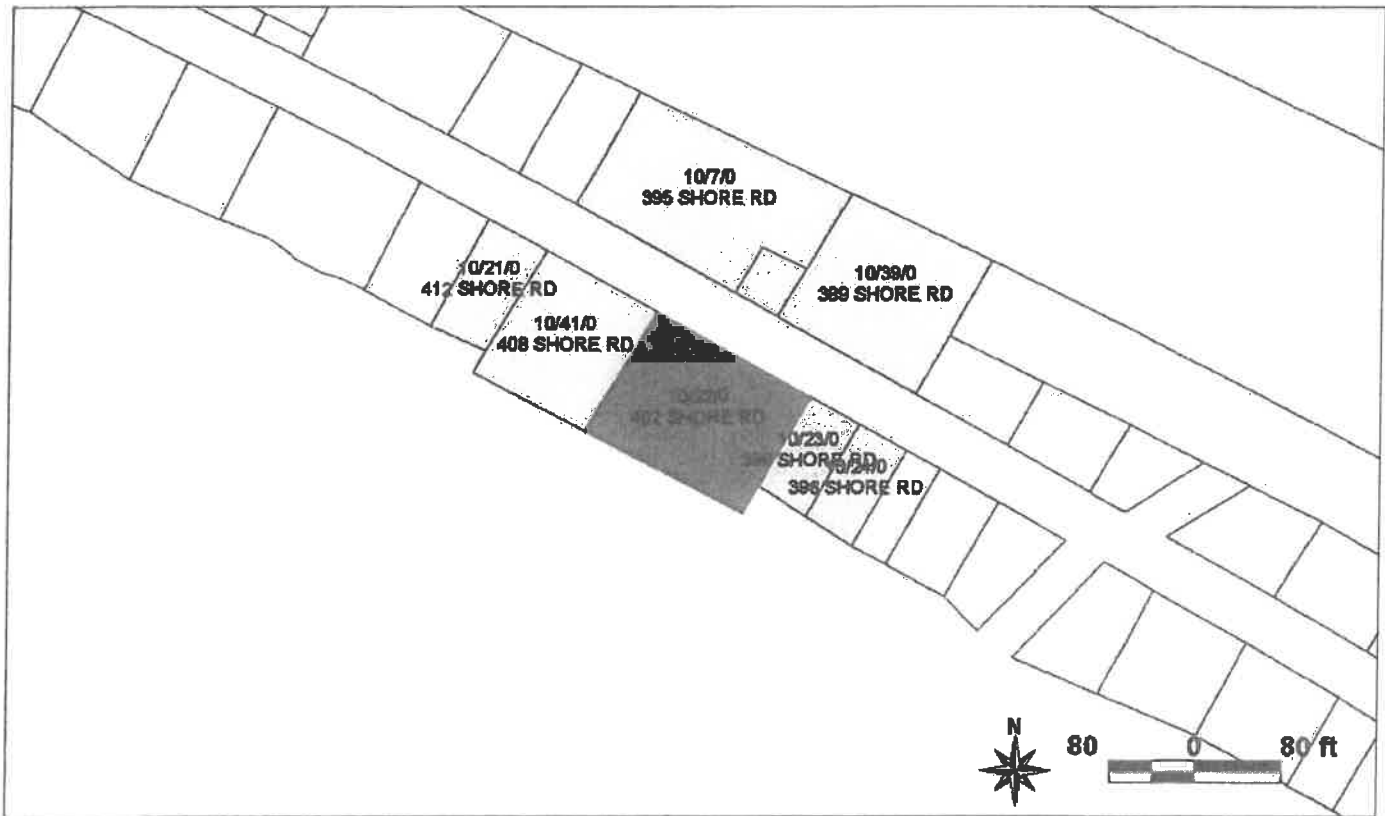
ksullivan@truro-ma.gov

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

402 SHORE ROAD
MAP 10 PARCEL 22

PLANNING BOARD DEFINITIVE SUBDIVISION

Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
302	10-7-0-R	MURTAGH JULIE & PORZIO MARIE	395 SHORE RD	1302 APOLLO BEACH BLVD SOUTH	APOLLO BEACH	FL	33572
316	10-21-0-R	DITACCHIO ANNE S	412 SHORE RD	PO BOX 829	NO TRURO	MA	02652-0829
317	10-22-0-R	SINISCALCO JOAN & RYBECK BARBARA D	402 SHORE RD	16 STONEGATE CIR	CHESHIRE	CT	06410
318	10-23-0-R	COTTAGE REALTY TRUST TRS: MCDERMOTT JAMES E ET AL	398 SHORE RD	C/O ANANIA PAT PO BOX 331	WEST OSSIPEE	NH	03890-0331
319	10-24-0-R	MORSE MARJORIE J REV TR ETAL TRS: MORSE MARJORIE J	396 SHORE RD	4 SUFFOLK PARK	NASHUA	NH	03063-7018
331	10-34-0-R	MURTAGH JULIE & PORZIO MARIE	393 SHORE RD	1302 APOLLO BEACH BLVD S	APOLLO BEACH	FL	33572
332	10-39-0-R	STEPHEN P BERNARDI TRUST 2013 BERNARDI STEPHEN P & DIANE M	389 SHORE RD	250 GROVE ST	FRAMINGHAM	MA	01701
5688	10-41-0-R	SHEA KEVIN R & RICHLAND JUDITH	408 SHORE RD	357 HARVARD ST APT 1	CAMBRIDGE	MA	02138

10-7-0-R

MURTAGH JULIE & PORZIO MARIE
1302 APOLLO BEACH BLVD SOUTH
APOLLO BEACH, FL 33572

10-21-0-R

DITACCHIO ANNE S
PO BOX 829
NO TRURO, MA 02652-0829

10-22-0-R

SINISCALCO JOAN &
RYBECK BARBARA D
16 STONEGATE CIR
CHESHIRE, CT 06410

10-23-0-R

COTTAGE REALTY TRUST
TRS: MCDERMOTT JAMES E ET AL
C/O ANANIA PAT
PO BOX 331
WEST OSSIPEE, NH 03890-0331

10-24-0-R

MORSE MARJORIE J REV TR ETAL
TRS: MORSE MARJORIE J
4 SUFFOLK PARK
NASHUA, NH 03063-7018

10-34-0-R

MURTAGH JULIE & PORZIO MARIE
1302 APOLLO BEACH BLVD S
APOLLO BEACH, FL 33572

10-39-0-R

STEPHEN P BERNARDI TRUST 2013
BERNARDI STEPHEN P & DIANE M
250 GROVE ST
FRAMINGHAM, MA 01701

10-41-0-R

SHEA KEVIN R &
RICHLAND JUDITH
357 HARVARD ST APT 1
CAMBRIDGE, MA 02138

DEED

Norfolk Holdings Corp., a corporation organized under the laws of the Commonwealth of Massachusetts and having its usual place of business at Batterymarch Park, Quincy, Norfolk County, Massachusetts 02169 ("Grantor") for consideration paid of Forty Thousand (\$40,000.00) Dollars grants to Kevin R. Shea and Judith Richland, husband and wife, as joint tenants with an address of 357 Harvard Street, Cambridge, MA 02138, with quitclaim covenants, the land described as follows:

PARCEL I

NORTHEASTERLY: by Route 6A, a Fifty (50.00) foot wide public way, One Hundred Fifty-Four and 00/100 (154.00) feet;

EASTERLY: by land now or formerly of McDermott as shown on the plan hereinafter mentioned One Hundred Twenty (120.00) feet;

SOUTHEASTERLY: by the waters of Cape Cod Bay as shown on said plan, One Hundred Fifty-Four and 00/100 (154.00) feet;

WESTERLY: by Lot F shown on said plan One Hundred Twenty and 00/100 (120.00) feet, more or less.

Shown as Lot A on a plan entitled "Plan of Land in Truro, Mass. prepared for North Truro Associates, Inc. by McKinnon and Sons, North Dartmouth, Mass., dated August 18, 1987 and recorded in said Deeds in Book 438, Page 48.

Subject to a mortgage held by Pat S. Siniscalco, Joan Siniscalco and James Rybeck dated September 11, 1987, recorded in said Deeds in Book 5925, Page 047.

PARCEL II

NORTHERLY: by Route 6A, a Fifty (50.00) foot wide public way, One Hundred Twelve and 00/100 (112.00) feet;

EASTERLY: by Lot "A" shown on the above referenced plan, One Hundred Twenty and 00/100 (120.00) feet, more or less;

DEEDS REG 01
BARNSTABLE
10/11/91
CANCELLED

TAX 136.88
CHK 136.88
2942A800 12:41
EXCISE TAX

SOUTHERLY: by the waters of Cape Cod Bay as shown on said plan, One Hundred Twelve and 00/100 (112.00) feet; and

WESTERLY: by land now or formerly of Fortier as shown on said plan, One Hundred Twenty and 00/100 (120.00) feet.

Shown as Lots C, D, E and F on the above-referenced plan.

The above referenced lots have been combined to form one lot as shown on a plan entitled "Plan of Land in (North) Truro as surveyed for Norfolk Holdings Corp." by William N. Rogers, Provincetown, MA, dated October, 1990 and recorded in the Barnstable County Registry of Deeds in Book ~~7220~~ ⁴³ Page ~~432~~ ⁴⁸²

In addition, Grantor hereby grants to Grantee all its right title and interest, if any, in and to those portions of the land designated on the plan recorded at Book ~~7220~~ ⁴³ Page ~~432~~ ⁴⁸² as "Claimed by Norfolk Holdings Corp.," shown as a strip of land on the westerly side of the premises containing 860 square feet and a strip of land on the easterly side of the premises containing 1,203 square feet.

For grantor's title for the above described property, see deed dated June 18, 1990, recorded with the Barnstable Registry of Deeds in Book 7220, Page 328.

WITNESS my hand and seal this Tenth day of October, 1991.

By: 

Quinlan Sullivan, its
President
duly authorized

THE COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

October 10, 1991

Then personally appeared the above-named Quinlan Sullivan, its President, and acknowledged the foregoing instrument to be the free act and deed of Norfolk Holding Corp., before me,


Notary Public

My Commission expires:

BRUCE H. BAGDASARIAN
MY COMMISSION EXPIRES 8-24-95

BOOK 438 PAGE 412

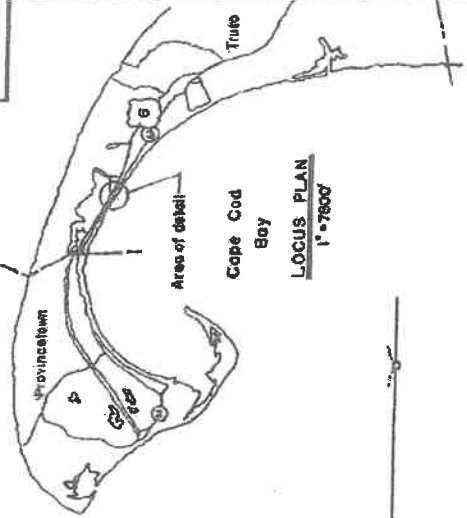
SEP 14 1987

TRURO PLANNING BOARD
APPROVAL UNDER THE SUBDIVISION
CONTROL LAW NOT REQUIRED.

James P. Riddle
Robert J. Sullivan
for City

APPROVED
DATE

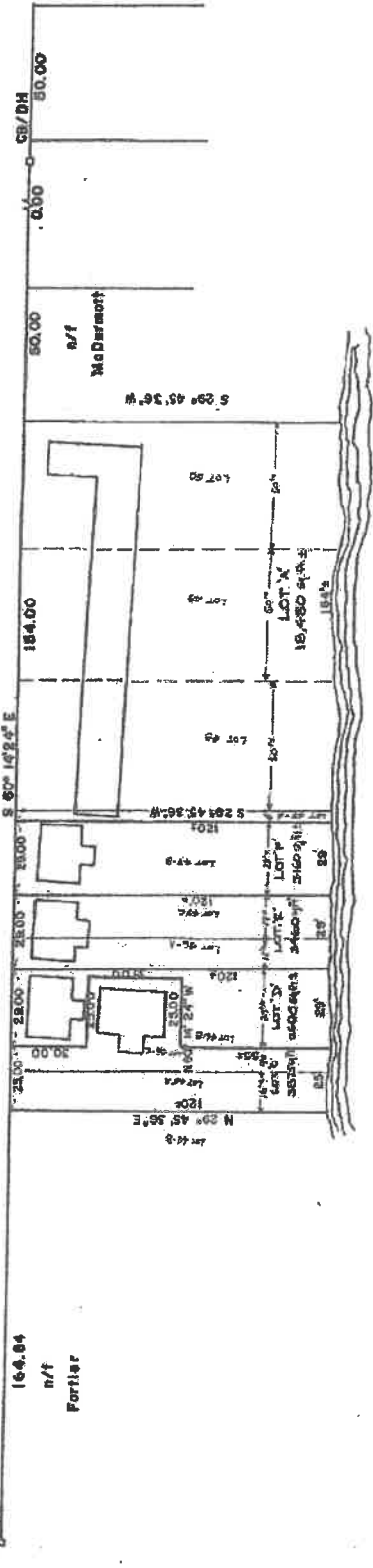
* NOTE: Endorsement herein gives the lots
no standing with the Zoning By-Laws.



Cape Cod Bay
LOCUS PLAN
1"=7800'

MHS 325.50 N 60° 14' 24" W

COUNTY ROAD (Public 50' R.O.W.) ROUTE 6A



Cape Cod Bay

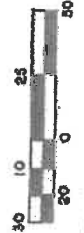
FOR REGISTRY USE ONLY

I hereby certify that this plan
has been prepared in accordance
with the rules and regulations of
the Registry of Deeds of the
Commonwealth of Massachusetts.

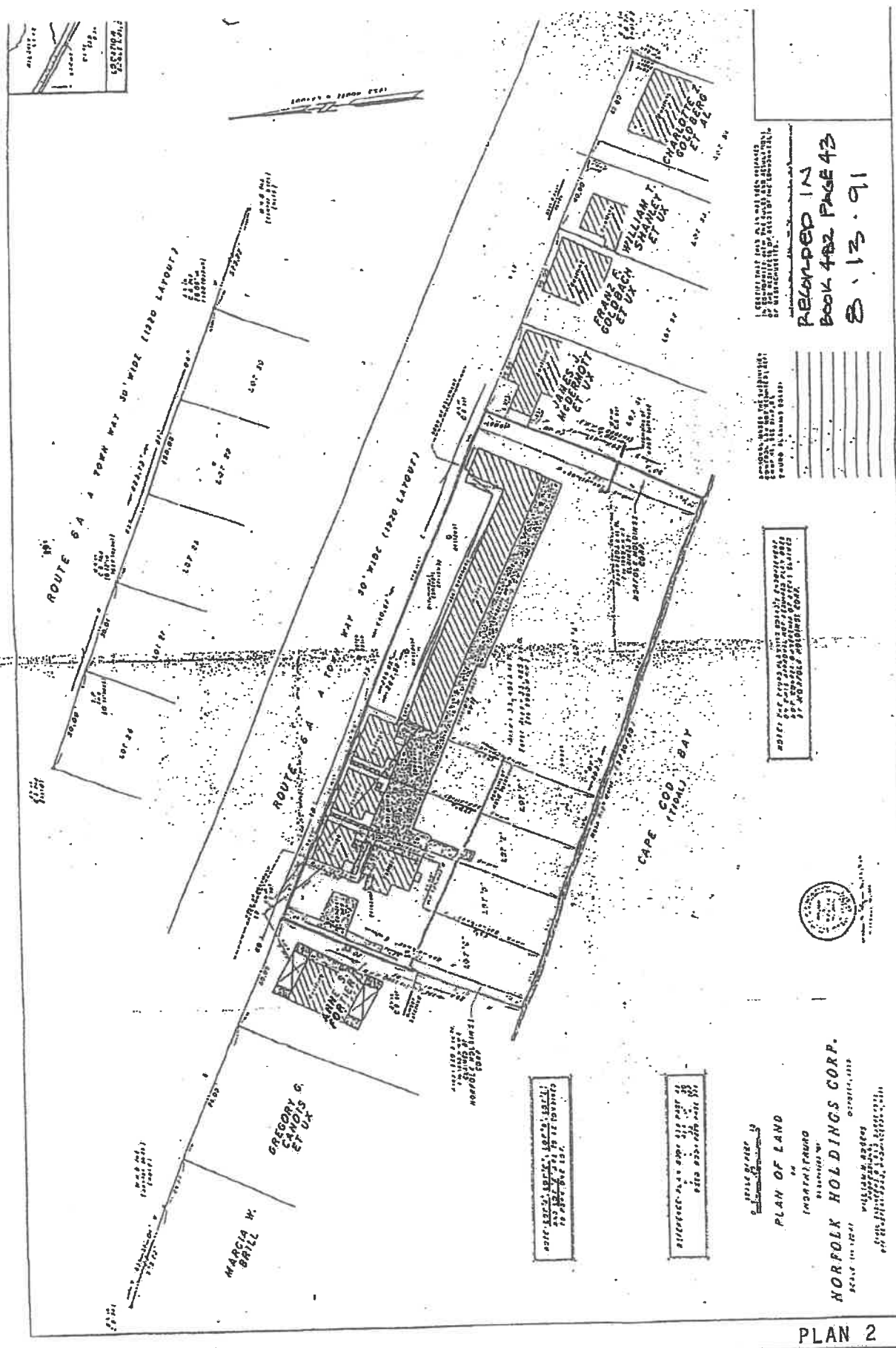
John D. McKinnon
Registered Land Surveyor Date



PLAN OF LAND IN
TRURO, MASSACHUSETTS
PREPARED FOR
NORTH TRURO ASSOCIATES, INC.
SCALE: 1"=30'
DATE: 8/18/87
PREPARED BY
JAMES K.
MCKINNON and SONS
469 Slocum Rd.
N. Dartmouth, MA 02747



438-48



RECORDED IN
BOOK 482 PAGE 43
B. 13. 91

NOTICE: THIS MAP WAS PREPARED BY THE ENGINEER OF THE DISTRICT OF MASSACHUSETTS, AND IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

NOTICE: THE ENGINEER OF THE DISTRICT OF MASSACHUSETTS, HAS REVIEWED THIS MAP, AND IS NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION CONTAINED HEREIN.

NORFOLK HOLDINGS CORP.
SCALE 1" = 100'
WILLIAM T. STANLEY
ENGINEER

PLAN OF LAND
IN
NORFOLK HOLDINGS CORP.

WILLIAM T. STANLEY
ENGINEER

WILLIAM T. STANLEY
ENGINEER

PLAN 2

**WAIVER REQUESTS
DEFINITIVE SUBDIVISION
402 & 408 SHORE ROAD
KEVIN SHEA *ET UX* & BARBARA D. RYBECK
AND JOAN SINISCALCO**

The plan presented to the Board is for two pre-existing lots intended for construction of two single family homes without roadways, with existing conditions for landscaping and restorative planning. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

Given the unique history of the properties and the low impact of the subdivision plans on the neighborhood, Applicants Kevin Shea, Judith Richland, Barbara D. Rybeck and Joan Siniscalco, pursuant to Sections 1.5 and 3.1 of the Town of Truro Rules and Regulations Governing the Subdivision of Land, hereby request the below waivers. The requested waivers are in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as suggested by the Zoning Board and Acting Town Planner and the fact that the time limit for implementing the variances is fast

approaching, requiring the Applicants to comply with the requested waived items would create a substantial hardship for the Applicants.

1. **Section 3.2 Conformance With Zoning:** Applicants seek a waiver from the frontage requirements of the Truro Zoning By-Law for 408 Shore Road as a variance was obtained from the Truro Zoning Board of Appeals permitting construction of a single family residence on a lot with less than the required frontage. Also, a waiver from the lot size requirements of the Truro Zoning By-Laws is sought for 402 Shore Road as a variance was obtained from the Truro Zoning Board of Appeals permitting construction of a single family residence on a lot with less than the required lot size.

2. **Section 2.5.2 Submission Requirements For Definitive Plans:**

a. General

4. Twelve Copies of Plan, Profiles, etc.
5. Two Copies of 1" = 100' plans with lot #s, lot areas
6. Two Copies of Drainage Calculation and plan
10. Three proposed road names
11. Written statement regarding timing for construction

b. Contents of Plan

5. Existing & Proposed methods of road drainage and utilities
6. * Gross area of roads & cul-de-sacs, square footage and acres;
* Area subject to Wetlands/ConCom;

- * Cross-area of wetlands, square footage & acres, for entire subdivision;
 - * Net area of wetlands within each lot, square footage and percentage;
 - * New area of contiguous upland for each lot, square footage and percentage;
8. Easements, covenants, rights-of-way and/or restrictions applicable to the area;
 8. Existing and proposed lines of streets, ways, lots, easements, any public or common areas;
 9. Existing and proposed lines of any easements, access or other purposes, the location, ownership and expiration dates of any conservation restrictions;
 10. Topography of the land in 2 foot contours;
 13. Location of wetlands within 100 feet;
 14. Flood Elevations – BFE data where any portion of property lies in 100 year;
 15. Sufficient data to determine location, direction, length of every Way; lot line; Boundary line; Length and radii of all curves;
 16. For all ways involved in access: The grade and width of road layout; location of the roadway within the layout; sight distance at intersections; physical condition of the road width, surface, depth of surface materials, condition of road surface;
 17. Notation regarding permanent bounds to be set;
 22. Two Benchmarks taken from USGS data;

c. Contents of Plan, Profile, Cross-Sections of Proposed Streets:

Applicants seek a waiver from all provisions of Section 2.5.2 (c) as no new streets are being proposed.

3. **Section 2.5.3 Staking of Proposed Subdivision**
4. **Section 2.5.4.c. Performance Guarantee**
5. **Section 3.5 Utilities:** The properties will be serviced through existing utility lines located on Shore Road.

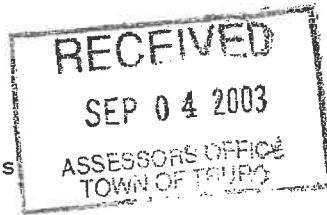
ZISSON AND VEARA

ATTORNEYS AT LAW

RICHARD L. ZISSON
EDWARD E. VEARA
JILL J. BROFSKY
E. JAMES VEARA
PAUL V. BENATTI
SARAH A. TURANO-FLORES
BENJAMIN E. ZEHNDER
LORI CURTIS KRUSELL
ALANNA D. BRAVMAN
LISA M. WESTERVELT*
MICHAEL I. FLORES
MARY E. PYLES**

*ALSO ADMITTED IN NEW YORK

**ALSO ADMITTED IN ARIZONA



865 PROVIDENCE HIGHWAY
DEDHAM, MASSACHUSETTS 02026-6825
TEL (781) 329-1110
FAX (781) 329-5119

828 MAIN STREET-BOX 2031
OLD KINGS HIGHWAY
DENNIS, MASSACHUSETTS 02638-0043
TEL (508) 385-6031
FAX (508) 385-6914

September 3, 2003

Linda Maloney, Deputy Assessor
Town of Truro
P. O. Box 2030
Truro, MA 02666

Re: 402 Shore Road (former For'N Aft Motel)

Dear Linda:

I am writing in response to your August 27, 2003 inquiry concerning the above-referenced property and how the Board of Assessors should assess it. Once under single ownership, the parcel now consists of Lot "A," on the plan recorded at Book 438, Page 48, and the combined Lots C, D, E and F on that said plan. In rendering this opinion, it was necessary that I review our closed litigation files involving the U.S. Trust/Norfolk and Stephen Williams, as the Building Commissioner. This civil action was commenced in 1988 in the Barnstable Superior Court, and it was ultimately settled by an "Agreement for Judgment" in June of 1991. I will give you a brief history of what resulted in the situation we now have, but at the outset, I would advise that, because there has been a severance of ownership due to a foreclosure of a mortgage, the assessors can and legally should separately assess to the current owner what was formerly shown as Lot A (the motel property). This parcel is distinct from the combined lot which is the site of four cottages.

This matter started when previous owners drew a plan of the property and presented it to the Truro Planning Board for an "approval not required" endorsement. The owners at that time were able to convince the Planning Board that, because there was an old subdivision of lots laid out on Beach Point and because a provision of Massachusetts General Laws provides that, if there is a lot created prior to the adoption of subdivision control law and on which there stood a

structure, the division of the parcel was not a "subdivision." The owners obtained the ANR endorsement for what then became the plan recorded in the Barnstable Registry of Deeds in Book 438, Page 48. This plan was recorded on September 14, 1987.

When he discovered this plan, Stephen Williams, then the Building Commissioner and zoning enforcement officer of the Town, took the position that this plan did not follow the original lot lines of the old subdivision plan of this Beach Point area but, instead, created new lines (which you can see on the copy of the plan that you provided in the materials you mailed to me). All of the old lots have a specific width of 50'. Therefore, Mr. Williams concluded that the creation of the lot lines in this plan ran afoul of zoning due to sideline set-backs, distances between buildings, and a number of other zoning constraints. This position and the owners' redrawing of those lines led to the 1988 lawsuit in the Barnstable Superior Court. In that litigation, the Building Commissioner sought a declaration that the Planning Board was not compelled to approve, and in fact erred in approving, the plan that was recorded in Book 438, Page 48. The owners, he contended, did not benefit from that provision of law concerning pre-existing lots and buildings. The Building Commissioner also sought a binding declaration that the lots and structures on that plan created violations of the zoning bylaw, and he sought to enjoin the landowners from either using any of the structures or conveying them into separate ownership until there was either full compliance with the zoning bylaw or a determination by the Superior Court.

Thereafter, the Town sought and obtained an order of the court called a *lis pendens* which was recorded in the Barnstable Registry of Deeds. This is in essence a notice to all the world that there is litigation concerning this plan and the lots shown on the plan. Potential buyers are put on notice that they may in fact have their conveyance set aside as a result of the declaration sought in the Superior Court action. Unfortunately, by the time this all was discovered by Mr. Williams, certain mortgages had been placed on the property for each of the lots shown on the plan at Book 438, Page 48.

The mortgages entailed a first mortgage or senior mortgage granted to a gentleman by the name of Siniscalco. There was, in addition to his mortgage, a second mortgage which covered all of the lots and which was granted to the U.S. Trust Norfolk Bank. It was the placement of these mortgages that ultimately led to the problem we have today.

During the course of the litigation, the original defendants did not defend, and because of the lawsuit, the U.S. Trust Norfolk considered the mortgagee to be in default of the terms of their second mortgage. The Bank commenced a foreclosure action. This foreclosure action ultimately resulted in the entire property being acquired by U.S. Trust Norfolk. Nevertheless, the U.S. Trust Norfolk ownership was subject to the to a first mortgage on Lot A. This was the mortgage held by the Siniscalco group.

The U.S. Trust Norfolk did not want to litigate the issue of the legitimacy of the plan that created the various sub-lots, and therefore, it negotiated with the Town a settlement wherein the Bank agreed, as the owner of the property, to re-combine all of the lots by virtue of a plan which was created in October of 1990. The plan was prepared by William Rogers for the Norfolk Holdings Corporation, a subsidiary of U.S. Trust Norfolk, and it was recorded in the Barnstable Registry of Deed in Book 482, Page 43. The document you provided me, the "Agreement for Judgment," in essence sets forth the agreement reached with the Bank which had been substituted as a defendant after its foreclosure. It was agreed that the lawsuit would be settled by re-combining of all of the lots from the plan at Book 438, Page 48. This unification is shown on the new plan which was recorded in Plan Book 482, Page 43. The Bank also agreed that it would, after combining the lots into a single lot, not convey less than its full interest in the premises depicted on the perimeter plan of the consolidated parcel.

Nevertheless, the problem with the agreement was the pre-existing mortgage held by the Siniscalco group. That mortgage was superior to the mortgage of U.S. Trust Norfolk. The parties' agreement provided that, if the mortgage was foreclosed and the land was not acquired by U.S. Trust Norfolk, then, as a matter of law, the superior title arising from the foreclosure on Lot A would inevitably lead again to the severance of Lot A. As provided in paragraph three of the agreement, the remaining lots C, D, E, and F, which were controlled by U.S. Trust Norfolk and were not encumbered by a superior mortgage, would always remain combined and could not be conveyed separately.

That was the circumstance at the time the "Agreement for Judgment" was filed in June 1991. Following the settlement, the Bank conveyed all of the land depicted on the consolidated plan, including Lot A, to Kevin Shea and Judith Richman; however, Lot A remained subject to the Siniscalco mortgage. This parcel remained in unified ownership for a period of some ten (10) years until February 1, 2001, when the Siniscalco Group began the foreclosure of the mortgage it still held on Lot A. By virtue of a deed in lieu of foreclosure, the property was conveyed to Siniscalco and Rybeck, as tenants in common. This action severed the title/ownership of Lot A from the combined Lots C, D, E, and F. This is the circumstance which exists now.

You will see from this history that, because the Town did not promptly learn of the mortgages based upon the Approval-Not-Required endorsement, there was only a tenuous legal impediment to a foreclosure. When U.S. Trust Norfolk foreclosed its second mortgage on the subject property, we were able to negotiate the settlement and, in essence, undo in the later plan what the earlier ANR plan had done. The problem, however, was the previous Lot A mortgage held by the Siniscalco Group. This was not something that either Truro or the U.S. Trust Norfolk could control, and this was so recognized in the "Agreement for Judgment."

Accordingly, it appears that, by virtue of the foreclosure of the superior mortgage, title to Lot A stands in persons different from the titleholders of the combined Lots C, D, E & F.

ZISSON AND VEARA

Linda Maloney
September 3, 2003
Page 4

Therefore, these two parcels should be assessed in that fashion.

I am sure this is a rather unique circumstance which will not likely occur again. The Planning Board has been advised not to endorse any future ANR plans which purport to change the old lot lines so as to create new lots with a single structure located on each new lot.

I trust this answers your inquiry; however, should you need further information, please do not hesitate to contact me.

Cordially,



Edward E. Veara
Town Counsel

EEV/mp

cc: Roland Breault, Town Administrator
Truro Board of Selectmen

QUITCLAIM DEED

We, Anne S. Fortier and David J. Ditaccio, a married couple, both of 412 Shore Road, North Truro, Massachusetts 02652 ASD DTD

for consideration paid, and in full consideration of One (\$1.00) Dollar hereby release, remise and quitclaim without covenants to Kevin R. Shea and Judith Richland, as Joint Tenants, both of 47 Studio Road, Newton, MA 02466, all my right, title and interest in and to the following described parcel of real estate, to wit:

Parcel 1 shown on a plan entitled "Plan of Land in (North) Truro as surveyed for Kevin R. Shea, et ux" dated June, 2010 by William H. Rogers, Civil Engineer and Land Surveyor, and recorded herewith, being bounded and described as follows:

Commencing at a point at the northeast corner of the premises which abuts the sideline of Shore Road, a Town Way, and running S 29° 41' 47" W, one hundred and twenty-eight (128'±) feet, more or less, by land of Kevin R. Shea et ux to a point,

Thence northwesterly four (4'±) feet, more or less, by the Mean High Water Line in Cape Cod Bay to a point;

Thence N 29° 46' 02" E one hundred twenty-eight (128'±) feet, more or less, by Parcel 2 o said Plan to a point on the sideline of Shore Road;

Thence S 60° 18' 13" E four and 14/100 (4.14') feet along the sideline of Shore Road to the point of beginning.

Containing an area of about 541 square feet.

Said Parcel 1 is to be added to land of the Grantees located at 408 Shore Road, North Truro, Massachusetts, more particularly described in a deed to Grantee dated October 10, 1991, and recorded with the Barnstable Registry of Deeds in Book 7711, Page 069. This conveyance is to mutually resolve a contiguous boundary line between the respective adjacent parcels owned by Grantor and Grantee.

The undersigned, David J. Ditaccio, joins in this deed, and by signing below hereby releases any and all rights of homestead which he has acquired in and to the said property.

WITNESS our hands and seals this 27 day of Jan, 2012.

Anne S. Fortier

Anne S. Fortier

Anne S. Ditaccio

David J. Ditaccio


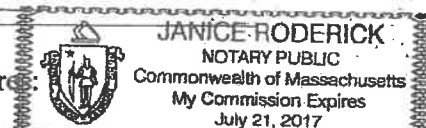
David J. Ditaccio

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 27 day of January, 2012, before me, the undersigned notary public, personally appeared Anne S. Fortier, proved to me through satisfactory evidence of identification, to wit: Anne S. Fortier Ditaccio to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:


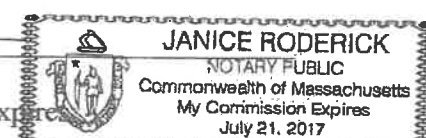



COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

On this 27 day of January, 2012, before me, the undersigned notary public, personally appeared David J. Ditaccio, proved to me through satisfactory evidence of identification, to wit: David J. Ditaccio to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

**AMENDED
WAIVER REQUESTS
DEFINITIVE SUBDIVISION
402 & 408 SHORE ROAD
KEVIN SHEA *ET UX* & BARBARA D. RYBECK
AND JOAN SINISCALCO**

The plan presented to the Board is for two pre-existing lots intended for construction of two single family homes without roadways, with existing conditions for landscaping and restorative planning. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

Given the unique history of the properties and the low impact of the subdivision plans on the neighborhood, Applicants Kevin Shea, Judith Richland, Barbara D. Rybeck and Joan Siniscalco, pursuant to Sections 1.5 and 3.1 of the Town of Truro Rules and Regulations Governing the Subdivision of Land, hereby request the below waivers. The requested waivers are in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as suggested by the Zoning Board and Acting Town

Planner and the fact that the time limit for implementing the variances is fast approaching, requiring the Applicants to comply with the requested waived items would create a substantial hardship for the Applicants.

1. **Section 3.2 Conformance With Zoning:** Applicants seek a waiver from the frontage requirements of the Truro Zoning By-Law for 408 Shore Road as a variance was obtained from the Truro Zoning Board of Appeals permitting construction of a single family residence on a lot with less than the required frontage. Also, a waiver from the lot size requirements of the Truro Zoning By-Laws is sought for 402 Shore Road as a variance was obtained from the Truro Zoning Board of Appeals permitting construction of a single family residence on a lot with less than the required lot size. These waivers are in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as suggested by the Zoning Board and Acting Town Planner and the fact that the time limit for implementing the variances is fast approaching, requiring the Applicants to comply with these items would create a substantial hardship for the Applicants. The plan presented to the Board is for two pre-existing lots intended for construction of two single family homes without roadways, with existing conditions for landscaping and restorative planning. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances

were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

2. **Section 2.5.2 Submission Requirements For Definitive Plans:**

a. General

4. Twelve Copies of Plan, Profiles, etc. No profile plans are presented as no new roads are being constructed.
5. Two Copies of 1" = 100' plans with lot #s, lot areas
6. Two Copies of Drainage Calculation and plan
10. Three proposed road names – No new roads are being constructed.
11. Written statement regarding timing for construction – Construction is expected to be undertaken pursuant to the statutory timeframe for use of a variance grant.

The requested waivers are in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as suggested by the Zoning Board and Acting Town Planner and the fact that the time limit for implementing the variances is fast approaching, requiring the Applicants to comply with the requested waived items would create a substantial hardship for the Applicants. The plan presented to the Board is

for two pre-existing lots intended for construction of two single family homes without roadways, with existing conditions for landscaping and restorative planning. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

b. Contents of Plan

1. Subdivision Name: There is no subdivision name as two single family homes without roadways are represented in the plan
5. Existing & Proposed methods of road drainage and utilities
6. * Gross area of roads & cul-de-sacs, square footage and acres;
* Area subject to Wetlands/ConCom;

* Cross-area of wetlands, square footage & acres, for entire subdivision;
* Net area of wetlands within each lot, square footage and percentage;

* New area of contiguous upland for each lot, square footage and percentage;
7. Easements, covenants, rights-of-way and/or restrictions applicable to the area;
8. Existing and proposed lines of streets, ways, lots, easements, any public or common areas;
9. Existing and proposed lines of any easements, access or other purposes, the location, ownership and expiration dates of any conservation restrictions;
10. Topography of the land in 2 foot contours;
13. Location of wetlands within 100 feet;
14. Flood Elevations – BFE data where any portion of property lies in 100 year;

15. Sufficient data to determine location, direction, length of every Way; lot line; Boundary line; Length and radii of all curves;
16. For all ways involved in access: The grade and width of road layout; location of the roadway within the layout; sight distance at intersections; physical condition of the road width, surface, depth of surface materials, condition of road surface;
17. Notation regarding permanent bounds to be set;
18. Notation on plan indicating waivers – As a list of waivers has been presented, it would be burdensome to the Applicants to list the waivers on the plan,
22. Two Benchmarks taken from USGS data;

The requested waivers are in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as suggested by the Zoning Board and Acting Town Planner and the fact that the time limit for implementing the variances is fast approaching, requiring the Applicants to comply with the requested waived items would create a substantial hardship for the Applicants. The plan presented to the Board is for two pre-existing lots intended for construction of two single family homes without roadways, with existing conditions for landscaping and restorative planning. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

c. Contents of Plan, Profile, Cross-Sections of Proposed Streets:

Applicants seek a waiver from all provisions of Section 2.5.2 (c), (with the exception of subsection 15 as landscape plans have been submitted) as no new roads are being proposed.

3. **Section 2.5.3 Staking of Proposed Subdivision** - The requested waiver is in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as suggested by the Zoning Board and Acting Town Planner and the fact that the time limit for implementing the variances is fast approaching, requiring the Applicants to comply with the requested waived item would create a substantial hardship for the Applicants. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

4. **Section 2.5.4.c. Performance Guarantee** - The requested waiver is in the public interest and not inconsistent with the purpose and intent of the Subdivision Control Law particularly as two single family homes without roadways are represented in the subdivision. Furthermore, given the monetary sums expended by the Applicants to date in satisfying the requirements of multiple local boards; preparing an ANR plan as

suggested by the Zoning Board and Acting Town Planner and the fact that the time limit for implementing the variances is fast approaching, requiring the Applicants to comply with the requested waived item would create a substantial hardship for the Applicants. The properties will have private Title V septic systems, private water and electrical services off existing power lines located on Shore Road. The plan would be entitled to an ANR designation but for the fact that variances were obtained from the Truro Zoning By-Laws for frontage (408 Shore Road) and lot size (402 Shore Road).

5. **Section 3.5 Utilities:** The properties will be serviced through existing utility lines located on Shore Road.



TOWN OF TRURO

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

To: Planning Board
From: Cally Harper, PhD, Town Planner
Date: December 13, 2017, on December 20th Planning Board agenda
Re: 2017-007 PB Staff Report #1

2017-007PB Anna M Endicott seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 2 Holsbery Road and 32 Depot Road, Assessor's Atlas Map 50, Parcel 111 and 112.

Description:

The submitted plan shows two lots, #5 and #6. Lot #5 has frontage on Depot Road and Lot 6 has frontage on Depot Road and Holsbery Road. Both lots have the minimum required lot size and frontage.

Completeness of Submission:

The applicant submitted the following materials on November 30, 2017:

1. Fully executed Form A Application for Determination That Plan Does Not Require Approval (ANR) dated November 30, 2017 signed by Anna M. Endicott as the owner and John M. O'Reilly as the agent.
2. Filing fee of \$275.00.
3. Plan titled: "Plan of Land at 2 Holsbery Road & 32 Depot Road, Truro, Massachusetts as Surveyed and Prepared for Anna Endicott," dated November 29, 2017, Scale 1" = 30' prepared by J.M. O'Reilly & Associates, Inc.

Public Notice:

Applications for an ANR determination do not require public notice beyond the meeting posting required to comply with the Open Meeting Law.

Planning Staff Comments:

The Board must act within 21 days to avoid an automatic determination that approval is not required (MGL Chapter 41, Section 81P). The Plan was submitted on November 30, 2017 and the Board must act by December 21, 2017.

Waivers:

Waivers are not applicable to a request for an ANR determination.

Possible Motions:Affirmative Motion:

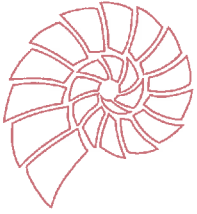
With respect to application 2017-007PB Anna Endicott, the Board determines that the plan entitled "Plan of Land at 2 Holsbery Road & 32 Depot Road, Truro, Massachusetts as Surveyed and Prepared for Anna Endicott," dated November 29, 2017, Scale 1" = 30' prepared by J.M. O'Reilly & Associates, Inc. does not require approval under the Subdivision Control Law.

If the affirmative motion is made, the Board shall forthwith endorse the plan.

Negative Motion:

If the Board determines that the plan does show a subdivision of land it should state the basis of its determination and the motion should include that basis and state that the Board determines that the plan *does* require approval under the Subdivision Control Law.

If the motion to deny an approval not required endorsement is made, the Board must give written notice of its determination to the Town Clerk and person submitting the plan not later than on December 21, 2017.



J.M. O'REILLY & ASSOCIATES, INC.

PROFESSIONAL ENGINEERING, LAND SURVEYING & ENVIRONMENTAL SERVICES

Site Development • Property Line • Subdivision • Sanitary • Land Court • Environmental Permitting

December 1, 2017

JMO-8275

Truro Planning Board
24 Town Hall Road
Truro, MA 02666

RE: 2 Holsbery Road & 32 Depot Road
Approval Not Required (ANR) Plan:
Map: 50 / Parcel: 111 & Map: 50 / Parcel: 112
Owner: Anna M. Endicott

Dear Planning Board Members,

On behalf of our client, Anna Endicott, J.M. O'REILLY & ASSOCIATES, INC. hereby submits the following Approval Not Required application and Plan for Planning Board approval. The lot line dividing the two above referenced parcels is proposed to be reconfigured; no new lots are to be created.

Please let me know if you have any questions or require further information. An associate from our office will be present at the Planning Board meeting on December 20th, 2017 to present the project.

Very Truly Yours,
J.M. O'REILLY & ASSOCIATES, INC.

Robert F. Reedy, EIT
Project Engineer

CC: John M. O'Reilly, P.E., P.L.S.
Client

RFR/ak

TOWN OF TRURO



PLANNING BOARD

FORM A APPLICATION FOR DETERMINATION THAT PLAN DOES NOT REQUIRE APPROVAL (ANR)

Date: 12/1/2017

To The Planning Board of the Town of Truro Massachusetts,

The undersigned owners of all the land described herein submitted the accompanying plan entitled:

Plan of Land at 2 Holsbery Rd & 32 Depot Rd and dated November 27, 2017, requests a determination and endorsement by said Board that approval by it under the Subdivision Control Law is not required.

Property Location: 2 Holsbery Road & 32 Depot Rd Map(s) and Parcel(s): 50/111 & 50/112

Number of Lots Created: 2 Lots (same as existing) Total Land Area: 3.20+/- acres

The owner's title to said land is derived under deed from Anna M. Endicott,

dated 4/14/2015, and recorded in the Barnstable Registry of Deeds Book and Page: 28800/46

or Land Court Certificate of Title No. _____ registered in Barnstable County.

The undersigned believes that such approval is not required for the following reasons: *(Check as appropriate)*

- ☒ The accompanying plan is not a subdivision because the plan does not show a division of land.
- ☒ The division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Truro zoning by-law under Section 50.1 (A) which requires 150 feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:
 - ☒ a public way or way which the Town Clerk certifies is maintained and used as a public way, namely Depot Road, or
 - ☐ a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, namely _____ on _____ and subject to the following conditions _____; or
 - ☐ a private way in existence on December 8, 1955, the date when the subdivision control law became effective in the Town of Truro 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, namely _____.

☐ The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a

proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner that no lot affected is left without frontage as required by the Truro zoning bylaw under Section 50.1 (A), which requires 150 feet.

- ☐ The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to December 8, 1955 the date when the subdivision control law went into effect in the Town of Truro and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:

- ☐ Other reasons or comments: (See M.G. L., c.41, §81-L)

All other information as required in the Rules and Regulations Governing Subdivisions of Land shall be submitted as part of the application.

Anna M. Endicott

(Printed Name of Owner)


(Signature)

(Printed Name of Owner)

(Signature)

409 Pacific Coast Hwy., #562, Redondo Beach, CA 90277

(Address of Owner(s))

(Address of Owner(s))

John M. O'Reilly, P.E., P.L.S.

(Printed Name of Agent)


(Signature)

J.M. O'Reilly & Associates, Inc. 1573 Main St., PO Box 1773 Brewster, MA 02631

(Address of Agent)

File twelve (12) copies each of this form and applicable plan(s) with the Town Clerk



TOWN OF TRURO

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

To: Planning Board
From: Cally Harper, PhD, Town Planner
Date: December 14, 2017, on December 20th Planning Board agenda
Re: 2017-008 PB Staff Report #1

2017-008PB Lucy Perry seeks a determination that a plan does not require approval under the Subdivision Control Law. The property is located at 14 Perry's Road, Assessor's Atlas Map 45, Parcel 136.

Description:

The submitted plan shows two lots, #1 and #2. Both lots have frontage on Perry's Road. Both lots have the minimum required lot size and the required frontage:

Lot #1: 93,675 square feet with 218 feet of frontage

Lot #2: 33,800 square feet with 150 feet of frontage

Completeness of Submission:

The applicant submitted the following materials on December 13, 2017:

1. Fully executed Form A Application for Determination That Plan Does Not Require Approval (ANR) dated December 13, 2017 signed by Claire A. Perry, Trustee of Lucy J. Perry Trust
2. Filing fee of \$275.00.
3. Plan titled: "Plan of Land at Perry's Road, Truro, Massachusetts Being a Division of Lot 1 Plan Book 606, Page 100 Prepared for Claire A. Perry, Deed Book 25515, Page 20," dated December 11, 2017, Scale 1" = 50' prepared by Outermost Land Survey, Inc.

Public Notice:

Applications for an ANR determination do not require public notice beyond the meeting posting required to comply with the Open Meeting Law.

Planning Staff Comments:

The Board must act within 21 days to avoid an automatic determination that approval is not required (MGL Chapter 41, Section 81P). The Plan was submitted on December 13, 2017 and the Board must act by January 3, 2018.

Waivers:

Waivers are not applicable to a request for an ANR determination.

Possible Motions:

Affirmative Motion:

With respect to application 2017-008PB, the Board determines that the plan entitled “Plan of Land at Perry’s Road, Truro, Massachusetts Being a Division of Lot 1 Plan Book 606, Page 100 Prepared for Claire A. Perry, Deed Book 25515, Page 20,” dated December 11, 2017, Scale 1” = 50’ prepared by Outermost Land Survey, Inc. does not require approval under the Subdivision Control Law.

If the affirmative motion is made, the Board shall forthwith endorse the plan.

Negative Motion:

If the Board determines that the plan does show a subdivision of land it should state the basis of its determination and the motion should include that basis and state that the Board determines that the plan *does* require approval under the Subdivision Control Law.

If the motion to deny an approval not required endorsement is made, the Board must give written notice of its determination to the Town Clerk and person submitting the plan not later than on January 3, 2018.

TOWN OF TRURO



PLANNING BOARD

FORM A APPLICATION FOR DETERMINATION THAT PLAN DOES NOT REQUIRE APPROVAL (ANR)

Date: Dec. 13, 2017

To The Planning Board of the Town of Truro Massachusetts,

The undersigned owners of all the land described herein submitted the accompanying plan entitled:

Plan of Land Perry's Rd. Truro, MA and dated Dec. 11, 2017, requests a determination and endorsement by said Board that approval by it under the Subdivision Control Law is not required.

Property Location: 14 Perry's Rd. Map(s) and Parcel(s): 45-136 0

Number of Lots Created: 1 Total Land Area: 93,675 +/- sq ft 2.15 acres +/-

The owner's title to said land is derived under deed from Lucy J Perry, dated 10/17/11, and recorded in the Barnstable Registry of Deeds Book and Page: 25515/20

or Land Court Certificate of Title No. _____ registered in Barnstable County.

The undersigned believes that such approval is not required for the following reasons: *(Check as appropriate)*

- ☐ The accompanying plan is not a subdivision because the plan does not show a division of land.
- ☐ The division of the tract of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as is presently required by the Truro zoning by-law under Section 50.1 (A) which requires 150 feet for erection of a building on such lot; and every lot shown on the plan has such frontage on:
 - ☒ a public way or way which the Town Clerk certifies is maintained and used as a public way, namely Perry's Road, or
 - ☐ a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law, namely _____ on _____ and subject to the following conditions _____; or
 - ☐ a private way in existence on December 8, 1955, the date when the subdivision control law became effective in the Town of Truro 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, namely _____.

☐ The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner that no lot affected is left without frontage as required by the Truro zoning bylaw under Section 50.1 (A), which requires 150 feet.

☐ The division of the tract of land shown on the accompanying plan is not a subdivision because two or more buildings, specifically _____ buildings were standing on the property prior to December 8, 1955 the date when the subdivision control law went into effect in the Town of Truro and one of such buildings remains standing on each of the lots/said buildings as shown and located on the accompanying plan. Evidence of the existence of such buildings prior to the effective date of the subdivision control law as follows:

☐ Other reasons or comments: (See M.G. L., c.41, §81-L)

All other information as required in the Rules and Regulations Governing Subdivisions of Land shall be submitted as part of the application.

Claire A. Perry, Trustee
(Printed Name of Owner)
of Lucy J. Perry Living Trust

Claire A. Perry, Trustee
(Signature)

(Printed Name of Owner)

(Signature)

(Address of Owner(s))

(Address of Owner(s))

(Printed Name of Agent)

(Signature)

(Address of Agent)

File twelve (12) copies each of this form and applicable plan(s) with the Town Clerk

TRURO PLANNING BOARD

Meeting Minutes

December 6, 2017 – 6:00 p.m.

Truro Town Hall

DRAFT

PLANNING BOARD MEMBERS PRESENT: Bruce Boleyn, Peter Herridge, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog. **ABSENT** (excused): Karen Tosh

OTHER PARTICIPANTS: Ben Zehnder, Attorney; Deborah Paine, Contractor; Ed Miller, Provincetown Banner; Darcy Voldren, Dan Sanders, Cody Salisbury, Provincetown Water Department; Lester J. Murphy, Attorney; Maria Kuliopulos, Anne Greenbaum, Susan Howe, Cally Harper, Town Planner.

Steve Sollog opened the meeting at 6:12 pm.

Public Comment Period

There was no public comment.

Temporary Sign Permit

Truro Center for the Arts at Castle Hill – seeks approval of Temporary Sign Permits pursuant to §11 of the Truro Sign Code for two signs, 33” x 22” and 48” x 36”, to be placed at 10 Meetinghouse Road and 3 Edgewood Way from December 11, 2017 to December 18, 2017.

Mr. Herridge made a motion to approve the application for a temporary sign permit, Mr. Boleyn seconded. So voted, 6-0.

Public Hearing – Residential Site Plan Review

2017- 010 SPR Kenneth S. Kuchin – 12 Ocean Bluff Lane seeks approval of a Site Plan Review pursuant to §70.3 of the Truro Zoning By-law for removal and replacement of an existing cottage dwelling with a new dwelling and construction of a new garage accessory structure. Property is a pre-existing, non-conforming developed residential parcel in the Seashore zoning district. The property is located at 12 Ocean Bluff Lane, Map 37, Parcel 6.

Ben Zehnder, Attorney, presented the application for Mr. Kuchin. He referenced the Seashore amendment that had been approved at the most recent Town Meeting. He stated that Mr. Kuchin has designed a single story one bedroom house with an accessory two story garage with studio, on his 2.689 acres. By right he is allowed 3,540 square feet of habitable space. Mr. Zehnder went over the plans which include the original structure, the engineering plans, and the landscape plan. Elevations and floor plans are included in the application. The original cottage was built in 1900 or 1905. The project will be subject to historic review. Mr. Zehnder reminded the Board that they have specific review criteria and it is not in their jurisdiction to review the history of the structure. Mr. Zehnder said he believes this application is complete. He went over four criteria: location of the structures, building design and landscaping, driveway and parking, and lighting. The fire chief reviewed and gave his approval regarding access to the property.

Mr. Sollog asked the Board for their input. Mr. Kiernan said he likes it but has some questions. Will it have one or two septic systems? The builder replied that it will have two septic systems. Mr. Kiernan said that the dwelling is on a knoll and he wants to be sure the lighting is downward. There is a 15 ft. wide easement that services the existing dwelling. There is a "paper road" that has not been constructed that leads to the two car garage and goes across Seashore property. The applicant has approval from the Seashore. The letter can be provided. Mr. Riemer asked if the studio was a habitable studio. The answer was, yes it is. Mr. Riemer wants the designation of "habitable studio" to be identified of the plan. He also said that the septic plan for the garage should be on the plan. He brought up the retaining walls by the garage and wanted to know how well they will be disguised, so they would not be visible from the road. Ms. Paine said they will be well disguised with stone and vegetation. They are 5-6 feet tall. Mr. Zehnder said the retaining walls will be camouflaged; no concrete will be showing. Mr. Riemer asked for a condition regarding facing and vegetating the retaining walls, since it does not show on the plans. There followed a discussion about the visibility of the two story garage. Then Mr. Riemer asked about the stone parking area. The builder said it would be 3/4 inch gravel. The walkway is reclaimed granite stone. The gravel is a pervious surface. Mr. Riemer then asked if the MESA review has taken place yet. Ms. Paine replied that Mr. Rogers has applied for the MESA review but has not heard back. That could be a condition of the decision. Mr. Riemer asked if the construction could be avoided during the summer months. Mr. Zehnder explained that such a restriction would be onerous. Mr. Kiernan said there is no way of knowing how long the Historic Review will take, so it doesn't seem possible to address the timing of construction at this time. Mr. Riemer asked if there could be time restrictions during the day as to when construction would be allowed. Mr. Riemer asked further about the lighting in terms of lumens allowed by the Town of Truro. The builder said the bulbs could be changed. Mr. Riemer asked that this be conditioned. Mr. Riemer had a question for the surveyor, Mr. Rogers. He wanted to know if the 2.689 acreage included the beach, and if so it would be under water at high tide.

Mr. Sollog read a letter into the record from Darcy Voldren about the historic significance of the property. Mr. Herridge read a letter from the National Seashore regarding their support of the project from Shawn P. Mulligan, acting superintendent.

Mr. Sollog said there is ZBA approval, a recommendation from the National Seashore and now the applicant is asking for Planning Board approval. There is still the need for Historic Review, so he is wondering if they are putting the cart before the horse. Mr. Zehnder said he thinks it is in the correct order to ask for Planning Board approval now. Mr. Riemer pointed out 70.7 Special Permits regarding the requirement for Planning Board to forward their findings to the ZBA. Mr. Sollog then asked for public comment on this project.

Dan Sanders came forward to speak about the Historic value. The house is one of the last that characterize Truro. He thinks the house has value and could be fixed up. Darcy Voldren came forward to talk about the Small family. Mr. Zehnder spoke up with a point of order. He said he thinks that it is misleading to bring up the historic value at this time. He asked that historic review comments be held for the meeting with the Historic Review.

Mr. Sollog said he thinks that all the information is important. Ms. Harper said she thinks we could accept the public comment but ask that the public members return for the Historic Review. Ms. Voldren said that Mr. Kuchin said the footprint is the same as the old one, but that is not true. She made a suggestion that the property be kept as is, and the new owner build their new residence as the main building.

Mr. Riemer read 30.3 Seashore District, section E, regarding variances or special permits. Mr. Zehnder explained that this regulation does not apply in this case. He then read what the Planning Board is required to do if the application is complete.

Mr. Kiernan asked why the applicant went to the Zoning Board of Appeals first, when the bylaw states they should come before the Planning Board first. Mr. Zehnder answered that there is no requirement to go to one board before the other, unless the applicant is asking to exceed the by-right size allowance. Mr. Riemer thinks there is value in an applicant coming to the Planning Board first since the Planning Board makes site visits, and he doesn't think the ZBA makes site visits. The Planning Board can pass on valuable observations to the ZBA if they are first to review the project.

Ms. Harper recapped the hearing so far. They have certain design criteria to discuss. They have agreed on a number of conditions: the letter from the Seashore regarding the driveway, the screening of the retaining wall, and verifying the lumens of the outdoor lighting. Mr. Sollog asked Ms. Paine about her discussion with the owner. Mr. Kuchin doesn't want to do anything large. One of the owners is an artist. They have made a great attempt to replicate the old house and place it in the same location.

Ed Miller, associate editor of the Provincetown Banner, came forward and said it sounded like Mr. Riemer said there was missing information on the plan regarding the second septic system. If that is true, then is it true that the application is complete. It is in design development to get the variance needed. Mr. Zehnder said they can request a waiver. Mr. Riemer said he also asked that the accessory space be identified as its intended usage. Ms. Paine said it is "habitable studio." The Board requested an additional condition to have the Building Commissioner review the lighting. Mr. Riemer read the two definitions of habitable studio and working studio. It was agreed that it would be a habitable studio. Mr. Kiernan said he wanted to add two conditions successfully completing the MESA Process and the Historic Review. Ms. Harper said those didn't need to be conditioned. Mr. Zehnder said he would include a finding that the property is subject to review by the Historic Commission and a MESA review.

Mr. Sollog then closed the public hearing and entertained a motion. Ms. Harper read the conditions that were agreed upon. Mr. Herridge read the motion to conditionally approve the project with the conditions: approval from the Seashore for access to the garage, to hide/ screen the retaining walls, to verify the lumens of outdoor lighting by the building commissioner, designate the studio as a habitable studio, and a waiver for the septic system to be shown on the plan (it will be added later). Mr. Riemer wants to minimize the disturbance of the vegetation. Ms. Paine said the septic system will be located in the parking area, approved by the Board of Health. The motion was amended to read: ADD amended motion regarding the waiver.

Mr. Riemer asked how the Board can be sure that the applicant will screen the retaining walls. It was agreed to condition that the Board will review the project in a year to verify the work was done to their satisfaction.

Mr. Boleyn seconded the motion. So voted, 6-0.

Request for Waiver - Commercial Site Plan Review

2017-009SPR Town of Provincetown Water Department requests a waiver of Commercial Site Plan review pursuant to §70.9 of the Truro Zoning By-Law. This property is located at 143 Shore Road, Assessor's Atlas Map 19, Parcel 1.

Mr. Herridge read the motion: *In the matter of 2017-009SPR Town of Provincetown Water Department, I move to waive the requirements in §70.3 of the Town of Truro Zoning Bylaw and Sign Code to allow Provincetown Water Department to extend an existing chain link fence to fully enclose the entire treatment plant at 143 Shore Road, Knowles Crossing Facility, based on the following findings of fact:*

- 1. The extension of the fence will not be detrimental to the public interest, cause the Town any expense, or be inconsistent with the intent and purpose of this Bylaw*
- 2. While the Knowles Crossing Facility is in Natural Heritage Priority Habitat and the fencing will be installed outside the limit of work, the Division of Fisheries and Wildlife determined that this project, as currently proposed, will not result in a prohibited Take of state-listed rare species.*

Mr. Boleyn seconded. Mr. Kiernan asked for a description of the fence. Mr. Salisbury said it will match the existing fencing so anything endangered will be able to go through. So voted, 6-0.

Discussion of Date/Time for Public Hearing - Rose Hill Lane

The Planning Board will discuss a date/time for a public hearing for the Becker subdivision. The property is located at 3, 5, 7 Rose Hill Lane, Assessor's Atlas Map 54, Parcel 33.

Mr. Riemer, Mr. Boleyn and Mr. Kiernan recused themselves and left the room. Attorney Lester Murphy said we are dealing with a definitive plan. Ms. Tosh was absent and is planning to review the tape later. Ms. Harper described that there is a possibility that there could be two public hearings on the same property – one under the 81W process and one when the applicant submits a definitive plan. She mentioned that the applicant wants to revise their plan and they have agreed not to start construction until a new plan is submitted. Ms. Harper drafted an extension form for the public hearing.. More time is needed because the Beckers need time to hire an engineer and have a plan drawn up. So Ms. Harper suggested withdrawing the 81W without prejudice. Mr. Murphy talked about what the applicant would like to do in providing a new modified plan with a 25 foot setback, which would comply with current regulations. Because there is not a quorum, the Board cannot vote. There is a consensus that we are in agreement, however, and that we will vote on this at the next meeting. Mr. Herridge asked if they will be complying with all regulations. Mr. Murphy said there may be a waiver request regarding grade. They will do their best to comply with all regulations. Mr. Sollog asked to put

this application on the agenda for the next meeting in order to vote on the withdrawal of the 81W. Hearing continued to Wednesday, December 20, 2017.

Continued Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos – White Sands Beach Club, Inc. seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Assessor's Atlas Map 39 Parcels 131, 158. Hearing continued from March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017, August 15, 2017, September 19, 2017, October 3, 2017, October 17, 2017.

Maria Kuliopulos made a correction that the first hearing date was January 17, 2017. She then reported that the Zoning Board of Appeals recently voted 5-0 to approve her building permit. However, she was informed that there was an appeal from one of the neighbors who has been coming to the meetings. It has not been certified by the Town Clerk yet; tomorrow is the deadline. She would like to know how the Planning Board wants to proceed and if they want anything from her. Ms. Kuliopulos said she would like a decision from the Planning Board, so if there is further appeal, it can be one case. Mr. Riemer asked for an explanation. Ms. Harper made the recommendation, based on Harry Terkanian's past advice when he was interim Town Planner, that the Planning Board wait to rule on this case until the ZBA case was finished, to continue the hearing until the time that the ZBA process is complete. Mr. Kiernan asked how many members can vote on this application. Ms. Harper said that from her analysis, there are five members who can vote on this. If Peter Herridge watches the video of one meeting, he can vote on it, under the Mullen rule, but Mike Roderick and Karen Tosh have missed too many meetings to be able to reinstate their voting status. Mr. Kiernan advised Ms. Kuliopulos to withdraw her application so that she could start fresh with all seven Planning Board members able to vote. Ms. Kuliopulos suggested the Mr. Roderick only missed one meeting, since so many meetings were continuances, during which no discussion on the application occurred. She asked that Mr. Roderick be certified to vote. Mr. Sollog said he would look into it. Ms. Kuliopulos then asked for a continuance. Ms. Harper asked if she would wait until January. Ms. Kuliopulos asked if she could be included on the agenda in two weeks. Ms. Harper will do more in depth research to find out if Mr. Roderick can be certified to vote. In the meantime, there is a court case going on, so the Planning Board has to decide if they are willing to make a decision before the case is decided. Mr. Sollog then asked if they could agree to continue to January 10. It was agreed. Ms. Kuliopulos asked if there is anything else the Planning Board needs from her. Mr. Kiernan said, "We will need to look at the ZBA's decision and let's wait until you decide if you are going to withdraw". Mr. Riemer said that under the bylaw regarding commercial development that we can ask the applicant to pay for an expert to review the plans and provide guidance. Mr. Riemer would like an independent expert. Ms. Kuliopulos said that the Board has already approved a previous plan for the site, and these plans do not substantially differ. She asked that Mr. Riemer wait until he hears what her engineer has to say. Mr. Riemer said he wants the applicant to know that we can require the applicant to pay for an adviser. Mr. Herridge moved to continue the hearing until January 10, 2018, Mr. Kiernan seconded. So voted, 6-0.

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Ms. Harper said the working name of this survey is "House Size Limits in the National Seashore." It was agreed that this is about Town-wide House Size Limits. Ann Greenbaum suggested "Town-wide House Size Cap Survey." There was discussion about whether it will be limited to residential districts. "Truro House Size Cap Survey" was agreed upon. Ms. Harper reported that she has recently put the survey draft into Survey Monkey. The Town uses a free version that only allows ten questions, so she has combined the questions about owning property and voting in Truro. Mr. Sollog read the current version, originally drafted by the Planning Board that Ms. Harper placed in Survey Monkey. There was a typo that needs to be fixed. Ms. Greenbaum asked when should it be posted and when should the deadline be. Ms. Harper suggested a three week period. Mr. Sollog said that they are hoping to have some forums. Ms. Greenbaum suggested a month for the survey deadline, due to the holiday. Ms. Greenbaum talked about library community room availability. Susan Howe suggested earlier rather than later, due to the possibility of weather cancellations. It was suggested to have forums January 20, 2 - 4 pm and 30th, 6 pm - 8 pm. Ms. Greenbaum said she would confirm with the library. Ms. Howe suggested that some residents are not computer savvy and would like to be able to fill out a paper survey. Ms. Sollog will run the meetings and there will be a presentation. Mr. Kiernan reported on the research he has done on building permits and also brought up issues regarding accessory dwelling units that might be included in this discussion.

Review and Approval of Meeting Minutes

November 8, 2017 Regular Meeting

Mr. Sollog moved to approve the minutes, Mr. Boleyn seconded. So voted, 6-0.

Reports from Board Members and Staff

Town Planner Report

Ms. Harper said that if we are going to meet at 5 pm going forward, we need to meet on Wednesdays. She reported on a decision that need the Board's signatures. She mentioned a non-regulatory meeting that needs to take place at the Truro Vineyards regarding parking. There was discussion about this meeting. Mr. Sollog suggested to Ms. Harper that she reach out to the Winery to ask what their thoughts are on this subject. Ms. Harper will talk to Ms. Palmer about it.

The question and answer period scheduled for tomorrow with Town Counsel was cancelled due to lack of a quorum. Ms. Harper pointed out a few items in the packet provided to the Board.

Mr. Riemer expressed his appreciation for recent meetings regarding housing. He noted the lack of discussion regarding bringing the many illegal apartments up to code.

Town email was again stressed as important for all email communication.

Mr. Riemer brought up the subject of having a Planning Board liaison to the Water Department. Ms. Harper said she will talk to the Town Manager.

Mr. Herridge made a motion to adjourn, Mr. Boleyn seconded. So voted, 6-0.

Respectfully submitted,

Katherine Black

DRAFT

**TRURO PLANNING BOARD AGENDA
Wednesday, January 10, 2018 – 5:00 p.m.
Truro Town Hall, 24 Town Hall Road, Truro**

Public Comment Period

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

Continued Public Hearing - Commercial Site Plan Review

2016-008SPR Maria Kuliopulos – White Sands Beach Club, Inc. seeks approval of a Modification to a Commercial Development Site Plan pursuant to §70.3 of the Truro Zoning By-Law for consolidation of units to reduce the number of units on the property by four. Plans include construction of a replacement building containing 17 rentable units and a hospitality room in the same location as a previously demolished fire damaged structure. The property is located at 706 Shore Road, White Sands Beach Club, Assessor's Atlas Map 39 Parcels 131, 158. Hearing continued from January 17, 2017, March 7, 2017, May 2, 2017, June 6, 2017, June 27, 2017, July 18, 2017, August 15, 2017, September 19, 2017, October 3, 2017, October 17, 2017, December 6, 2017.

Open Discussion of Possible Zoning Bylaw Amendments

The Planning Board will consider possible amendments to the zoning bylaw, including, but not limited to, size restrictions for residential structures in all zoning districts. The Board will consider holding public forums and other means of outreach for obtaining citizen input and whether a subcommittee should be formed to review possible zoning amendments.

Review and Approval of Meeting Minutes

December 20, 2017

Reports from Board Members and Staff

Town Planner Report

Next Meeting Agenda

Wednesday January 24 at 5 PM – Please note the new date and time!

Adjourn