

Truro Planning Board Agenda

Wednesday, February 19, 2020 – 5:00 pm Truro Select Board Meeting Room Truro Town Hall 24 Town Hall Road, Truro, MA 02666

Open Meeting

Public Comment Period

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

Public Hearing

2020-001/PB – **Nathan A. Nickerson III** seeks approval of a Definitive Subdivision Plan of Land, pursuant to G.L. c. 41, §81T and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 4-H Bay View Road and 3 Laura's Way, Truro, MA, Map 39, Parcels 77 and 325.

Public Hearing - Continued

2019-006/PB – **Abigail B. Schirmer, Audrey Schirmer, and Joseph M. Schirmer** seek approval of a Preliminary Subdivision Plan of Land, pursuant to G.L. c. 41, §81S and §2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at Route 6 and Amity Lane, Truro, MA, Map 46, Parcel 8.

Board Action/Review

2020-001/SPR – Ethan Poulin seeks Waiver of Commercial Site Plan Review pursuant to Section 70.9 of the Truro Zoning Bylaw for the installation of a garden shed at the existing commercial property located at 5 Highland Road, North Truro, MA, Map 36, Parcel 201.

Review of the Cloverleaf Truro Rental Housing Comprehensive Permit application under MGL Ch. 40B to formulate comments for submittal to the Zoning Board of Appeals.

Discussion and potential vote on article amending General Bylaws addressing Clean Fill.

Discussion for setting dates for future Board public workshops.

Approval of Minutes

July 24, 2019

Next Meeting

Wednesday, March 4, 2020, at 5:00 p.m.

Adjourn





Planning Board

Town of Truro

24 Town Hall Road Truro, MA 02666 (508) 349-7004

Staff Report

Meeting of February 19, 2020

Comments as of February 13, 2020

2019-006/PB - Preliminary Subdivision

Abigail B. Schirmer, Audrey Schirmer, and Joseph M. Schirmer seek approval of a Preliminary Subdivision Plan, pursuant to G.L. c. 41, §81S and Section 2.4 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at Route 6 and Amity Lane, Truro, MA, Map 46, Parcel 8.

Background:

At the last hearing, the Board requested that the applicant agree to make some improvements to the existing Amity Lane in consultation with the Fire Chief. As of distribution of this report staff is still working to coordinate a site visit with the Chief and the applicant's engineer.

Staff hopes to be able to provide an update to the Board as of the meeting. Staff suggests the Board may wish to discuss the project, but it is likely that additional time will be needed to respond to the concerns of the Fire Chief. Thus, staff suggests that the application should be continued after discussion. An additional extension of time will be required.

Motion:

I move to continue the public hearing for case 2019-006/PB, application by Abigail B. Schirmer, Audrey Schirmer, and Joseph M. Schirmer requesting approval of a Preliminary subdivision plan, to the regularly scheduled Planning Board meeting of March 4, 2020.

Prior Comments:

The applicant has stated that the intent of the request is to create a subdivision plan suitable for use to value the property ahead of a potential sale of lots 4 and 5 for conservation purposes. The valuation is also important when establishing any tax benefits from a discount sale.

Amity Lane as it exists serves three lots with one housing unit on each. It is minimally improved. The proposal seeks to create a 40' private way that would provide frontage for two buildable lots – lots 3 and 4. The existing lot frontage for the property to be divided along Amity Lane is not sufficient for the creation of any new buildable lots without the way.

The proposal would result in a total of 5 buildable lots. While lot 4 would have permitting challenges from an environmental perspective, the lot would meet zoning and thus staff suggests that the Board must treat the lot as buildable.

The applicant is requesting a waiver from further improvements to the road, but the Rural Roads exemption can only be applied to roads that serve 4 or fewer housing units.

Since lot 4 would be a buildable lot, staff suggests that the Board should not treat the lot as conservation-restricted unless there is to be a deed restriction on the lot held by the Board itself. Conservation restrictions can always be removed or modified, and the Board must know that they have a sound legal mechanism to prevent such a situation without necessary roadway improvements.

The applicant has signed a time extension agreement through February 19, 2020. Staff suggests that the Board continue the public hearing and review a draft decision on the project prior to a final vote. Staff will prepare the decision approving or denying the request consistent with the Board's discussion at the public hearing.

2020-001/PB - Definitive Subdivision

Nathan A. Nickerson III seeks approval of a Definitive Subdivision Plan of Land, pursuant to G.L. c. 41, §81T and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property at 4-H Bay View Road and 3 Laura's Way, Truro, MA, Map 39, Parcels 77 and 325.

Background:

The applicant requests approval of a subdivision of land resulting in two new buildable lots off the proposed Tashmuit Way. The new road will also provide access to a portion of the property known as 3 Laura's Lane. Due to the topography of the site, it is almost certain that access to the Laura's Lane parcel would be drawn from the new road.

The proposal extends from Sawyer Grove Road, which was approved as a dead-end

subdivision in 1989. While not mentioned in the decision for that subdivision, discussion by the Board and covenants attached showed a clear intent to prevent any additional subdivision roads off Sawyer Grove Road in the future. Laura's Way was constructively approved after a failure of the Planning Board to act in 2007.

A preliminary plan proposing the creation of Tashmuit Way and the subdivision of the parcels subject to this proposal into 5 lots was reviewed by the Planning Board in 2015. During that review concerns arose about the adequacy of access to the proposed subdivision via Sawyer Grove Road. Most notably, the Board considered its requirement that dead-end roads be no longer than 1000 feet. That proposal was ultimately withdrawn by the applicant in February 2016.

The current proposal places the foot of the proposed Tashmuit Way at a similar location to the 2015 proposal, which is more than 1000 feet from the start of Sawyer Grove Road at Hughes Road. The Town Planner conferred with the Fire Chief, and they share concerns about any intensification of use along Sawyer Grove Road without the provision of secondary access.

As part of the review of the 2015 application, the Board requested an opinion from Town Counsel on three specific questions. Staff feels that these concerns and questions are significant and deserve consideration by the Board when reviewing the current proposal.

Staff had Counsel review the opinion and found the opinion and referenced case law hold true at the present. The opinion is included with your materials.

The Board of Health will review the application at its meeting on Wednesday, February 18th. Staff hopes to be able to provide an update to the Board as of the meeting, and formal comments will be distributed when available.

Staff suggests that the Board discuss the application and review any Board of Health comments available at the time of the hearing. Staff expects the hearing to be continued to allow further response to comments from the Board of Health and the public by both the applicant and town staff.

Motion:

I move to continue the public hearing for case 2020-001/PB, application by Nathan A. Nickerson III requesting approval of a definitive subdivision plan, to the regularly scheduled Planning Board meeting of March 4, 2020.

2020-001/SPR – Commercial Site Plan Review Waiver

Ethan Poulin seeks Waiver of Commercial Site Plan Review pursuant to Section 70.9 of the Truro Zoning Bylaw for the installation of a garden shed at the existing commercial property located at 5 Highland Road, North Truro, MA, Map 36, Parcel 201.

Background:

The applicant requests a Waiver of Commercial Site Plan Review under §70.9 of the Bylaw. The proposal is for a new approximately 200 SF storage shed on the existing commercial property. Staff discussed the substance of these comments with the applicant prior to the submittal application. He was also advised that the Board has granted relief under this section in a similar situation in the recent past (Case 2019-009/SPR, Warm Salt Breeze LLC, Linda Noons Rose).

§70.9 states, in part, that the Board may waive Site Plan Review for "the alteration or reconstruction of an existing building or structure or new use or change of use." As the proposal is for a new structure, staff suggests that the proposal is not eligible for a waiver.

Staff suggests that the Board allow the applicant to withdraw their application without prejudice. Alternately, the Board can vote to deny the application.

Motions:

I move to allow the application for case 2020-001/SPR to be withdrawn without prejudice as requested by the applicant.



Boston, MA 02110 T: 617.556.0007 F: 617.654.1735 www.k-plaw.com

101 Arch Street

February 16, 2016

Jonathan M. Silverstein jsilverstein@k-plaw.com

Planning Board 24 Town Hall Road Truro, MA 02666

Re:

D'Arezzo Hutchings Preliminary Subdivision Plan

Dear Members of the Planning Board:

You have requested an opinion regarding the Planning Board's review of a Preliminary Subdivision Plan for Rose L. D'Arezzo, Charles S. Hutchings, Jon R. Hutchings, Joan L. Hutchings, Joan L. Hutchings and David E. Hutchings ("D'Arezzo Hutchings Plan"), dated February 15, 2015 and revised on November 30, 2015, which was filed with the Planning Board by D'Arezzo and the Hutchings ("Applicants"). In particular, you have asked the following three questions:

- Whether access to the proposed subdivision roadway, Tashmuit Lane, over an existing subdivision roadway, Sawyer Grove Road, is precluded by a condition in the approval of the Helen Sawyer Subdivision restricting the use of that roadway for construction of any ways to adjoining land;
- 2. Whether the Planning Board should consider the D'Arezzo Hutchings Plan separate from the Helen Sawyer Subdivision and the Czyoski Subdivision for purposes of determining whether a secondary means of access is required under Section 3.5.6 of the Town's Subdivision Rules and Regulations;
- 3. Whether, for purposes of Section 3.6.6 of the Subdivision Rules and Regulations, the distance of Tashmuit Lane as a dead-end street should be measured from the intersection of Tashmuit Lane and Sawyer Grove Road or from the intersection of Sawyer Grove Road and Hughes Road, which is the nearest public way.

I will address each issue separately below.

A. Factual Background

Based on my review of the documents you provided, it is my understanding that the Applicants seek approval for a five-lot subdivision, which includes the construction of Tashmuit Lane, a new, dead-end way that would branch off from an existing dead-end road known as Sawyer Grove Road. I understand that Sawyer Grove Road was constructed pursuant to the "Helen Sawyer Reserve at North Truro" Definitive Subdivision Plan (the "Helen Sawyer Subdivision"), which was endorsed by the Planning Board on February 7, 1990. I further

Planning Board February 16, 2016 Page 2

understand that Sawyer Grove Road has not been laid out and accepted by the Town as a public way.

As part of its approval of the Helen Sawyer Subdivision, the Planning Board granted certain design waivers and intended, in connection with those waivers, to impose a condition that Sawyer Grove Road only be used to serve the seventeen-lot Helen Sawyer Subdivision. However, this condition was not recorded as part of a subdivision approval decision or endorsed on the definitive plan. Rather, the condition was among a list of conditions attached to the Form D covenant recorded with the Barnstable County Registry of Deeds, Book 7061, Page 92, to ensure completion of the subdivision infrastructure. The condition provides as follows:

Approval of this definitive plan is limited to construction of Sawyer Grove Road as shown on said plan to provide access for the 17 lots shown on the plan and is not approval for construction of any ways to adjoining land.

It appears that, on December 3, 1997, the Board executed a release of the covenant, having determined that the infrastructure necessary for the subdivision was completed in accordance with the plans. The Form F Release states that the Board was releasing "its interest in the performance security referred to above [e.g. the covenant]." It does not appear that any other document memorializing the condition regarding connection to Sawyer Grove Road has ever been recorded.

You have informed me that a second subdivision on land adjacent to the Helen Sawyer Subdivision, owned by the Czyoski Family, was constructively approved in 2007 (the "Czyoski Subdivision"). The Czyoski Subdivision provided for the construction of Laura's Way, a deadend subdivision roadway serving fifteen (15) lots. Sawyer Grove Road provides the sole access for Laura's Way.

B. Legal Analysis

1. Whether access to Tashmuit Lane over Sawyer Grove Road is precluded by the condition attached to the Form D covenant.

It is clear from the meeting minutes and other documents with which you have provided me that the Board intended to prevent connection of other subdivisions through Sawyer Grove Road. The minutes of the Planning Board hearings from 1989 indicate that the Planning Board voted to impose a condition on the Helen Sawyer Subdivision that a covenant be recorded restricting the use of Sawyer Grove Road to the seventeen-lot subdivision, because the Planning Board concluded that the road is "insufficient and inadequate to serve development of any adjacent property, which will require additional and separate access and roads." However, this condition was not endorsed on the definitive plan or in a separate decision. Rather, it was only

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included as an attachment to the Form D covenant. Moreover, the recorded covenant, which was signed by all members of the Planning Board, does not preclude connection to adjoining subdivisions (as indicated in the Board's meeting minutes), but simply provides that "[a]pproval of this definitive plan is limited to construction of Sawyer Grove Road as shown on said plan to provide access for the 17 lots shown on the plan and is not approval for construction of any ways to adjoining land." Moreover, the Board released the Form D Covenant (to which the condition was attached) 1997.

As stated by the Supreme Judicial Court in <u>Green v. Board of Appeals of Norwood</u>, 358 Mass. 253, 262 (1970):

Various provisions of the subdivision control law indicate that such agreements (affecting plans) made with planning boards, or conditions on the approval of plans imposed by planning boards, to be effective as restraints upon the use of land by reason of the subdivision control law (at least as to purchasers of land covered by a subdivision plan without actual notice of the agreement or condition), must be either inscribed on the plan or contained in a separate document referred to on the plan. [Emphasis added].

Here, there was an instrument of record containing the condition regarding connection of abutting land to the subdivision roadway. However, it would be a question of fact, in my opinion, whether the inclusion of this condition in the Form D covenant, rather than on the definitive plan itself or in some other document, and the Board's subsequent release of the Form D covenant would render the condition unenforceable against future applicants. One pertinent fact to determine would be whether the current Applicants purchased their property with knowledge of the subject condition. I note that the original approved subdivision plan appears to include a road spur leading the current Applicants' property, which could lead a good-faith purchaser to believe connection was contemplated by the Board when the plan was originally endorsed.

Nevertheless, it is my opinion that, since Sawyer Grove Road has not been laid out or accepted by the Town as a public way, the Board may consider the adequacy of Sawyer Grove Road to provide access for additional subdivision lots, pursuant to Section 3.9 of the Subdivision Rules and Regulations. That section provides, in part:

The Board may disapprove a plan if it determines that access roads to the subdivision are inadequate to carry the volume of traffic reasonably anticipated. The applicant shall show to the satisfaction of the Board that the roads and ways to and from the proposed subdivision shall be adequate to provide emergency medical, fire and police protection as well as safe travel and adequate circulation for the projected volume of traffic including, but not limited to a way or ways having sufficient width, suitable grades and adequate construction to provide for vehicular traffic.

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In light of the fact that the Board previously determined that Sawyer Grove Road is "insufficient and inadequate to serve development of any adjacent property, which will require additional and separate access and roads," absent changed circumstances, it would appear reasonable for the Board to determine that the development of additional subdivision lots on adjoining land requires "additional and separate access and roads."

2. Is secondary access required for the Applicants' proposed subdivision?

It is my opinion that secondary access to the D'Arezzo Hutchings Subdivision would not be absolutely required under Section 3.6.5 of the Town's Subdivision Rules and Regulations, because the combined number of lots in the D'Arezzo Hutchings Subdivision and the Helen Sawyer Subdivision would not exceed thirty (30).

Section 3.6.5 of the Subdivision Rules and Regulations provides that "[s]ubdivisions containing a total of thirty (30) or more lots shall provide more than a single access from an existing street. For this purpose, 'total number of lots' includes the lots fronting on pre-existing subdivision roads used for access to the proposed subdivision as well as new proposed lots." (Emphasis added). It is my understanding that the Helen Sawyer Subdivision has seventeen lots and the Applicants propose five lots. Thus, the total number of lots would be less than 30. In my opinion, based upon the specific language of Section 3.6.5, the fifteen lots comprising the Czyoski Subdivision would not be included in this calculation, because Laura's Way does not provide access to the Applicants' proposed subdivision. In the event the Board wishes the secondary access requirement to apply in such circumstances, I recommend that Section 3.6.5 be revised to read: "For this purpose, 'total number of lots' includes the lots fronting on pre-existing subdivision roads used for access to the proposed subdivision, lots relying upon such pre-existing subdivision roads as the sole access to the roads upon which they front, as well as new proposed lots." [Emphasis depicting potential new language]. In my opinion, such a regulation would be reasonable, since the intent of the secondary-access requirement is clearly to require secondary access where a network of subdivision roadways provides sole access to thirty or more lots.

I additionally note that the Planning Board has the authority to require secondary access for any size subdivision, if it determines such access is required for the public safety and convenience. See Subdivision Rules and Regulations, Section 3.9 ("The Board may require that a secondary access be provided for any size subdivision for demonstrated reasons of public safety and convenience."). Such a determination by the Board in this case would appear to be reasonable, given the facts that: (1) Sawyer Grove Road benefited from design waivers from the Board when the plan was first endorsed; (2) in granting such waivers the Board clearly determined that Sawyer Grove Road was not adequate to provide access to more than the 17 lots initially approved; and (3) the constructive approval of the Czyoski subdivision has already nearly doubled the number of lots accessed by Sawyer Grove Road beyond what the Board initially approved.

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3. Calculating the distance of Tashmuit Way as a dead-end street.

Section 3.6.6(a) of the Subdivision Rules and Regulations provides that "[t]he length of dead-end street should not exceed one thousand (1000) feet, and the dead-end street shall include at the end a turnaround having a property-line diameter of at least eighty (80) feet." This Section further provides that the "[1]ength of the street shall be measured along the centerline to the end of the turnaround." Section 3.6.6 does not specifically address the issue of connecting dead-end streets. In my opinion, the Board may reasonably determine that the dead-end street restriction applies to the combined length of the private roadways providing a single means of accessing the proposed subdivision from the nearest public way, in this case Hughes Road. Dead-end road limitations such as Section 3.6.6:

are enacted because of a concern that the blocking of a dead-end street, as by a fallen tree or an automobile accident, will prevent access to the homes beyond the blockage particularly by fire engines, ambulances, and other emergency equipment; the size of the turnaround provided at the closed end of the road does nothing to mitigate that concern and may even be said to increase it (at least so long as so much of the dead-end road as is not part of the turnaround exceeds the maximum length provided for in the regulation)."

Wheatley v. Planning Board of Hingham, 7 Mass. App. Ct. 435, 451 (1979).

Clearly, the above-described purpose of limiting single-access roadways for public safety purposes would be ill-served if the Board could not calculate the length of a new dead-end street by combining it with the length of an existing dead-end street, to which the new street is proposed to connect. Moreover, such an interpretation would encourage segmentation of subdivision proposals to avoid application of the dead-end street requirement. Cf., e.g., Ten Persons of Com. v. Fellsway Dev. LLC, 460 Mass. 366, 370 (2011) ("under anti-segmentation regulations, the proponent of a private project and any participating agency 'may not phase or segment a Project to evade, defer or curtail MEPA review."); White v. Armour, 16 LRC 748 (Mass. Land Ct. Nov. 19, 2008) (construction of a home cannot be phased for purposes of avoiding the site plan review process).

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If you have any further question or concerns regarding this matter please do not hesitate to contact me.

Very truly yours,

Jonathan M. Silverstein

JMS/jam

cc:

Town Administrator

Carole Ridley, Planning Consultant

547339/TRUR/0082

TOWN OF TRURO

PLANNING BOARD 2020-001/PB

Form C APPLICATION FOR APPROVAL OF A DEFINITIVE PLAN

To the Planning Board of the Town of Truro, MA

•	
The undersigned, being the applicant as define	d under Chapter 41, Section 81-L, for approval of a
proposed subdivision shown on a plan entitled	Definitive Subdivision Plan of Land #4-H Bay
View Road and 3 Laura's Way Truro MA pre	epared for Nathan A. Nickerson III
	dated May 28, 2019 and described as follows:
Located: off of Laura's Way	
Assessor's Map(s) and Parcel(s): Map 39 Parc	el 77 and Parcel 325
	_Total acreage of Tract: 7.53
Said applicant hereby submits said plan as a Deand Regulations of the Truro Planning Board ar plan.	efinitive subdivision plan in accordance with the Rules and makes application to the Board for approval of said
The undersigned's title to said land is derived un	nder deed from see attached
dated	, and recorded in the Barnstable
Registry of Deeds Book and Page:	
or by Land Court Certificate of Title No County, and said land is free of encumbrances of	registered in Barnstable except for the following:
	rom a preliminary plan submitted to the Board on modifications/disapproved (circle appropriate) on
Applicant's Signatur A Music	Applicant 1 Neiephone Number 508-240-8000
Applicant's Legal Mailing Address <u>PO Box 156</u>	38 North Eastham, MA 02651
Owner's Signature if not the applicant or applicant's authorization if not the owner	
Owner's Legal Mailing Address	
Surveyor Name/Address <u>Donald T. Poole Pl</u> (Or Person responsible for preparation of the plan)	_S 46 Main St. Brewster, MA 02631
File twelve (12) copies each of this for	m and applicable plan(s) with the Town Clerk



January 10, 2020

Truro Planning Board Truro Town Hall P.O. Box 2030 Truro, MA 02666

Re: Definitive subdivision Plan of Land #4-H Bay View Rd. and 3 Laura's Way

Dear Board Members.

Enclosed please find twelve copies of the definitive subdivision plan of land

#3 Laura's Way. The undersigned's (Nathan A. Nickerson III) title to said land is derived under deed from Laura's Way LLC dated 5/29/2015 and recorded in the Barnstable Registry of Deeds Book 28753, page 258

#4-H Bay View Road. The undersigned's (Charles S Hutchings, Jon R. Hutchings, Joan L. Hutchings and David E. Hutchings) title to said land is derived under deed from Rose L. D'Arezzo dated 3/23/15 and recorded in the Barnstable Registry of Deeds Book 28902, Page 61

Twelve copies of plans, profiles and cross section showing proposed design and location of streets, drainage and utilities, two copies of the subdivision plan at 1'=100', 2 copies of drainage calculations and a certified list of all abutters are enclosed as well as the application fee of \$375.00 The three road name options are Tashmuit Lane, Tashmuit Drive, Tashmuit Way. The subdivider agrees to complete proposed ways and install utilities within three years.

I would like to be placed on the next available Planning Board agenda so that we can discuss this.

Sincerely.

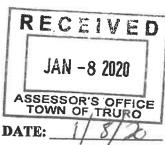
Donald T. Poole, P.L.S.

DTP/dls



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form



NAME OF APPLICANT: Norther Nich	non-
NAME OF AGENT (if any): 1 Dawn Stee	nlieb
MAILING ADDRESS: 46 Main ST	Blewster MA 02031
CONTACT: HOME/CELL <u>508 255 0477</u>	EMAIL dawn a outer mottan
	(street address)
PROPERTY IDENTIFICATION NUMBER: MAP	PARCEL 325 EXT. (if condominium)
ABUTTERS LIST NEEDED FOR: (please check all applicable) (Fee must accomp	FEE: \$15.00 per checked item pany the application unless other arrangements are made)
Board of Health ⁵ Planning Board (PB)	Zoning Board of Appeals (ZBA)
Cape Cod Commission Special Permit ¹	Special Permit ¹
Conservation Commission ⁴ Site Plan ²	Variance ¹
Licensing Preliminary Sub-	
Type: Definitive Subdi	vision ³
Accessory Dwel	ling Unit (ADU) ²
Other(Please Specify)	(Fee: Inquire with Assessors)
Note: Per M.G.L., processing may take up to 10	calendar days. Please plan accordingly.
THIS SECTION FOR ASSESSO	RS OFFICE USE ONLY
Date request received by Assessors: 8 100	Date completed: 1/8/2020
List completed by:	Date paid: 1/8/2010 Cash Check 3293

¹Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line.

²Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property.

³Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. <u>Note</u>: For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required.

⁴All abutters within 300 feet of parcel, except Beach Point between Knowles Heights Road and Provincetown border, in which case it is all abutters within 100 feet. <u>Note</u>: Responsibility of applicant to notify abutters and produce evidence as required.

⁵Abutters sharing any boundary or corner in any direction – including land across a street, river or stream. <u>Note</u>: Responsibility of applicant to notify abutters and produce evidence as required.



TRURO ASSESSORS OFFICE

PO Box 2012 Truro, MA 02666 Telephone: (508) 214-0921

Fax: (508) 349-5506

Date: January 8, 2020

To: Dawn Sternlieb

c/o Outermost Land Survey, Inc.

46 Main St

Brewster, MA 02631

From:

Assessors Department

Certified abutters list application for: 3 Lauras Way Map 39 Parcel 325.

Planning Board:

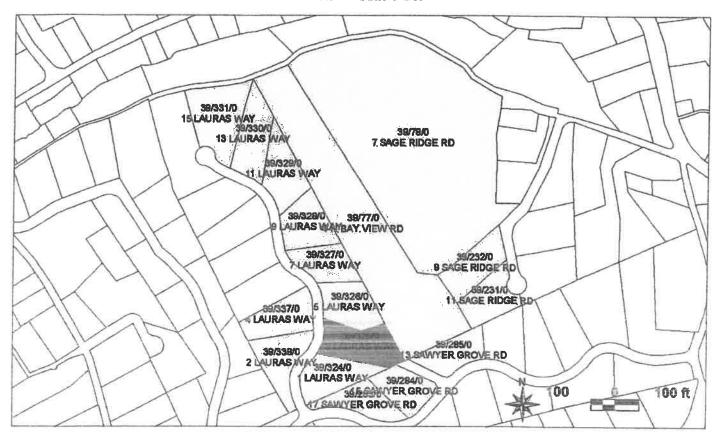
Attached is a list of Truro abutters (abutters, abutters to abutters, land owners across the streets and ways bordering the proposed subdivision) for the property located at 3 Lauras Way. The current owner is Nickerson Realty Trust. The names and addresses of the abutters are as of January 3, 2020 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by:

Jon Nahas Principal Assessor Town of Truro 24 Town Hall Rd PO Box 2012 Truro, MA 02666 508.214.0917 jnahas@truro-ma.gov 3 Lauras Way Map 37 Parcel 325 Planning Board

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

Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
	39-77-0-R	HUTCHINGS CHARLES S & HUTCHINGS JON R ET AL	4-H BAY VIEW RD	c/o JOAN HUTCHINGS 81B COUNTY ROAD, UNIT 2	MATTAPOISETT	PARTY PARAMETER	02739
1207	39-78-0-R	PETERS DEVELOPMENT NOMINEE TR TRS: PETERS THOMAS H & ERIK A	7 SAGE RIDGE RD	PO BOX 910	SO WELLFLEET	MA	02663
1351	39-231-0-R	QUINN GILLIAN R	11 SAGE RIDGE RD	PO BOX 58	NO TRURO	MA	02652-0068
1352	39-232-0-R	FOSTER DAVID S SR & MARGARET K	9 SAGE RIDGE RD	PO BOX 247	NO TRURO	MA	02652-0247
1402	39-283-0-R	CARLSON ROBERT W & JUDITH \$	17 SAWYER GROVE RD	PO BOX 372	NO TRURO	MA	02652-0372
1403	39-284-0-R	SHELLEY D FISCHEL REV LIV TRST TRS FISCHEL SHELLEY D	15 SAWYER GROVE RD	39 MONTROSE ROAD	SCARSDALE	NY	10583
1404	39-285-0-R	OBRIEN WILLIAM H & FAY JULIETTE E	13 SAWYER GROVE RD	BOX 867	VINEYARD HAVEN	MA	02568
6875	39-324-0-R	MARTIN ROBERT J & PETTERUTI MARK S	1 LAURAS WAY	PO BOX 820	NO TRURO	MA	02652
6676	39-325-0-R	NICKERSON REALTY TRUST C/O NICKERSON NATHAN III	3 LAURAS WAY	PO BOX 1568	N EASTHAM	MA	02651
6677	39-326-0-R	BERGEN ROBERT	5 LAURAS WAY	2213 60TH RD	BOCA RATON	FL	33496
6678	39-327-0-R	A & B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A	7 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6679	39-328-0-R	COOPER GARY M	9 LAURAS WAY	PO 80X 886	NORTH TRURO	MA	02652
6680	39-329-0-R	A AND B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A	11 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6681	39-330-0-R	A AND B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A	13 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6682	39-331-0-R	A AND B NOMINEE REALTY TRUST TRS POULIN THEO CHRISTA A	15 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657

On 1/8/2020

Page

1/8/2020

Key 6688	Parcel ID 39-337-0-R	Owner MORAN THERESA & MURPHY MARY ELIZABETH	Location Mailing Street Mailing City 4 LAURAS WAY 612 CRAWFORDS RIDGE RD ODENTON	ST ZipCd/Country MD 21113
6689	39-338-0-R	EGAN RICHARD M	2 LAURAS WAY 526 COLUMBUS AVE BOSTON	MA 02118

39-77-0-R

39-78-0-R

39-231-0-R

HUTCHINGS CHARLES S & HUTCHINGS JON R ET AL c/o JOAN HUTCHINGS 81B COUNTY ROAD, UNIT 2 MATTAPOISETT, MA 02739

PETERS DEVELOPMENT NOMINEE TR TRS: PETERS THOMAS H & ERIK A PO BOX 910 SO WELLFLEET, MA 02663

QUINN GILLIAN R PO BOX 58 NO TRURO, MA 02652-0058

39-232-0-R

39-283-0-R

39-324-0-R

39-284-0-R

FOSTER DAVID'S SR & MARGARET K PO BOX 247 NO TRURO, MA 02652-0247 CARLSON ROBERT W & JUDITH S PO BOX 372 NO TRURO, MA 02652-0372 SHELLEY D FISCHEL REV LIV TRST TRS FISCHEL SHELLEY D 39 MONTROSE ROAD SCARSDALE, NY 10583

39-285-0-R

-0-R

39-325-0-R

OBRIEN WILLIAM H & FAY JULIETTE E BOX 867 VINEYARD HAVEN, MA 02568 MARTIN ROBERT J & PETTERUTI MARK S PO BOX 820 NO TRURO, MA 02652

NICKERSON REALTY TRUST C/O NICKERSON NATHAN III PO BOX 1568 N EASTHAM, MA 02651

39-326-0-R

39-327-0-R

39-328-0-R

BERGEN ROBERT 2213 60TH RD BOCA RATON, FL 33496 A & B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A 268 BRADFORD ST PROVINCETOWN, MA 02657

COOPER GARY M PO BOX 886 NORTH TRURO, MA 02652

39-329-0-R

39-330-0-R

39-331-0-R

A AND B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A 268 BRADFORD ST PROVINCETOWN, MA 02657 A AND B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A 268 BRADFORD ST PROVINCETOWN, MA 02657 A AND B NOMINEE REALTY TRUST TRS POULIN THEO CHRISTA A 268 BRADFORD ST PROVINCETOWN, MA 02657

39-337-0-R

39-338-0-R

MORAN THERESA & MURPHY MARY ELIZABETH 612 CRAWFORDS RIDGE RD ODENTON, MD 21113

EGAN RICHARD M 526 COLUMBUS AVE BOSTON, MA 02118



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form



	1. /- 1. 1	DATE: 1/3/00
NAME OF APPLICANT:	Nathan Nicherson	- /
NAME OF AGENT (if any):	Dawn Stephib Osterne	ast Lad Suy, Inc
MAILING ADDRESS:	46 Main St Bruster	MA 02631
CONTACT: HOME/CELL	06 255 0477 EMAIL_	dawn @ outemestlands
PROPERTY LOCATION:	4- H Bay View Road	
PROPERTY IDENTIFICATION	N NUMBER: MAP 39 PARC	CEL 77 EXT. (if condominium)
ABUTTERS LIST NEEDED FO (please check <u>all</u> applicable)		FEE: \$15.00 per checked item ion unless other arrangements are made)
Board of Health ⁵ Cape Cod Commission Conservation Commission ⁴ Licensing Type:	Planning Board (PB) Special Permit¹ Site Plan² Preliminary Subdivision³ Definitive Subdivision³ Accessory Dwelling Unit (ADU	Zoning Board of Appeals (ZBA) Special Permit ¹ Variance ¹
Other	(Please Specify)	(Fee: Inquire with Assessors)
Note: Per M.G.L., proc	essing may take up to 10 calendar days.	Please plan accordingly.
	Control Contro	
THIS SE	CCTION FOR ASSESSORS OFFICE U	SE ONLY

¹Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line.

²Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property.

³Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. <u>Note:</u> For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required.

⁴All abutters within 300 feet of parcel, except Beach Point between Knowles Heights Road and Provincetown border, in which case it is all abutters within 100 feet. <u>Note</u>: Responsibility of applicant to notify abutters and produce evidence as required.

⁵Abutters sharing any boundary or corner in any direction – including land across a street, river or stream. <u>Note</u>: Responsibility of applicant to notify abutters and produce evidence as required.



TRURO ASSESSORS OFFICE

PO Box 2012 Truro, MA 02666 Telephone: (508) 214-0921

Fax: (508) 349-5506

Date: January 8, 2020

To: Dawn Sternlieb

c/o Outermost Land Survey, Inc.

46 Main St

Brewster, MA 02631

From: Ass

Assessors Department

Certified abutters list application for: 4-H Bay View Rd Map 39 Parcel 77.

Planning Board:

Attached is a list of Truro abutters (abutters, abutters to abutters, land owners across the streets and ways bordering the proposed subdivision) for the property located at 4-H Bay View Rd. The current owner is Charles Hutchings ET AL. The names and addresses of the abutters are as of January 3, 2020 according to the most recent documents received from the Barnstable County Registry of Deeds.

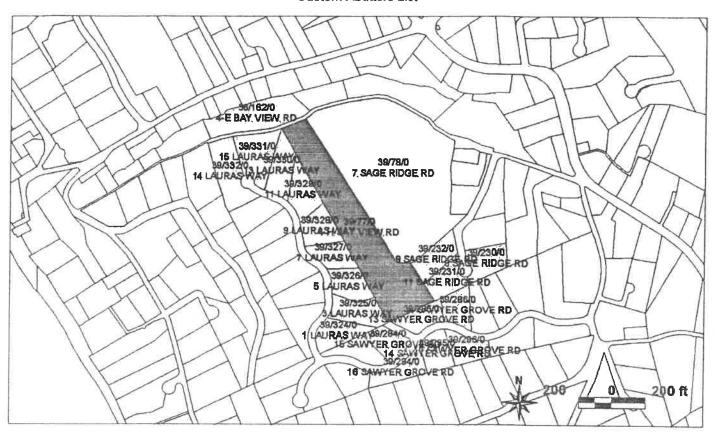
Certified by:

Jon Nahas Principal Assessor Town of Truro 24 Town Hall Rd PO Box 2012 Truro, MA 02666 508.214.0917 jnahas@truro-ma.gov

4-H Bay View Rd Map 38 Parcel 77 Planning Board

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

Custom Abutters List



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City		ZipCd/Country
1048	38-162-0-R	BUMPS LUTHER A & BUMPS LORA H	4-E BAY VIEW RD	PO BOX 277	NORTH TRURO		02652
1077	36-191-0-E	FRANCIS ROAD CONDO TRUST		9 FRANCIS RD	N TRURO	MA	02652
7265	36-191-A-R	COWIE ANNE D & GRAVES AMY K	9 FRANCIS RD	PO BOX 672	NORTH TRURO	MA	02652
7267	36-191-B-R	GRASSO BARBARA & JAFFE MICHELLE E	9-A FRANCIS RD	PO BOX 339	PROVINCETOWN	MA	02652
1207	39-78-0-R	PETERS DEVELOPMENT NOMINEE TR TRS: PETERS THOMAS H & ERIK A	7 SAGE RIDGE RD		SO WELLFLEET	MA	02663
1208	39-79-0-R	BYRNE JAMES M & LAUREN T	11 FRANCIS RD	PO BOX 659	N TRURO	MA	02652
1209	39-80-0-R	PERRY ANDREW KNUBEL, ET AL	13 FRANCIS RD	PO BOX 320424230	SIOUX FALLS	SD	57186
1350	39-230-0-R	REIS ARTHUR F & HEATHER	8 SAGE RIDGE RD	PO BOX 1557	PROVINCETOWN	MA	02657
1351	39-231-0-R	QUINN GILLIAN R	11 SAGE RIDGE RD	PO 80X 58	NO TRURO	MA	02652-0058
1352	39-232-0-R	FOSTER DAVID S SR & MARGARET K	9 SAGE RIDGE RD	PO BOX 247	NO TRURO	MA	02652-0247
1403	39-284-0-R	SHELLEY D FISCHEL REV LIV TRST TRS FISCHEL SHELLEY D	15 SAWYER GROVE RD	39 MONTROSE ROAD	SCARSDALE	NY	10583
1404	39-285-0-R	OBRIEN WILLIAM H & FAY JULIETTE E	13 SAWYER GROVE RD	BOX 887	VINEYARD HAVEN	MA	02568
1405	39-286-0-R	MARIN RAFAEL H & BARBARA	11 SAWYER GROVE RD	PO BOX 401	NO TRURO	MA	02652-0401
1413	39-294-0-R	KOTT DOUGLAS G & KOTT ANNE-MARIE ZEHNDER	16 SAWYER GROVE RD	211 CLAYBROOK RD	DOVER	MA	02030-2008
1414	39-295-0-R	GAGNON DONNA M	14 SAWYER GROVE RD	PO BOX 188	NORTH TRURO	MA	02652

1/8/2020

Key	Parcel ID	Owner	Location	Mailing Street	Meiling City	8T	ZipCd/Country
1415	39-296-0-R	MOORE FRANK E & DEJO DEJO-SUAREZ GUSTAVO	10 SAWYER GROVE RD	13 FAYETTE STREET	BOSTON	MA	02116
6675	39-324-0-R	MARTIN ROBERT J & PETTERUTI MARK \$	1 LAURAS WAY	PO BOX 820	NO TRURO	MA	02652
5676	39-325-0-R	NICKERSON REALTY TRUST C/O NICKERSON NATHAN III	3 LAURAS WAY	PO BOX 1568	N EASTHAM	MA	02651
6677	39-326-0-R	BERGEN ROBERT	5 LAURAS WAY	2213 60TH RD	BOCA RATON	FL	33496
6678	39-327-0-R	A & B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A	7 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6679	39-328-0-R	COOPER GARY M	9 LAURAS WAY	PO BOX 886	NORTH TRURO	MA	02652
6680		A AND B NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A	11 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6681	39-330-0-R	A AND 8 NOMINEE REALTY TRUST TRS: POULIN THEO CHRISTA A	13 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6682	39-331-0-R	A AND B NOMINEE REALTY TRUST TRS POULIN THEO CHRISTA A	15 LAURAS WAY	268 BRADFORD ST	PROVINCETOWN	MA	02657
6683	39-332-0-R	J & M REALTY TRUST TRS MICHAEL W & JUDITH A	14 LAURAS WAY	PO BOX 132	NO TRURO	MA	02652

In ilphoro

BUMPS LUTHER A & BUMPS LORA H PO BOX 277 NORTH TRURO, MA 02652 FRANCIS ROAD CONDO TRUST 9 FRANCIS RD N TRURO, MA 02652

COWIE ANNE D & GRAVES AMY K PO BOX 672 NORTH TRURO, MA 02652

36-191-B-R

39-78-0-R

39-79-0-R

GRASSO BARBARA & JAFFE MICHELLE E PO BOX 339 PROVINCETOWN, MA 02652 PETERS DEVELOPMENT NOMINEE TR TRS: PETERS THOMAS H & ERIK A PO BOX 910 SO WELLFLEET, MA 02663

BYRNE JAMES M & LAUREN T PO BOX 659 N TRURO, MA 02652

39-80-0-R

39-230-0-R

39-231-0-R

PERRY ANDREW KNUBEL, ET AL PO BOX 320424230 SIOUX FALLS, SD 57186 REIS ARTHUR F & HEATHER PO BOX 1557 PROVINCETOWN, MA 02657

QUINN GILLIAN R PO BOX 58 NO TRURO, MA 02652-0058

39-232-0-R

39-284-0-R

39-285-0-R

FOSTER DAVID S SR & MARGARET K PO BOX 247 NO TRURO, MA 02652-0247 SHELLEY D FISCHEL REV LIV TRST TRS FISCHEL SHELLEY D 39 MONTROSE ROAD SCARSDALE, NY 10583 OBRIEN WILLIAM H & FAY JULIETTE E BOX 867 VINEYARD HAVEN, MA 02568

39-286-0-R

39-294-0-R

39-295-0-R

MARIN RAFAEL H & BARBARA PO BOX 401 NO TRURO, MA 02652-0401 KOTT DOUGLAS G & KOTT ANNE-MARIE ZEHNDER 211 CLAYBROOK RD DOVER, MA 02030-2008

GAGNON DONNA M PO BOX 188 NORTH TRURO, MA 02652

39-296-0-R

39-324-0-R

39-325-0-R

MOORE FRANK E & DEJO DEJO-SUAREZ GUSTAVO 13 FAYETTE STREET BOSTON, MA 02116 MARTIN ROBERT J & PETTERUTI MARK S PO BOX 820 NO TRURO, MA 02652 NICKERSON REALTY TRUST C/O NICKERSON NATHAN III PO BOX 1568 N EASTHAM, MA 02651

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COOPER GARY M PO BOX 886 NORTH TRURO, MA 02652

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39-332-0-R

J & M REALTY TRUST TRS MICHAEL W & JUDITH A PO BOX 132 NO TRURO, MA 02652

Charles S. Hutchings, Jon R. Hutchings Joan L. Hutchings and David E. Hutchings

December 2, 2019

Building Commissioner

Town of Truro

P.o. Box 2030

Truro, MA 02666

Re: Filing of Plans and Permit Applications

4-H Bay View Road, Truro, MA 02666

Dear Sir or Madam:

We are the owners of the premises known as 4-H Bay View Road, Truro, MA 02660 which is under agreement with Nickerson Realty Corporation, of Main Street Mercantile Route 6, Eastham, Massachusetts.

This letter is for the purpose of authorizing Nickerson Realty Corporation and its officers and agents to file any and all plans and applications for permits with the Truro Building Department, Board of Health and any other municipal department related to the subdivision of land and or construction of single family dwellings at 4-H Bay View Road, Truro, MA 02660.

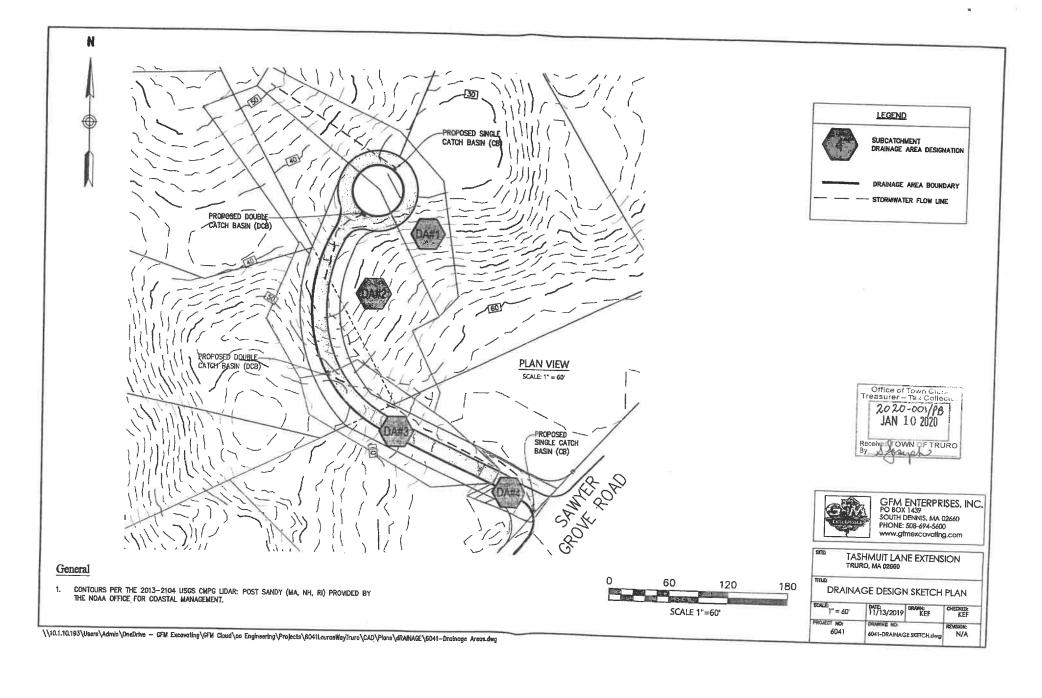
Sincerely,

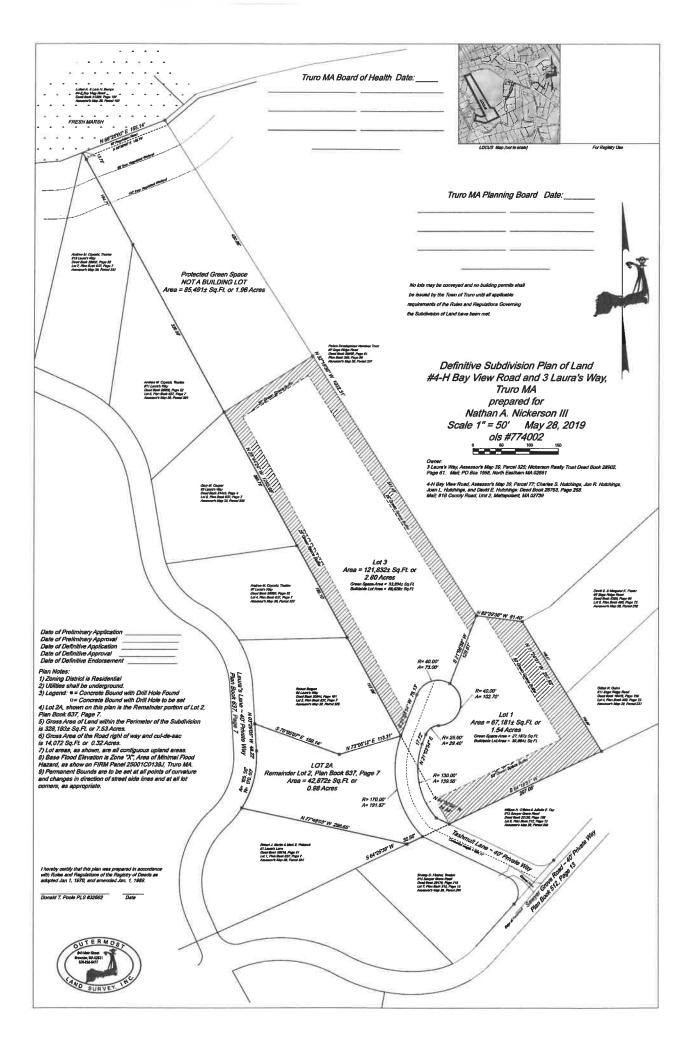
Charles S. Hutchings

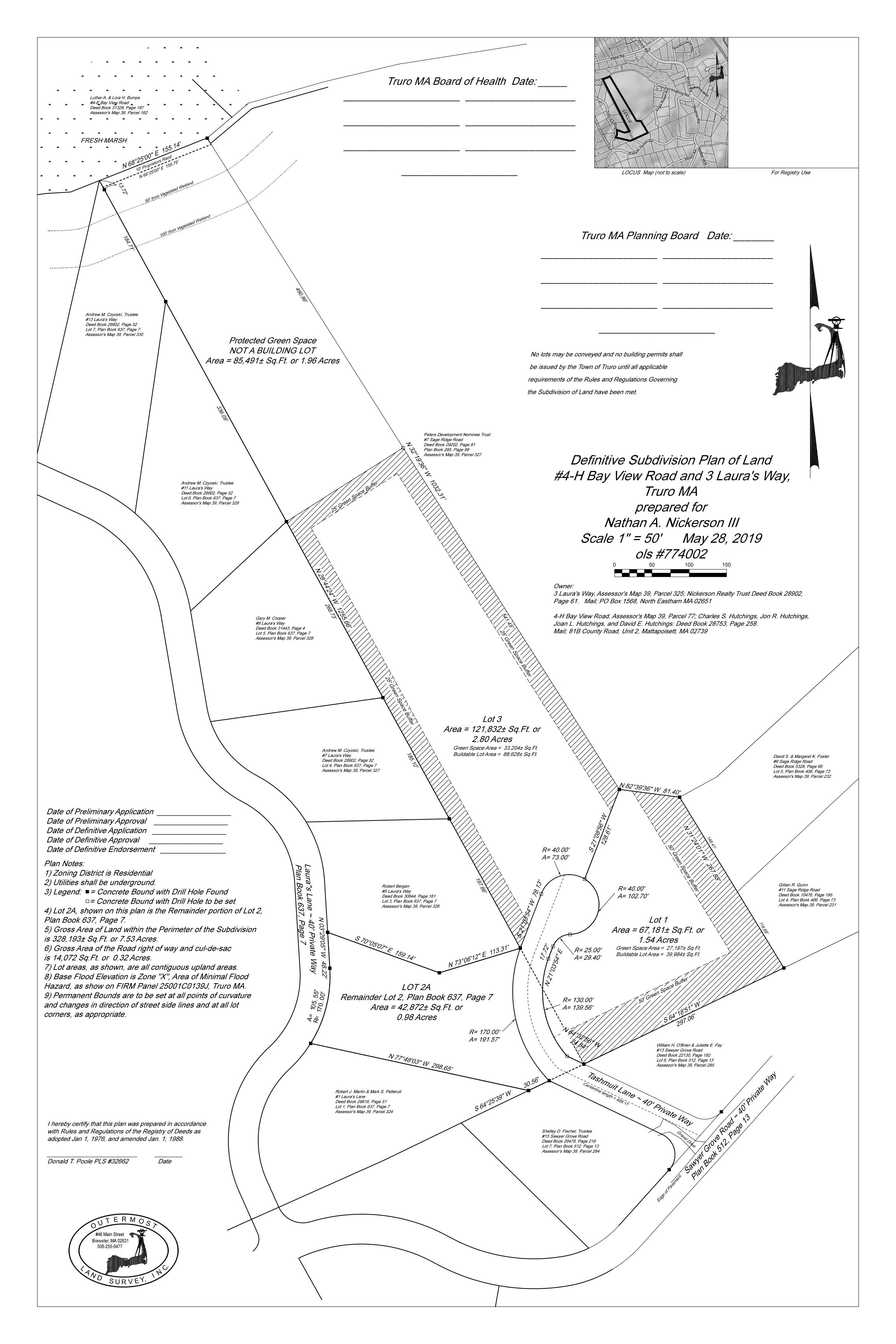
Ion R. Hutchings

Joan L. Hutchings

David E. Hutchings







General

- 1. CONTRACTOR SHALL NOTIFY "DIG-SAFE" (1-888-344-7233) AT LEAST 72 HOURS BEFORE FXCAVATING.
- 2. CONTRACTOR SHALL BE RESPONSIBLE FOR SITE SECURITY AND JOB SAFETY. CONSTRUCTION ACTIVITIES SHALL BE IN ACCORDANCE WITH OSHA STANDARDS AND LOCAL REQUIREMENTS.
- 3. WORK WITHIN THE LOCAL RIGHTS-OF-WAY SHALL CONFORM TO LOCAL MUNICIPAL
- 4. UPON AWARD OF CONTRACT, CONTRACTOR SHALL MAKE NECESSARY CONSTRUCTION NOTIFICATIONS AND APPLY FOR AND OBTAIN NECESSARY PERMITS, PAY FEES, AND POST BONDS ASSOCIATED WITH THE WORK INDICATED ON THE DRAWINGS, IN THE SPECIFICATIONS, AND IN THE CONTRACT DOCUMENTS. DO NOT CLOSE OR OBSTRUCT ROADWAYS, SIDEWALKS, AND FIRE HYDRANTS, WITHOUT APPROPRIATE PERMITS.
- 5. TRAFFIC SIGNAGE AND PAVEMENT MARKINGS SHALL CONFORM TO THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES AND TRURO DPW STANDARDS.
- 6. IN THE EVENT THAT SUSPECTED CONTAMINATED SOIL, GROUNDWATER, AND OTHER MEDIA ARE ENCOUNTERED DURING EXCAVATION AND CONSTRUCTION ACTIVITIES BASED ON VISUAL, OLFACTORY, OR OTHER EVIDENCE, THE CONTRACTOR SHALL STOP WORK IN THE VICINITY OF THE SUSPECT MATERIAL TO AVOID FURTHER SPREADING OF THE MATERIAL, AND SHALL NOTIFY THE OWNER IMMEDIATELY SO THAT THE APPROPRIATE TESTING AND SUBSEQUENT ACTION CAN BE TAKEN.
- 7. CONTRACTOR SHALL PREVENT DUST, SEDIMENT, AND DEBRIS FROM EXITING THE SITE AND SHALL BE RESPONSIBLE FOR CLEANUP, REPAIRS AND CORRECTIVE ACTION IF SUCH OCCURS.
- 8. DAMAGE RESULTING FROM CONSTRUCTION LOADS SHALL BE REPAIRED BY THE CONTRACTOR AT NO ADDITIONAL COST TO OWNER.
- 9. CONTRACTOR SHALL CONTROL STORM WATER RUNOFF DURING CONSTRUCTION TO PREVENT ADVERSE IMPACTS TO OFF SITE AREAS, AND SHALL BE RESPONSIBLE TO REPAIR RESULTING DAMAGES, IF ANY, AT NO COST TO OWNER.

Utilities

- 10. SET CATCH BASIN RIMS, AND INVERTS OF DRAINS IN ACCORDANCE WITH ELEVATIONS SHOWN IN STRUCTURE ELEVATION SCHEDULE.
- 11. STORM DRAINAGE PIPES SHALL BE HIGH-DENSITY POLYETHYLENE (HDPE)

Erosion Control

- 12. CONTRACTOR SHALL INSPECT AND MAINTAIN EROSION CONTROL MEASURES, AND REMOVE SEDIMENT THEREFROM ON A WEEKLY BASIS AND WITHIN TWELVE HOURS AFTER EACH STORM EVENT AND DISPOSE OF SEDIMENTS IN AN UPLAND AREA SUCH THAT THEY DO NOT ENCUMBER OTHER DRAINAGE STRUCTURES AND PROTECTED AREAS.
- 13. CONTRACTOR SHALL BE RESPONSIBLE FOR INSTALLING A CONSTRUCTION EXIT/ENTRANCE TO PREVENT SEDIMENT FROM ENTERING THE RIGHT OF WAY DURING CONSTRUCTION.
- 14. CONTRACTOR SHALL PERFORM CONSTRUCTION SEQUENCING SUCH THAT EARTH MATERIALS
 ARE EXPOSED FOR A MINIMUM OF TIME BEFORE THEY ARE COVERED, SEEDED, OR OTHERWISE
 STABILIZED TO PREVENT EROSION.
- 15. CONTRACTOR SHALL INSTALL FILTER FABRIC OR SILT SACKS IN NEWLY INSTALLED CATCH BASINS TO PREVENT DEBRIS FROM ENTERING DRAINAGE FACILITIES DURING CONSTRUCTION.
- 16. UPON COMPLETION OF CONSTRUCTION AND ESTABLISHMENT OF PERMANENT GROUND COVER, CONTRACTOR SHALL REMOVE AND DISPOSE OF EROSION CONTROL MEASURES AND CLEAN SEDIMENT AND DEBRIS FROM ENTIRE DRAINAGE SYSTEMS.
- 17. EROSION CONTROL BLANKETS SHALL BE INSTALLED ON ALL PERMITTED 2:1 SLOPES PRIOR TO SEEDING.

Existing Conditions Information

18. BASE PLAN: THE PROPERTY LINES, SITE FEATURES, AND TOPOGRAPHY SHOWN WERE PROVIDED BY OUTERMOST LAND SURVEY, INC..

Pavement at Sawyer Grove Road

19. EXISTING PAVEMENT TO BE SAW CUT. CONTRACTOR TO INSTALL NEW PAVEMENT, AT THE INTERSECTION OF SAWYER GROVE ROAD AND THE PROPOSED ROAD, TO PREVENT THE FLOW OF STORM WATER, FROM SAWYER GROVE, INTO THE NEW ROAD.

Subgrade Preparation

- 20. TOPSOIL/SUBSOIL, ORGANIC MATERIAL, ROOT BALLS, WHERE ENCOUNTERED, AND OTHER DELETERIOUS MATERIAL SHOULD BE ENTIRELY REMOVED FROM WITHIN THE AREAS OF PROPOSED PAVEMENT, LEACHING FACILITIES, AND ANY AREAS WHERE FILL MATERIAL WILL BE PLACED.
- 21. ORDINARY FILL SHALL CONSIST OF SELECT ON—SITE OR IMPORTED SOIL MATERIAL. THE FILL SHALL BE COMPRISED OF CLEAN GRANULAR SAND, BE FROM ORGANIC MATTER AND DELETERIOUS SUBSTANCES, AND SHALL NOT CONTAIN REMEDIATION WASTE AS THAT TERM IS DEFINED IN 310 CMR 40.0000. MIXTURES AND LAYERS OF DIFFERENT CLASSES OF SOIL SHALL NOT BE USED. THE FILL SHALL NOT CONTAIN ANY MATERIAL OVER 2 INCHES. A SIEVE ANALYSIS, USING A #4 SIEVE, SHALL BE PREFORMED ON A REPRESENTATIVE SAMPLE OF THE FILL. UP TO 45% BY WEIGHT OF THE FILL SAMPLE MAY BE RETAINED ON THE #4 SIEVE. SIEVE ANALYSIS SHALL ALSO BE PREFORMED ON THE FRACTION OF THE FILL SAMPLE PASSING THE #4 SIEVE, SUCH ANALYSIS MUST DEMONSTRATE THAT THE MATERIAL MEETS EACH OF THE FOLLOWING SPECIFICATIONS.

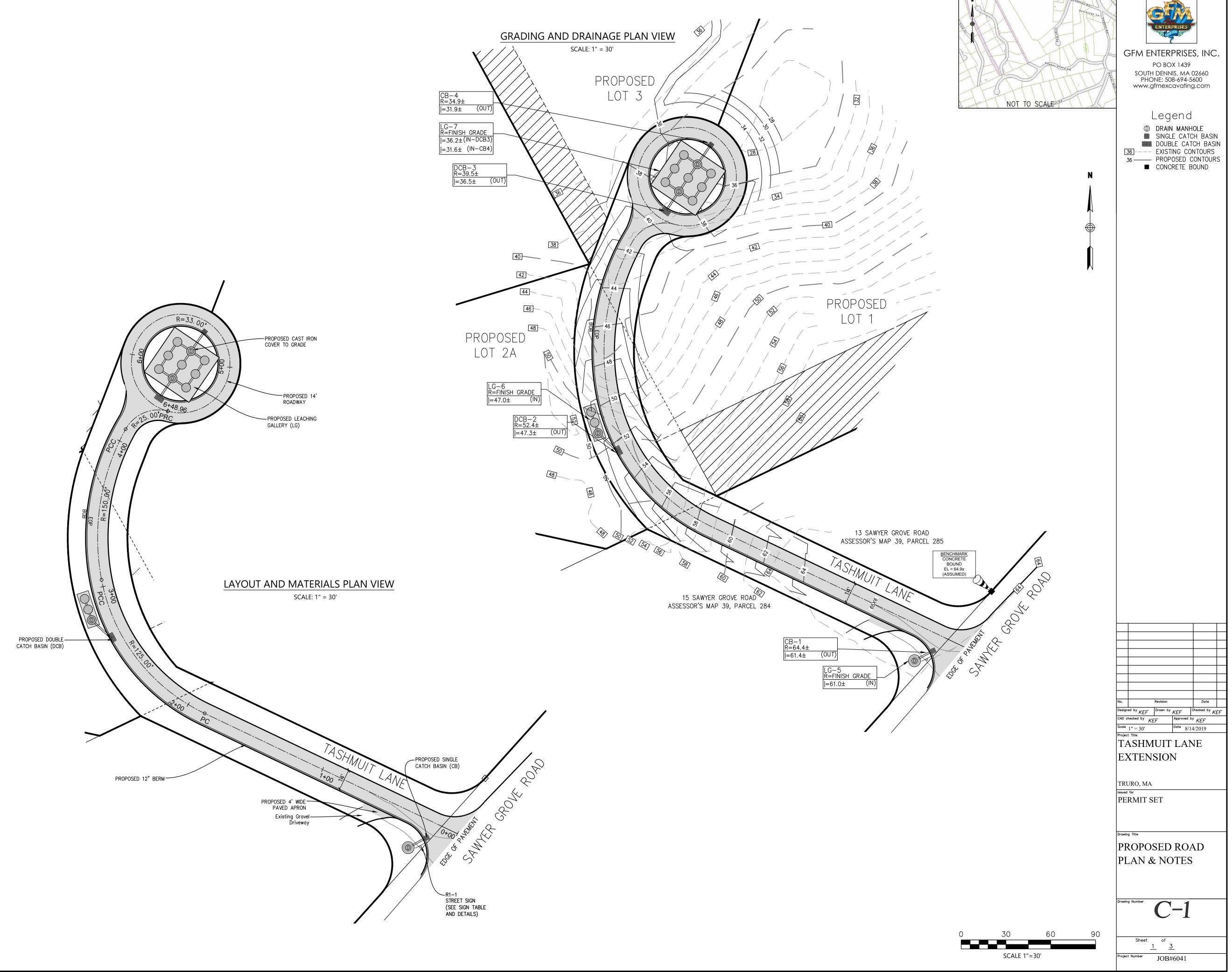
SIEVE SIZE MUST PASS SIEVE	EFFECTIVE PARTIC	LE SIZE %THAT
#4	4.75mm	100%
#50	0.30mm	10% - 100%
#100	0.15mm	0% - 20%
#200	0.075mm	0% - 5%

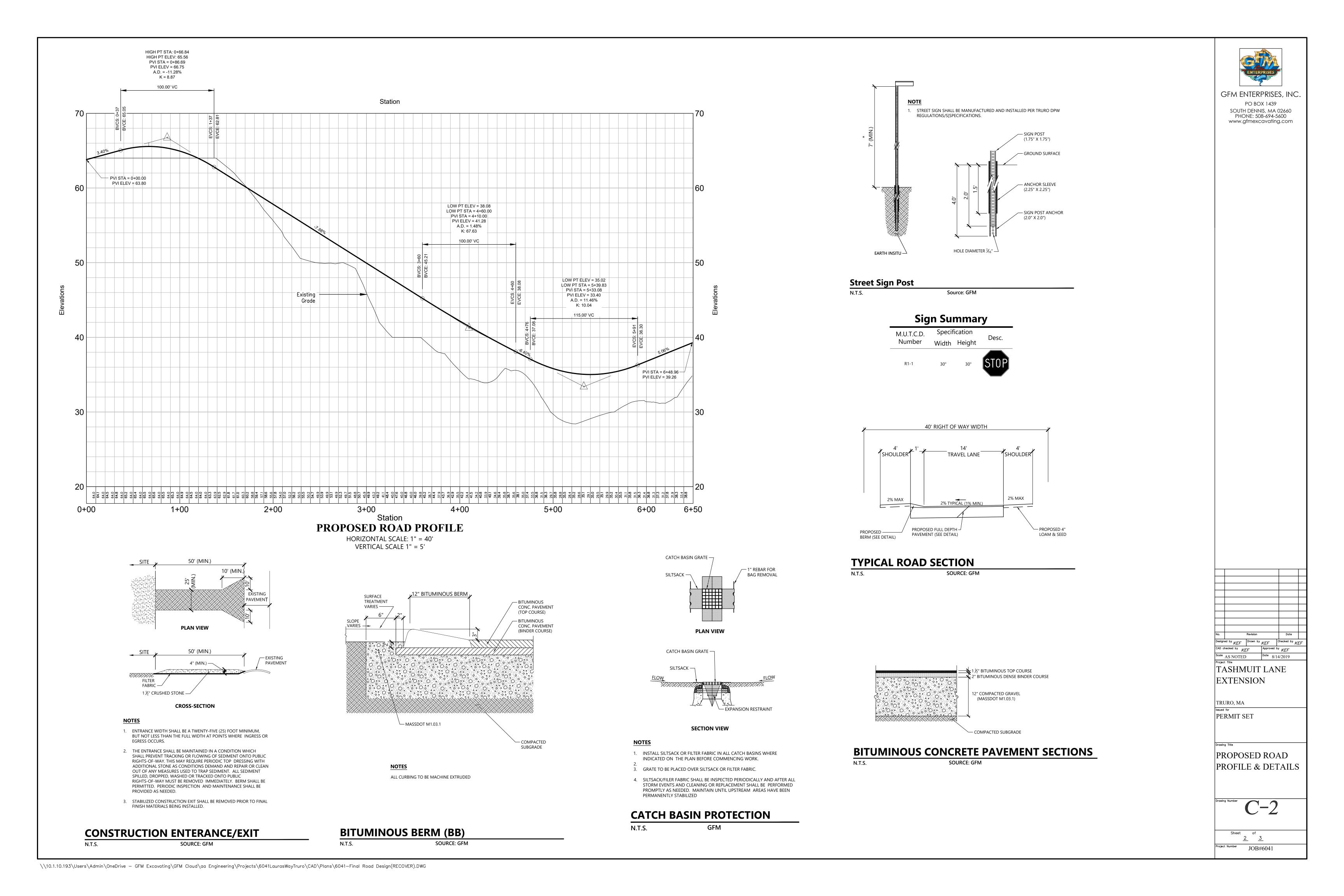
ORDINARY FILL SHOULD HAVE A PLASTICITY INDEX OF LESS THAN 6 AND SHOULD MEET THE GRADATION REQUIREMENTS SHOWN ABOVE. ORDINARY FILL SHOULD BE COMPACTED IN A MAXIMUM 8—INCH LOOSE LIFTS TO AT LEAST 95 PERCENT OF THE MODIFIED PROCTOR MAXIMUM DENSITY (ASTM D1557), WITH MOISTURE CONTENTS WITHIN ±2 PERCENTAGE POINTS OF OPTIMUM MOISTURE CONTENT.

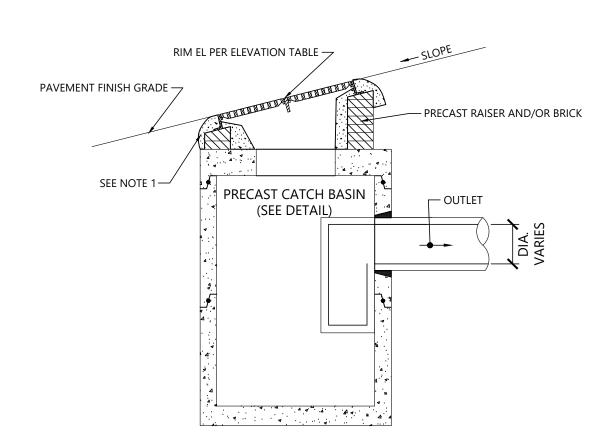
22. FILL PLACED IN THE TOP 12 INCHES BENEATH PAVED AREAS SHOULD CONSIST OF M1.03.1 PROCESSED GRAVEL FOR SUB GRADE.

SIEVE DESIGNATION	PERCENT PASSING
3 IN	100%
1 ½ IN	70%–100%
1 ¼ IN	50%-85%
NO. 4	30%-60%
NO. 200	0%-10%

GRAVEL SHALL CONSIST OF INERT MATERIAL THAT IS HARD, DURABLE STONE AND COURSE SAND, FREE FROM LOAM AND CLAY, SURFACE COATINGS AND DELETERIOUS MATERIALS. SUB BASE SHOULD BE COMPACTED IN MAXIMUM 8-INCH LOOSE LIFTS TO AT LEAST 95% OF THE MODIFIED PROCTOR MAXIMUM DRY DENSITY (ASTM D1557), WITH MOISTURE CONTENTS WITHIN ±2 PERCENTAGE POINTS OF MAXIMUM MOISTURE CONTENT.



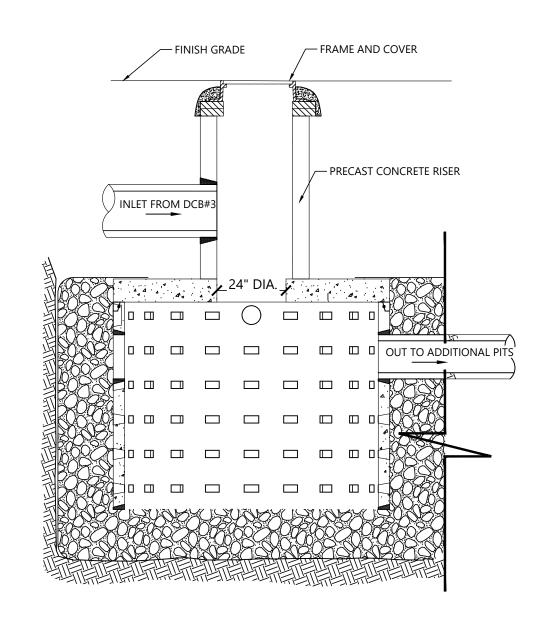




1. DOUBLE CATCH BASIN FRAME SHALL BE 8" IN HEIGHT (MIN). FRAME AND GRATE SHALL BE SET IN FULL MORTAR BED. ADJUST TO GRADE WITH CLAY BRICK AND MORTAR OR PRECAST RISERS.

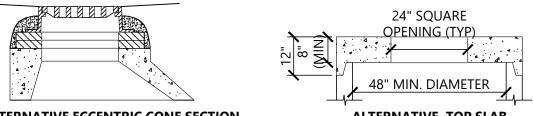
DCB FRAME AND GRATE ON SLOPE DETAIL

N.T.S.



DCB-3 TO LG#7 CONNECTION DETAIL

SOURCE: GFM N.T.S.



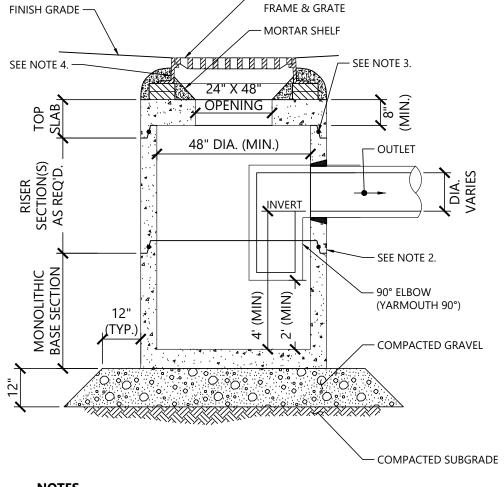
ALTERNATIVE ECCENTRIC CONE SECTION ALTERNATIVE TOP SLAB SEE NOTE 4 -48" MIN. DIAMETER

MORTAR CONNECTION SEE NOTE 2. – 90° ELBOW (YARMOUTH 90°) - COMPACTED GRAVEL

- 1. ALL SECTIONS SHALL BE DESIGNED FOR HS-20 LOADING. (USE SHOREY CB4471-SQFT)
- 2. PROVIDE OPENINGS FOR PIPES WITH 2" MAX. CLEARANCE TO OUTSIDE OF PIPE. MORTAR ALL PIPE CONNECTIONS.
- 3. JOINT SEALANT BETWEEN PRECAST SECTIONS SHALL BE PREFORMED BUTYL RUBBER.
- 4. CATCH BASIN FRAME SHALL BE 8" IN HEIGHT (MIN). FRAME AND GRATE SHALL BE SET IN FULL MORTAR BED. ADJUST TO GRADE WITH CLAY BRICK AND MORTAR OR PRECAST RISERS.
- 5. CATCH BASIN FRAME SHALL BE A MIN. OF 8" IN DEPTH AND HAVE A 24" SQUARE CAST IRON GRATE WITH 64 OPENINGS @ 2-1/4" SQUARE.

Catch Basin (CB)

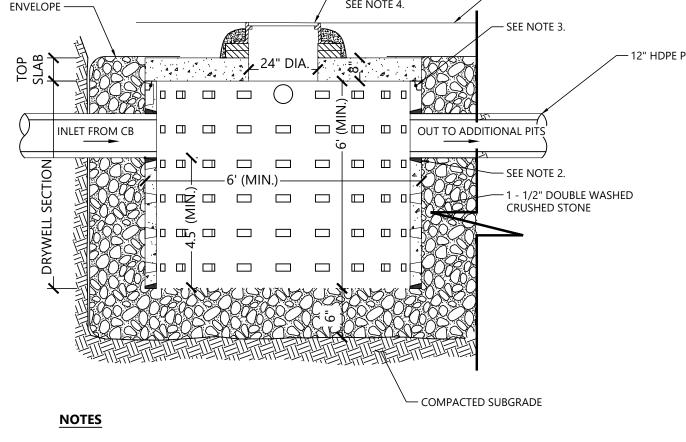
Source: GFM



— DOUBLE CATCH BASIN

- 1. ALL SECTIONS SHALL BE DESIGNED FOR HS-20 LOADING. (USE SHOREY CB447-DGFT)
- 2. PROVIDE OPENINGS FOR PIPES WITH 2" MAX. CLEARANCE TO OUTSIDE OF PIPE. MORTAR ALL PIPE CONNECTIONS.
- 3. JOINT SEALANT BETWEEN PRECAST SECTIONS SHALL BE BUTYL RUBBER.
- 4. DOUBLE CATCH BASIN CATCH FRAME SHALL BE 8" IN HEIGHT (MIN). FRAME AND GRATE SHALL BE SET IN FULL MORTAR BED. ADJUST TO GRADE WITH CLAY BRICK AND MORTAR (2 BRICKS TYPICALLY, 5 BRICK COURSES

Double Grate Catch Basin (DCB)



— FRAME AND COVER

FINISH GRADE

- 1. ALL COMPONENTS SHALL BE DESIGNED FOR HS-20 LOADING. (USE SHOREY LPOS102)
- 2. PROVIDE PRECAST OPENINGS FOR PIPES WITH 2" MAX. CLEARANCE TO OUTSIDE OF PIPE. MORTAR ALL PIPE CONNECTIONS.
- 3. JOINT SEALANT BETWEEN PRECAST SECTIONS SHALL BE PREFORMED BUTYL RUBBER.
- 4. LEACHING PIT, WITH INLET FROM CATCH BASIN, SHALL HAVE A CAST IRON RAISED TO GRADE. FRAME SHALL BE 8" IN HEIGHT (MIN). FRAME AND COVER SHALL BE SET IN FULL MORTAR BED. ADJUST TO GRADE WITH CLAY BRICK AND MORTAR OR PRECAST RISERS. ALL OTHER PITS SHALL HAVE COVERS RAISED TO WITHIN 6' OF GRADE WITH PRECAST RISERS.

LEACH PIT DETAIL

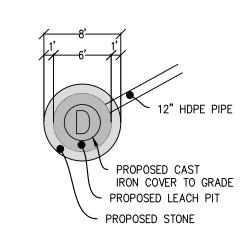
FILTER FABRIC

SOURCE: GFM

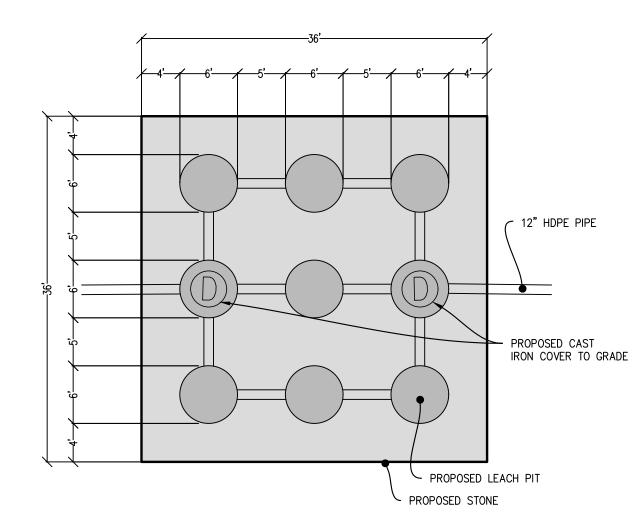


STRUCTURE ID	RIM ELEV	INV. IN	INV. OUT
CB#1	64.4±		61.4±
DCB#2	52.4±		47.3±
DCB#3	39.5±		36.5±
CB#4	34.9±		31.9±
LG#5	RAISE TO GRADE	61.0±	
LG#6	RAISE TO GRADE	47.0±	
LG#7	RAISE TO GRADE	*FROM DCB-3=36.2± FROM CB-4=31.6±	

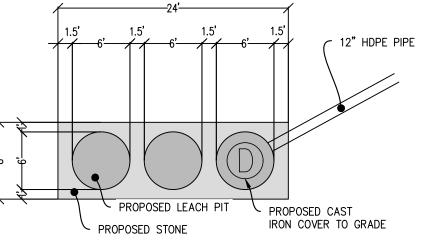
*NOTE: SEE DETAIL FOR PIPE INSTALLATION FROM DCB#3 TO LG#7



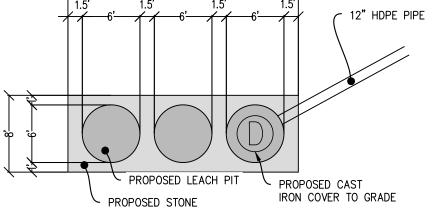
LG #5 SCALE 1" = 10' SOURCE: GFM



LG #7 SCALE 1" = 10' SOURCE: GFM



LG #4 SCALE 1" = 10' SOURCE: GFM



Drawing Title DRAINAGE DETAILS \mathbb{C} -3

Project Number JOB#6041

TASHMUIT LANE

EXTENSION

TRURO, MA

PERMIT SET

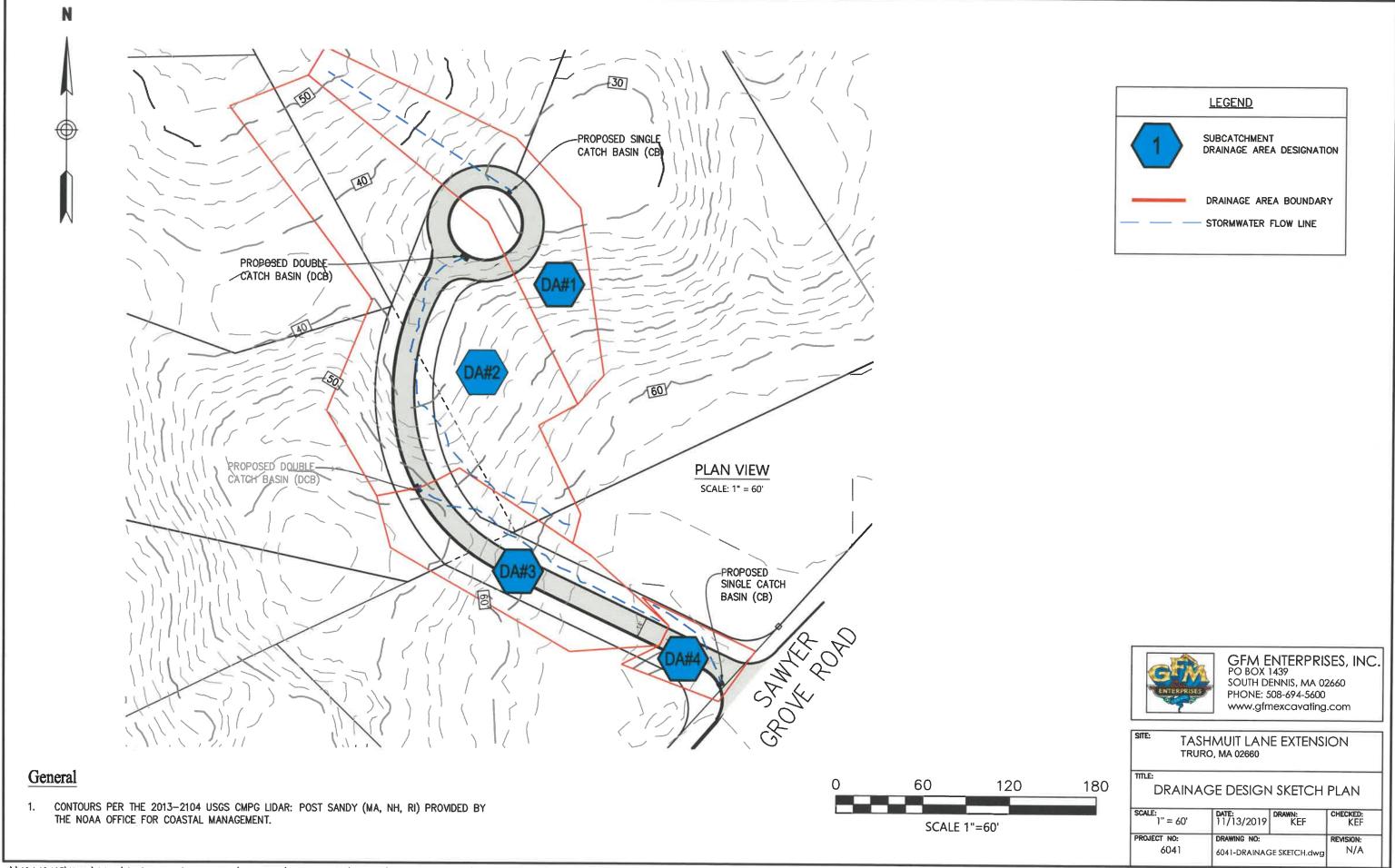
GFM ENTERPRISES, INC.

PO BOX 1439

SOUTH DENNIS, MA 02660

PHONE: 508-694-5600

www.gfmexcavating.com





GFM Enterprises, Inc. P.O. Box 1439 Dennis, MA 02660 Office: 508-694-5600

November 13, 2019

Truro Planning Board 24 Town Hall Road Truro, MA 02666

RE: Tashmuit Lane Extension, Truro

Dear Planning Board Members,

As per the requirements of the Town of Truro Rules and Regulations Governing the Subdivision of Land, GFM Enterprises, Inc. has completed the attached calculations to show the drainage, as currently proposed, has been designed to handle a 50-year storm.

Please call if you have any questions or require any additional information.

Thank you.

Keith Fernandes, PE GFM Enterprises, Inc.

Enclosed - Drainage Calculations

Drainage Design Sketch Plan



DRAINAGE AREA #1 (DA#1) Calculations

Total Area = 13,500 SF (0.31 Acres) Paved Area = 1,750 SF (0.04 Acres) Grass Area (Steep Slope) = 11,750 SF (0.27 Acres) Length of Stormwater Flow = 150' Slope = 10%

Cpave = 0.9

Cgrass = 0.5

Cave=0.55

Q=CIA=(0.55)(6.6)(0.31)=1.13 cf/sec = 507.1 gal/min

Soil Percolation Rate is less than 2 min/inch so use a **Ration of Q to Leaching Area** of 0.7

507.1/0.7= **725 SF of Leaching Required For Drainage Area #1**

DRAINAGE AREA #2 (DA#2) Calculations

Total Area = 34,250 SF (0.79 Acres)
Paved Area = 3,825 SF (0.09 Acres)
Grass Area (Steep Slope) = 30,425 SF (0.70 Acres)
Length of Stormwater Flow = 260'
Slope = 8%

Cpave = 0.9

Cgrass = 0.5

Cave=0.55

Q=CIA=(0.55)(5.2)(0.79)=2.26 cf/sec = 1014 gal/min

Soil Percolation Rate is less than 2 min/inch so use a **Ration of Q to Leaching Area** of 0.7

1014/0.7= 1449 SF of Leaching Required For Drainage Area #2

A 36' \times 36' \times 6.5 Leaching Facility provides 2,232 SF of leaching which is greater than 2,174 SF required (725 + 1449).

DRAINAGE AREA #3 (DA#3) Calculations

Total Area = 12,250 SF (0.28 Acres)
Paved Area = 2,975 SF (0.07 Acres)
Grass Area (Steep Slope) = 9,275 SF (0.21 Acres)
Length of Stormwater Flow = 200'
Slope = 6.5%

Cpave = 0.9

Cgrass = 0.5

Cave=0.6

Q=CIA=(0.6)(5.5)(0.28)=0.92 cf/sec = 412.9 gal/min

Soil Percolation Rate is less than 2 min/inch so use a **Ration of Q to Leaching Area of 0.7**

412.9/0.7= 590 SF of Leaching Required For Drainage Area #3

A 24' x 8' x 6.5 Leaching Facility provides 608 SF of leaching which is greater than 590 SF required.

DRAINAGE AREA #4 (DA#4) Calculations

Total Area = 2,900 SF (0.07 Acres)
Paved Area = 965 SF (0.02 Acres)
Gravel Area = 315 SF (0.01 Acres)
Grass Area (Steep Slope) = 1,620 SF (0.04 Acres)
Length of Stormwater Flow = 75'
Slope = 1.3%

Cpave = 0.9

Cgrass = 0.4

Cgravel = 0.5

Cave=0.56

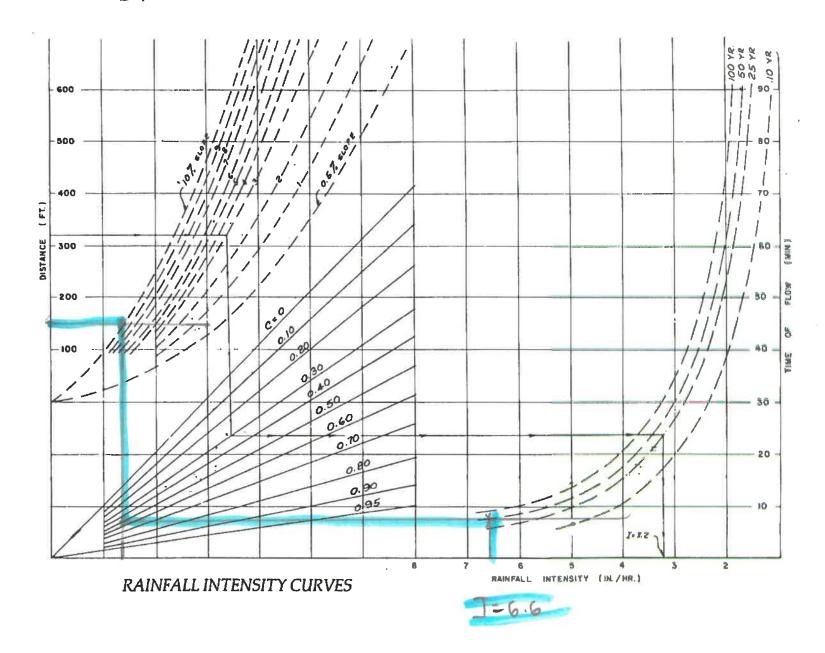
Q=CIA=(0.56)(5.5)(0.07)=0.22 cf/sec = 98.7 gal/min

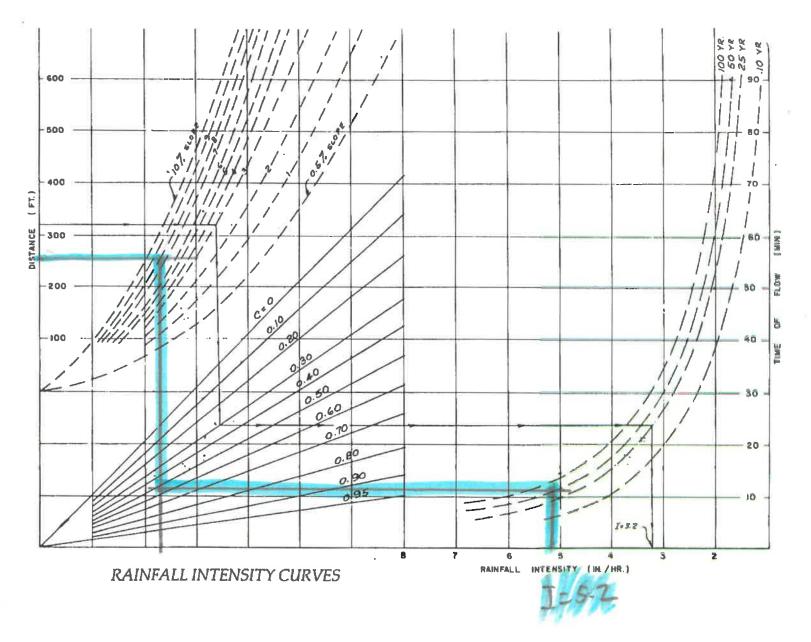
Soil Percolation Rate is less than 2 min/inch so use a **Ration of Q to Leaching Area** of 0.7

98.7/0.7= 141 SF of Leaching Required For Drainage Area #4

A 6' Leaching Pit with 1' of Stone Around it provides 201 SF of leaching which is greater than 141 SF required.

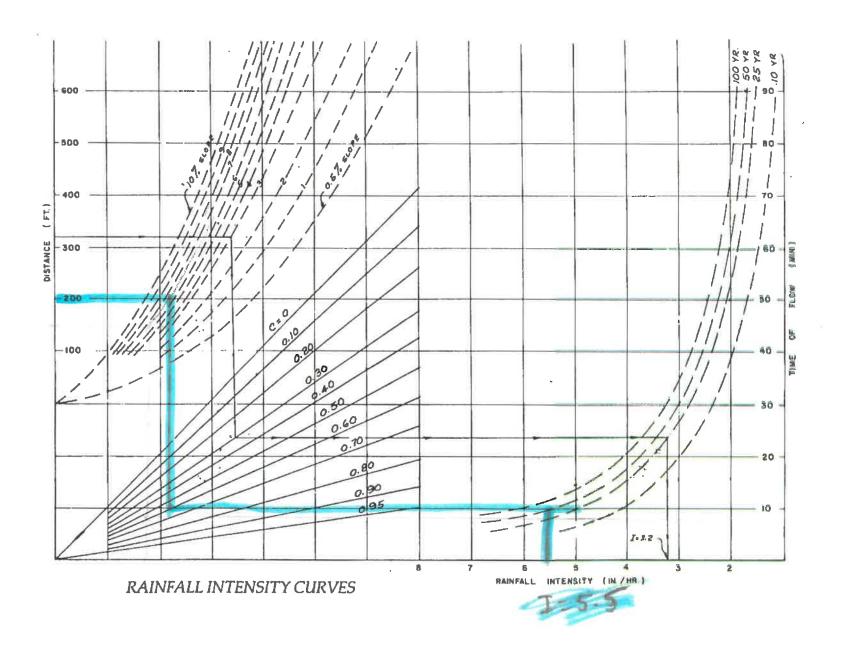
DRAINAGE AREA #1



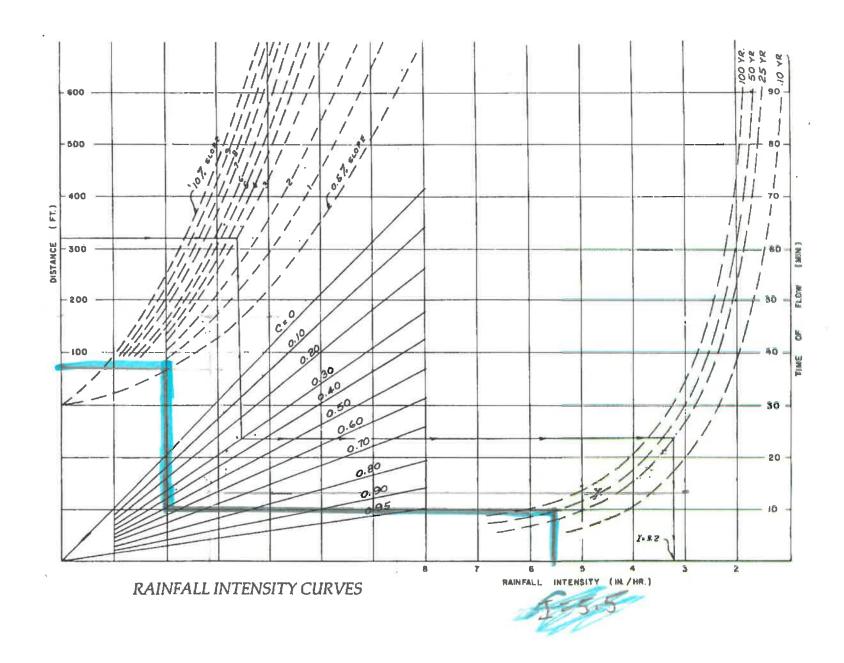


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DRATNAGE AREA #3



DRAINAGE AREA #4



- 8.4.2 Special Permits The Board of Appeals shall be the Special Permit Granting Authority (SPGA) with the authority to hear and decide all applications for special permits, except for those special permits where the Planning Board is expressly designated as the SPGA. Granting of a special permit for an adult entertainment use shall be pursuant to the requirements of Section 6.20, Adult Entertainment Uses, in addition to all other special permit requirements hereunder. The Board of appeals, or the Planning Board acting as the SPGA, shall not grant a special permit unless it finds that the benefits of the proposal to the town will outweigh any adverse effects on the Town of the vicinity, taking into consideration the stated district objectives (Section 3.2) and, where germane, the following matters:
 - 8.4.2.1 Suitability of the proposed location for this proposal, taking the follow into consideration.
 - (a) Nearby land uses, and whether they would be supported by or damaged by having the proposed use nearby.
 - (b) Uses of the site which would be displaced by or preempted by this use.
 - (c) Adequacy of roads, drainage, and other public services in relation to the location.
 - (d) Whether the site is more sensitive than are most similarly zoned sites to environmental damage from a proposal such as this, considering erosion, siltation potential groundwater or surface water contamination, habitat disturbance, or loss of valuable natural vegetation.
 - 8.4.2.2 Activity type, mix, and intensity, taking the following into consideration.
 - (a) Whether the proposal contributes to the diversity of services or housing opportunities available locally.
 - (b) Seasonal consequences, including addition to peak period congestion.
 - (c) Service to local, in preference to regional, markets and to year-round, in preference to seasonal, activities.
 - (d) For business developments, likelihood of year-round employment opportunities being created for residents, and the quality of those opportunities.
 - (e) For residential developments, how substantially, if at all, the proposal contributes to housing affordable for year-round residents.
 - 8.4.2.3Building and site design, including consideration of the following.
 - (a) Whether scenic views from public ways and developed properties have been considerately treated.
 - (b) Whether reasonable efforts have been made to minimize visibility of parking and service areas from public streets.
 - (c) Whether any traditional public access to or along the shoreline has been maintained.
 - 8.4.2.4 Each application for a special permit shall be filed by the petitioner with the Town Clerk and a copy of said application, including the date and time of the filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the Special Permit Granting Authority (SPGA). Special permits shall be issued only following a public hearing to be held within sixty-five days of the date certified by the Town Clerk of the filing of the application after filing by the applicant of an application with the SPGA and with the Town Clerk, calculated from the date

Town of Salisbury, MA Monday, May 20, 2019

Chapter 77. Earth Filling

[HISTORY: Adopted by the Annual Town Meeting of the Town of Salisbury 10-27-2003 by Art. 4. Amendments noted where applicable.]

GENERAL REFERENCES

Building construction — See Ch. 49. Wetlands protection — See Ch. 266. Zoning — See Ch. 300. Planning Board regulations — Ch. 465.

§ 77-1. Purpose.

The purpose of this bylaw is to regulate earth filling operations for the protection of human health, public safety, welfare, and the integrity of the natural resources of the Town of Salisbury.

§ 77-2. Applicability.

The filling of any lot or lots as part of a single project or series of related projects with greater than 500 cubic yards in total of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel ("earth material") within any twenty-four-month period shall be done only in accordance with this bylaw. Filling includes transporting earth material from one location (inside or outside of the Town) and depositing the earth material in another location in the Town. Filling does not include redistributing earth material within a single site. No solid or hazardous waste, refuse, junk, industrial waste, volatile, explosive or flammable materials, garbage, building materials, construction and demolition debris, glass, metal, toxic, infectious, radioactive, corrosive, or reactive material or waste may be used as fill in the Town.

§ 77-3. Exemptions.

- A. Five hundred cubic yards or less. Filling of any lot or lots with 500 cubic yards or less of earth material within any twenty-four-month period is permitted without an earth fill permit (but is subject to other requirements of law and other Town bylaws and regulations).
- B. Five hundred cubic yards to 2,000 cubic yards. Filling of any lot or lots with more than 500 cubic yards and less than 2,000 cubic yards in total within any twenty-four-month period is permitted without an earth fill permit (but is subject to other requirements of law and other Town bylaws and regulations), if such filling is directly related and entirely incidental to:
 - (1) Work done in accordance with a valid order of conditions or other approval issued by the Town Conservation Commission or the Massachusetts Department of Environmental Protection (DEP).
 - (2) The construction of a building or structure for which a valid building permit has been issued and filling is directly related and entirely incidental to the construction, provided that site preparation filling prior to issuance of a building permit is not exempt.

- (3) The construction of ways within subdivisions that have been approved by the Planning Board, provided that other site preparation filling within subdivisions is not exempt.
- (4) The construction or reconstruction of a septic system the design of which has been approved by the Board of Health.
- (5) Utility construction in public and private ways or incidental to municipal operations and activities.
- (6) The routine landscaping (not including significant changes in topography) of a lot with a oneor two-family residence thereon by the resident owner thereof so long as the existing topography of the parcel in no location exceeds a fifteen-percent grade.

§ 77-4. Permit requirements.

- A. Permits. The permit granting authority shall be either the Town Manager or the Board of Selectmen, according to the volume of fill for which a permit is sought. All non-exempt filling between 500 cubic yards and 2,000 cubic yards shall require a small project filling permit from the Town Manager. Filling in excess of 2,000 cubic yards shall require a large project filling permit from the Board of Selectmen.
- B. Small project filling permit. Any person planning any filling activity requiring a small project filling permit from the Town Manager shall submit an application, on a form to be provided by the Town Manager. Where deemed necessary by the Town Manager when considering issuance of a small project filling permit (or the Building Inspector when considering issuance of a building permit), an applicant may be required to submit a site plan showing the area to be filled. If the Town Manager requires submission of a site plan, the application shall not be deemed complete until the site plan is submitted to the Town Manager.
- C. Large project filling permit. Any person planning any filling activity requiring a large project filling permit from the Board of Selectmen shall submit an application on a form approved by the Board of Selectmen, a soil management plan satisfying the requirements of this bylaw, and a site plan prepared and certified by a registered land surveyor or engineer.
- D. Application submission. The applicant shall submit three copies of the application, any required soil management plan and any required site plan to the permit granting authority and shall at the same time submit one copy to each of the Building Inspector, the DPW Director, the Conservation Commission, the Health Officer and the Planning Board, for their records. Each of them may forward to the permit granting authority their comments, observations and recommendations. To allow other Town officials time to comment on applications, the permit granting authority shall wait at least 20 days after submission of a complete application before issuing a permit.
- E. Site plan requirements. Where a site plan is required it shall meet the requirements of § 77-5B of this bylaw.
- F. Performance bonds. Where deemed necessary by the permit granting authority a performance bond in the amount determined and on the terms specified by the permit granting authority shall be posted in the name of the Town assuring satisfactory performance in the fulfillment of the requirements of this bylaw and such other conditions as the permit granting authority may impose as conditions to the issuance of the filling permit or any subsequent changes to such conditions. No such bond shall be released, nor shall the applicant be deemed to have complied with the conditions provided for herein, until the applicant has filed with the permit granting authority a written certification from the Massachusetts licensed site professional who approved the original soil management plan that said conditions and the soil management plan have been complied with and a final, engineered record site plan showing the finished site as required under § 77-6J of this bylaw and the permit granting authority issues a letter authorizing release of the bond. The

permit granting authority shall act on a requested release of bond within 65 days after the applicant submits a written request for such release.

- G. Hearings. Before granting or materially modifying a large project filling permit, the Board of Selectmen shall hold a public hearing within 30 days after receipt of a completed application and shall give due consideration to the location of the proposed earth filling, to the general character of the neighborhood surrounding such location, to the protection of water supplies and aquifers, to the safety of the public on the public ways in the vicinity, and to the recommendations of the Building Inspector, the DPW Director, the Conservation Commission, the Health Officer and the Planning Board. At least seven days prior to said hearing, the applicant shall publish notice of the hearing in a local daily newspaper and notify all owners of land abutting or within 300 feet of the property line of the land where the earth filling is proposed (including, but not limited to, owners of land directly opposite said land on any public or private street or way, and in another municipality or across a body of water) by certified mail as to the time, place and purpose of the hearing. The notification shall be at the applicant's expense. The applicant shall provide the Board of Selectmen with proof of such publication and notification prior to the hearing.
- H. Other approvals. If any proposed earth filling for which a permit is required under this bylaw also requires an order of conditions from the Conservation Commission and/or a site plan review by the Planning Board and/or any approval by any other Town board or official, the permit granting authority may grant a permit that is conditional on receipt of the other required approval(s).
- I. General permit terms. If the applicant is not the owner of the property to be filled, the owner of the property shall also sign the application as an applicant and shall guarantee performance of the other applicant(s). Permits for earth filling under this bylaw shall be transferable only to a person who agrees in writing to assume all of the obligations of the permit holder and who is approved as an assignee by the permit granting authority. Permits shall be issued for a term not to exceed two years. A permit may be renewed upon reapplication. The public hearing may be waived by the permit granting authority for large project filling permit renewals.
- J. Approval deadlines. The Town Manager shall act on completed applications for small project filling permits within 45 days after the date of submission of a complete application, including any required site plan. If the Town Manager fails to act within such forty-five-day period, the application shall be deemed to be approved. The Board of Selectmen shall act on completed applications for large project filling permits within 45 days after the closing of the public hearing on the application. If the Board of Selectmen fails to act within such forty-five-day period, the application shall be deemed to be approved.

§ 77-5. Large project filling permit application requirements.

Each copy of an application for a large project filling permit to the Board of Selectmen shall be accompanied by a written statement describing the proposed regulated activity, together with the following information:

A. Soil management plan.

- (1) The soil management plan shall be signed by a Massachusetts licensed site professional (LSP). The LSP shall specifically state that "The subject plan meets the requirements of Salisbury's Earth Filling Bylaw and any other applicable federal or state law or regulation pertaining to the transport, use and/or disposal of earth and other materials for fill."
- (2) The soil management plan must contain sufficient detail to document that the requirements of this Earth Filling Bylaw will be met. The plan shall specifically require that bills of lading in the form specified by the Board of Selectmen and procedures approved by the Board of Selectmen will be exclusively used for the transport and acceptance of earth materials for fill.

- (3) The soil management plan shall include the following at a minimum and shall include any other information required by the Board of Selectmen:
 - (a) Complete descriptions of pre-fill environmental conditions and findings and sample locations;
 - (b) Procedures for verification of fill material origin and acceptance;
 - (c) Recordkeeping practices;
 - (d) Site security, fill operation inspection and site control;
 - (e) Transport routes, times and days of operation, locations of equipment parking and storage and duration of fill activities;
 - (f) Qualifications of applicant personnel responsible for adhering to the soil management plan and this bylaw;
 - (g) Erosion, dust, and stormwater controls and inspection and maintenance thereof;
 - (h) Effects of the filling on groundwater recharge;
 - (i) Quality assurance/quality control procedures;
 - (j) Emergency response and notification procedures, including telephone numbers and contact individuals/firms;
 - (k) Total proposed earth material fill volume;
 - (I) Daily personnel procedures and operation management procedures, including types, numbers, locations and hours of operation of any processing equipment on site;
 - (m) Environmental monitoring plan to maintain protection of human health, public safety, welfare and the environment during and following fill operations; and
 - (n) Cover material, revegetation, erosion and pollution control, and monitoring and maintenance plan.
- B. Site plan. If filling involves more than 2,000 cubic yards of fill, a registered land surveyor or engineer shall prepare the site plan. The site plan shall depict the following information:
 - (1) Existing conditions, including grades, man-made features, elevations, property boundaries, dimensions, owners of land who are entitled to notice under § 77-4G of this bylaw, access points, water bodies and watercourses, wetlands, and environmental sample locations;
 - (2) Process diagrams indicating fill sequence, transport routes, and security measures;
 - (3) Drainage, water flow and sedimentation control before and after the proposed filling and stormwater and erosion control and groundwater recharge structures and features to be utilized during fill operations;
 - (4) Final grade plans depicting proposed finish fill elevations, slopes, permanent stormwater and erosion control and groundwater recharge structures and features, the methods of final stabilization of fill material and the proposed cover material and cover vegetation;
 - (5) Unless otherwise determined by the permit granting authority, map scales shall be no more than 60 feet to the inch and elevation contour intervals shall not exceed two feet. Elevation contours are required only for areas of fill, 100 feet beyond the perimeter of the fill areas and along abutting property lines. Appropriate permanent benchmarks with elevations marked

thereon and referenced to the National Geodetic Vertical Datum (NGVD) shall be placed in the field and shown on the plans.

§ 77-6. Standards for filling.

- A. Permitted fill materials. All fill materials shall include only clean sand, gravel, clay, stone, quarried rock or other subsurface products free from solid waste, with an aggregate size of six inches or less, and have no solid waste, refuse, junk, industrial waste, or volatile, explosive or flammable materials. The fill material shall have no concentration of oil or hazardous material, toxic substance or infectious biological material greater that federal, state or local reportable or action criteria or materially greater than pre-fill conditions prevailing in the area to be filled. The fill material shall also be free from organic material such as trees, stumps, garbage, building materials, and construction and demolition debris and shall contain 15% or less of total organic carbon by lab analysis.
- B. Site preparation. The area to be filled shall be cleared of stockpiled or otherwise disposed of organic and inorganic materials, such as fallen trees and brush, tree stumps, rubbish, junk, building/construction/demolition materials, and any other accumulated debris. Topsoil shall also be removed from the area to be filled prior to filling. The area to be filled corresponds to the horizontal limits of the fill activity as represented on a plan view drawing.
 [Amended 5-14-2012ATM by Art. 17]
- C. Fencing and gates. Temporary fencing, where deemed appropriate by the permit granting authority for the protection of the general public during fill operations, shall be at least six feet high with suitable gates to exclude unauthorized persons from the site.
- D. Groundwater recharge and drainage. Provision shall be made for promoting groundwater recharge, for preventing increased runoff from the site and for safe drainage of water, for preventing excessive water accumulation, and for preventing wind or water erosion from carrying material onto adjoining properties.
- E. Cleaning of vehicles, roads and streets; covering of loads. Provisions shall be made for the cleaning of all vehicles before they leave the site and for daily cleaning of all public roadways in the vicinity of the site that have been affected by vehicles engaged in filling activity. Provisions also shall be made for covering loads in vehicles traveling on public roadways.
- F. Dust control. Dust shall be controlled through watering or other appropriate means.
- G. Buffer strips. The permit granting authority may require that a twenty-foot buffer strip shall be maintained at all boundaries and not disturbed.
- H. Screening of processing equipment. The visibility, sound, and airborne particulates from processing equipment shall be screened from adjacent premises through the design and location of such equipment and through use of natural vegetation, planting, overburden piles, and surge piles as screening.
- I. Final cover. All filling shall require coverage with a minimum of four inches of organic topsoil and shall be seeded and mulched to stabilize the fill material. Where filling is incidental to facilitate parking of vehicles, the fill material shall be covered by a suitable binding material to prevent airborne dust and erosion.
- J. Finish elevations and grading. The permit granting authority may specify finished grades, elevations and contour intervals which filling will conform to. Final fill material grades shall conform in contour, slope, and elevation to the natural topography of the surrounding area or preexisting contours as evidenced by historical maps or photographs. Final grading shall incorporate

- stabilization measures and slopes of no more than 15% to prevent erosion, structural failure of fill materials, ponding of water, or excessive stormwater drainage onto abutting properties.
- K. Additional conditions. The permit granting authority may set reasonable conditions in addition to the above, including but not limited to duration of the permit, hours of the day during which filling may take place, maximum load sizes, truck routes to be used to access the site, and grasses, shrubs and trees to be planted.
- L. Permit terms; inspection; suspension and revocation. No permit shall be issued under the provisions of this bylaw to extend for a term of more than two years. Prior to filling and at any time during a permitted filling activity, inspection of the premises may be made by the permit granting authority or its agents on reasonable advance notice to determine whether or not the provisions of the Town bylaws and any permit are being complied with. If the permit granting authority determines that the provisions of the bylaw or the provisions of any permit are being violated, the permit granting authority may issue a temporary cease and desist order, which shall remain in effect until terminated in writing by the permit granting authority. If, after notice to the permit holder(s) and a public hearing, the permit granting authority determines that the conditions of any large or small project filling permit are not being complied with, the permit granting authority may revoke the permit, after which the operation shall be discontinued and the area restored in accordance with the orders of the permit granting authority.
- M. Inspections, certifications, reports and tests. While considering an application and/or as a condition of issuing a permit, the permit granting authority may require such borings and test pits, inspections, monitoring, certifications, reports and tests by licensed site professionals, engineers, laboratories and/or other qualified persons as are deemed by the permit granting authority to be needed to evaluate the application and/or to monitor performance under a permit and/or to establish compliance with the conditions of a permit and this bylaw. It shall be a condition of all permits that the applicant pay for all such borings and test pits, inspections, monitoring, certifications, reports and tests and that they be conducted by persons selected by and responsible to the permit granting authority. Payments received from applicants for such borings and test pits, inspections, monitoring, certifications, reports and tests shall be deposited into a revolving fund authorized annually by Town Meeting pursuant to MGL c. 44, § 53E 1/2. Failure of any applicant or permit holder to make timely payment of any application fee or of any fees for any borings and test pits, inspection, certification, monitoring, report or test or to carry out any step or to submit any information required by the permit granting authority shall be grounds for denial of a permit and/or for issuance of a cease and desist order and/or for revocation of the permit.

§ 77-7. Documentation requirements.

- A. Permit required to commence filling operations. No fill operations are to commence until a letter indicating the granting of a permit and, if required, receipt and acceptance of the soil management plan and the site plan has been issued to the applicant by the permit granting authority.
- B. Bills of lading and LSP letters. Each permit holder shall file a bill of lading with the Town Manager for each load of fill placed within the Town. Each bill of lading document shall be accompanied by a signed and dated letter from an LSP which specifies:
 - (1) The point of origin of the material and the receiving location for the material;
 - (2) That the material is not otherwise prohibited from use as fill material in accordance with this bylaw or other applicable federal or state laws, regulations, standards or guidelines; and
 - (3) That the LSP has compared analytical results of testing of the fill materials to the existing, pre-fill conditions at the fill location and determined:
 - (a) That the concentration of the substances in the materials intended for use as fill are not significantly greater than existing, pre-fill conditions for that location; and

- (b) That the fill material complies with the requirements of § 77-6A of this bylaw.
- C. Weekly documentation requirements. Copies of bill of lading documents and required LSP letters covering all fill placed during each week of filling operations are to be provided to the Town Manager by the end of business on the fifth business day following each week of active operation. Failure to provide these records on a weekly basis will result in suspension of fill activities.

§ 77-8. Enforcement; violations and penalties; fees.

- A. Enforcement action. The Town Manager of the Town is hereby designated as the officer charged with the enforcement of this bylaw. The Town Manager, upon a written complaint of any Town citizen or property owner or upon such officer's own initiative (in either case after consultation with the Board of Selectmen), shall institute any appropriate action or proceedings in the name of the Town to prevent, correct, restrain or abate violation of this bylaw. In the case where the Town Manager is requested in writing to enforce this bylaw against any person allegedly in violation of the same and the Town Manager declines to act, the officer shall notify, in writing, the party requesting such enforcement of any action or refusal to act and the reasons therefor.
- B. Fines. Violation of this bylaw shall be punishable by a fine of \$100 for each offense. Each day that such violation continues shall constitute a separate offense. Fines shall be recovered by indictment or on complaint before the district court initiated by the Town Manager, or, as an alternative to initiating criminal proceedings, the Town Manager may give the offender a written notice to appear before the clerk of the district court not later than 21 days after the date of such notice for a noncriminal disposition in accordance with MGL c. 40, § 21D.
- C. Other laws or regulations. This bylaw shall not be construed to authorize the use of any land or structure for any purpose that is prohibited by any other provision of the General Laws or by any other bylaw, rule or regulation of the Town, nor shall compliance with any such provision authorize the use of any land in any manner inconsistent with this bylaw, except as required by the General Laws.
- D. Validity and severability. The invalidity of one or more sections, subsections, clauses or provisions of this bylaw shall not invalidate or impair the bylaw as a whole or any other part thereof.
- E. Fees. The following fees shall apply to applications under this bylaw: [Amended 5-20-2013 ATM by Art. 17]
 - (1) For permits allowing filling of from 500 to 2,000 cubic yards in any twenty-four-month period, the application fee shall be established by the Town Manager and approved by the Board of Selectmen.
 - (2) For permits allowing filling over 2,000 cubic yards, the application fee shall be established by the Board of Selectmen.

§ 77-9. Transitional rules.

All earth filling that takes place after the effective date of this bylaw shall be subject to the requirements of this bylaw. All persons engaged in non-exempt earth filling of any lot in the Town when this bylaw becomes effective shall file an application for a permit under this bylaw within 30 days thereafter. If the Town Manager determines in his reasonable discretion that such a person has not filed a required application on time, the Town Manager may issue a temporary order to suspend or limit such operations. Any such temporary order shall remain in effect until terminated or modified by the Town Manager or a permit is granted by the Town Manager or Board of Selectmen. Any fill placed in the Town pending the granting of a permit under this bylaw shall be subject to the documentation requirements of § 77-7B and C of this bylaw and to the fees provided for under § 77-8E.

Chapter 97, Article III: EARTH REMOVAL AND PLACEMENT OF FILL

§ 97-4. Statutory Authority

This Bylaw is adopted under the authority contained in Massachusetts General Laws, Chapter 40, Section 21, Paragraph 17.

§ 97-5 Purpose

The purpose of this Bylaw and associated regulations is to regulate earth removal operations and land filling operations for the protection of human health, public safety, welfare, and the Town's natural resources in the Town of Westminster. Further, the provisions of this Bylaw are intended to protect abutting property owners from drainage problems that could potentially be created by poorly managed earth removal and/or filling operations.

§ 97-6. <u>Definitions</u>

ABUTTERS: The owners of property within 300 feet of the perimeter of the subject property.

APPLICANT: The owner of land from which earth will be removed or fill to be placed, or the person of lawful standing in the stead of such owner. Any person, company, or agent, standing instead of the actual property owner must have the owner's written permission to do so.

BOARD: The Planning Board of the Town of Westminster, who shall act as the Permit Granting Authority (PGA).

EARTH: This term shall include soil, loam, sand, gravel, clay, peat, rock, or other earth material in solid form.

EARTH REMOVAL OPERATION: Any commercial mining, stripping, quarrying, filling, digging or blasting of earth originating from the Town of Westminster and its transportation into or out of the Town of Westminster.

EROSION: The process by which the ground surface is worn by forces such as wind, running water, ice, abrasion, gravity, transportation or by artificial means.

FILLING OF LAND: The import and use of earth materials on any parcel of land within the Town of Westminster.

GRAVEL: Loose fragments of rock or course aggregate resulting from natural disintegration and abrasion of rock or processing of weakly bound conglomerate.

LOAM OR TOPSOIL: A soil consisting of a friable mixture of varying proportions of clay, sand, silt, and organic matter.

PGA: The Permit Granting Authority, which will be the Planning Board for the purposes of this Bylaw.

PROCESSING: The sorting or separation of earth materials into distinct categories based on particle size or type usually through the use of a screening process, not including stone crushing.

PROPOSED FILL MATERIAL: Any geologic, man-made, recycled or processed material including in its entirety or as a proportion containing clay, rock, sand, gravel, peat and sediment. Material meeting the Federal and/or State definition of solid or hazardous waste or as toxic, infectious, radioactive, corrosive, or reactive material is specifically excluded.

SILT: Loose sedimentary material with rock particles usually less than 1/16 mm or less in diameter based on the Wentworth scale of measurement.

SITE: A distinct portion of one to three contiguous lots, under the same or different ownerships, on which an earth removal and/or fill operation is conducted, or is proposed to be conducted, under the Permit.

SLOPE: An area that is more or less steep, as measured by the vertical rise over the horizontal distance, expressed as a percentage or ratio. For example, a rise of one foot over three horizontal feet is a slope of 33%, and is expressed as a ratio of 3:1 slope.

STONE CRUSHING: The mechanical operation which creates smaller sized stones or stone products from larger sized stones, boulders or particles typically using a crushing plant or similar machinery.

§ 97-7. Applicability

- A. All earth removal and earth filling operations in the Town shall provide the following information, in writing, to the Building Inspector within six months of the effective date of this Bylaw:
 - 1. The map and parcel number of the subject property;
 - 2. An estimate of the amount of material left to be removed (if earth removal);
 - 3. An estimate of the amount of fill material remaining to be placed (if fill):
 - 4. An estimate of the anticipated annual volume of activity;
 - 5. A description of completed and planned reclamation of the property;
 - 6. The date the operation began; and
 - 7. The anticipated date of completion or cessation of the operations.
- B. Except as provided in Sections 97-8 or 97-14, a Permit shall be required for any of the following activities:
 - 1. Earth removal that involves 2,000 cubic yards or more of material per calendar year (January through December).

- 2. The filling of land that involves 2,000 cubic yards or more of material per calendar year (January through December), provided that it involves either:
 - i. The disturbance of two or more acres of land, or
 - ii. The filling of land in excess of eighteen inches in depth above the existing grade.
- C. An earth removal or filling operation that does not exceed any of the above thresholds shall not require a Permit, but is subject to the following requirements (unless otherwise agreed to, in writing, by the abutting property owner):
 - 1. The operation shall not encroach closer than ten feet to a property line, and
 - 2. No greater than a 1:1 slope shall exist between the operation and the ten-foot buffer.

§ 97-8. Exemptions from Permit Requirements

The following earth removal or fill operations are exempted from the requirement to obtain a Permit under this Bylaw, provided that (i) the earth removal and/or fill operation is limited to no more than three contiguous lots and does not exceed a total area of six acres, and (ii) the operation is not conducted, maintained, and/or left in a condition so as to alter the natural drainage flow beyond the property; or to cause dust, silt, soil, or other materials to be deposited on adjacent properties; or to otherwise cause nuisances, hazards, or other objectionable conditions detrimental to health, safety, or property values in adjacent areas. The PGA shall, upon petition by an abutter or by any Town Official or Town Board, review an operation that would be exempt from the Permit requirement pursuant to this Section 97-8, and may determine that, because of the nature and scope of the earth removal or fill operation, a Permit is nonetheless required.

- A: Earth removal or the placement of fill associated with the installation of septic systems, which shall be governed by the Commonwealth of Massachusetts Environmental Code (Title 5, 310 CMR 15.00).
- B Earth removal or the placement of fill associated with the installation of foundations for new buildings and/or building additions, which shall be governed by MGL Chapter 143 and the Commonwealth of Massachusetts Building Code (780 CMR).
- C: Earth removal or the placement of fill proposed for land falling within the Town's Floodplain Protection District, which shall be governed by Sections 205-9 and 205-46 of the Westminster Zoning Bylaw and require a Special Permit from the Zoning Board of Appeals

- D: Earth removal or the placement of fill proposed for land falling within the Town's Wetland Protection District and associated buffer zones, which shall be governed by the Wetland chapter within the Town's General Bylaws (Chapter 202) which is administered by the Conservation Commission, and the Massachusetts Wetlands Protection Act.
- E: Earth removal or the placement of fill that involves less than 2,000 cubic yards on a single lot.
- F: Earth removal or the placement of fill, where the operation occurs entirely within an individual parcel and where a town-accepted public way is not used for the transportation of the material.
- G: Earth removal or the placement of fill within the right-of-way for a new subdivision road that has been approved by the Planning Board or Zoning Board where there is already a bond in place with the Town to ensure performance.

§ 97-9. Permit Criteria for Earth Removal & Fill Operations

Permits for earth removal and/or fill operations shall be granted by the PGA only upon its written determination that the proposed use shall not cause substantial detriment to the neighborhood, or the Town, taking into account the characteristics of the site and the proposal in relation to the site and surrounding environment. In addition to any specific factors that may be set forth elsewhere in this Bylaw and its associated regulations adopted pursuant to § 97-11, such determination shall include consideration of each of the following:

- A: Social, economic, or community needs which are served by the proposal;
- B: Traffic flow and safety, including loading and unloading;
- C: Neighborhood character;
- D: Impacts on the natural environment; and
- E: Potential fiscal impact, including impact on Town services, tax base and property values.

The PGA's determination for each of the five criteria shall be set forth in the Permit Decision as Findings of Fact.

§ 97-10. General Limitations

No Permit shall be issued for the removal of earth or the placement of fill in any location if such an operation:

- A: Will endanger the public safety, public health or constitute a nuisance.
- B: Will produce noise, dust, or other noxious effects observable at the lot lines of the property in amounts objectionable or detrimental to the normal use of adjacent properties.

- C: Will result in the transportation of materials in such manner as to cause traffic congestion, dust, spillage, noise, or other nuisances or hazards, particularly on residential streets.
- D: Will result in the transportation over ways which will be unduly injured thereby.
- E: Will result in a change of topography and cover which will be disadvantageous to the most appropriate final use of the land or to the use of lands adjacent to the site.
- F: Will cause irreparable harm to or loss of important wildlife, wildlife habitat or rare plant species indigenous to the area.
- G: Will result in stormwater damaging abutting properties.

Applicants are encouraged to submit a written statement regarding how each of the previous items will be addressed and/or mitigated.

§ 97-11. Regulations

The PGA may adopt and periodically amend rules and regulations for the implementation of this Bylaw, by majority vote. Such rules and regulations may set forth performance standards for earth removal and fill operations, impose filing and consultant fees, define additional terms not inconsistent with the Bylaw, and establish administrative procedures. Failure by the PGA to adopt such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this Bylaw.

§ 97-12. Permit Procedures

- A: Any person wishing to obtain a Permit to remove from or place earth material on a property in the Town, or to use any public way within the Town for transporting such material, shall file a completed application for a Permit together with any required supporting data and maps with the PGA and the filing fee, as established in the regulations of the PGA.
- B: Any Permit issued is non-transferable and shall automatically expire upon completion of the earth removal or fill project for which it was issued or at such time as may be specified in said Permit. In no case shall a Permit be issued initially for a period longer than three years. A Permit may be renewed for up to two years or lesser time as determined by the PGA after evidence is presented that all conditions of the expiring Permit have been complied with and the work has been performed in good faith. There is no limit on the number of Permit renewals an Applicant can apply for. A public hearing may be required by the PGA, at its discretion, for renewal of Permits.

§ 97-13. Public Hearing

Once a complete Permit application is filed with the PGA, the PGA shall set a date for a public hearing and so notify the applicant. Notice of the hearing shall be published by the PGA, at the applicant's expense, in a newspaper of general circulation in each of two successive weeks, the

first publication being not less than 14 days before the day of said hearing. Notice of the hearing shall be given to all owners of real estate abutting upon the land specified in the Permit Application or lying within 300 feet of the subject parcel, all as appearing on the most recent tax list. The PGA will arrange for the publication and transmission of the notice of the hearing to the abutters and the costs will be billed to the applicant. Final approval for the Permit shall not be made until all hearing fees have been paid in full

§ 97-14. Continuance of Existing Operations

- A. An existing operation that had been issued a permit by the Board of Selectmen under the earth removal bylaw (Sections 97-4 through 97-11) or the earth filling bylaw (Section 81-6) that were in effect prior to the effective date of this Bylaw may continue to operate according to the terms of such permit, which shall hereafter be enforceable by the PGA pursuant to this Bylaw.
- B. An existing earth removal and/or fill operation that was not required to obtain a permit under the prior earth removal bylaw, but which exceeds the thresholds specified in § 97-7(B) of this Bylaw, may continue to operate without being required to apply for or obtain a Permit for a period of three years from the effective date of this Bylaw, provided that the owner or operator of said operation submits to the Building Inspector the information required in §97-7(A) within six months of the effective date of this Bylaw.
- C: The right of an existing operation to operate pursuant to § 97-14(A) under a permit previously issued by the Board of Selectmen, or to operate without a Permit pursuant to § 97-14(B), shall expire if the operation is discontinued. An operation shall be deemed to have been discontinued if no earth removal or fill activity occurs at the site for a period of twelve (12) consecutive months.

§ 97-15. Violations and Enforcement

- A. The PGA or its authorized agent shall enforce this Bylaw, its regulations, and the requirements and conditions of Permits issued thereunder, and may pursue civil and criminal remedies for violations of the same.
- B. The Building Inspector is authorized to conduct inspections on behalf of the PGA. To the extent permitted by law, or if authorized by the owner, operator, or other person in control of the site, the Building Inspector or other agent of the PGA may enter on the site to conduct inspections.
- C. The Building Inspector or other authorized agent of the PGA may issue such orders as are deemed necessary to stop violations and ensure compliance with this Bylaw, its regulations, and Permits, including an order to cease and desist operations. Such orders may be issued by certified mail, return receipt requested, or by delivery, to the property owner, Permit holder, or person responsible for operations at the site.

- D. The PGA may seek injunctive relief to restrain violations or to compel abatement or remediation of violations.
- E. Any person who violates any provision of this Bylaw, or regulations, Permits, and orders issued thereunder may be punished by a fine of not more than \$300 per offense. Each day that such violation occurs or continues shall constitute a separate offense.

As an alternative to a criminal fine, the Town may utilize the non-criminal disposition procedures of M.G.L. c. 40, §21D, in which case the Building Inspector shall be the enforcing person. The penalty for the first offense shall be \$100. The penalty for the second offense shall be \$200. The penalty for the third and subsequent offense shall be \$300.

G: If the violator holds a Permit issued under this Bylaw, the PGA may revoke the Permit after a public hearing, at which point all operations shall cease until such time as the necessary measures are taken to assure compliance with this Bylaw and a new Permit is issued.

§ 97-16. Severability

The provisions of this Bylaw are severable, and the invalidity of any section, subdivision, paragraph, or other part of this Bylaw shall not affect the validity or effectiveness of the remainder of the Bylaw.

EARTH REMOVAL AND PLACEMENT OF FILL RULES AND REGULATIONS

Westminster Planning Board Adopted: December 10, 2013

Section 1: General Provisions

1) Purpose

The purpose of these rules and regulations is to regulate earth removal operations and land filling operations for the protection of human health, public safety, welfare, and the Town's natural resources in the Town of Westminster. Further, these rules and regulations are intended to protect abutting property owners from drainage problems that could potentially be created by poorly managed earth removal and/or filling operations.

2) Authority

Under the authority vested in the Planning Board by the Town of Westminster by Chapter 97, Article III of the Westminster General Bylaws, said Board hereby adopts these rules and regulations governing the removal of earth and the placement of fill.

3) Applicability

Those earth removal and fill operations that meet the thresholds set forth in Chapter 97, Section III of the Westminster General Bylaws shall be required to obtain an Earth Removal/Placement of Fill Permit (herein referred to as the "Permit") from the Planning Board, which serves as the Permit Granting Authority (PGA) for such operations. Earth removal and fill operations must comply with the rules and regulations contained herein unless expressly waived by the PGA.

4) Earth Removal/Placement of Fill Permit Required Submission Items

In addition to filling out an application for an Earth Removal/Placement of Fill Permit and the associated permit fee of two hundred and fifty dollars (\$250), the following materials shall be required of all applicants:

4.1 A site plan prepared by a registered land surveyor or professional engineer. The applicant will submit seven (7) copies of the site plan upon filing an application for a Permit (one full-size and six 11 x17 copies), along with a digital (PDF) copy of the site plan and application. The PGA will distribute the plans to the following municipal departments for review and comment: Board of Health, Building Department, Conservation Commission, Board of Selectmen, Fire Department, Police Department and Public Works Department. Site plans shall contain the following information:

- 4.1.1 The property boundaries of the lot where the earth will be removed and/or the fill will be placed, along with the names and addresses of all abutters within 300 feet of the subject property, including those across any street or way (including street names and right-of-way widths).
- 4.1.2 The location and boundaries of all earth removal/placement of fill operations within the lot(s).
- 4.1.3 A locus map showing the subject parcel and all parcels within 300 feet of the property, buildings, roads, topographic contour lines and wetlands.
- 4.1.4 Title block in the lower right-hand corner, stating the name of the plan, the scale, name of the applicant, the property street address, property tax map and parcel number, and the name of the surveyor or engineer who prepared the plan.
- 4.1.5 All easements, points of ingress/egress, wells, septic systems, fences, walls, waterways or other natural drainage courses, wetlands and floodplains on the property.
- 4.1.6 Topographic contours at two-foot intervals base on mean sea level using data from the US Geological Survey.
- 4.1.7 Groundwater elevations based on field measurements from observation wells installed on the subject property.
- 4.1.8 Soil testing at four locations within the area designated for earth removal and/or the placement of fill (two along the perimeter of the area and two inside the perimeter) to document the absence of hydric (wetland) soils. Soil testing shall be performed by a licensed Professional Engineer or a Wetland Scientist.
- 4.1.9 All wetlands/resource areas shall be shown on the site plan.
- 4.2 Where applicable, the applicant or his/her agent shall submit a signed letter that documents:
 - 4.2.1 The origin of the fill.
 - 4.2.2 The testing the fill has undergone.
 - 4.2.3 Verification from a certified soil scientist that the fill material does not meet the Federal and/or State criteria for being toxic, reactive, radioactive, corrosive, explosive, hazardous, infectious, oil-impacted, or a hazardous or solid waste.

- 4.2.4 The volume and amount of earth to be removed and/or fill to be placed on the property.
- 4.2.5 Proposed Transport routes, times, and duration of the proposed activity.
- 4.2.6 The on-site erosion control practices that will be utilized during the operation including a maintenance plan for any erosion control devices used, including a phasing plan if applicable.
- 4.2.7 A plan for the re-vegetation of the disturbed area.
- 4.2.8 A restoration plan that depicts the final grade, proposed finish elevations, slopes, stormwater and erosion control structures and features.

5) Operation Standards

- 5.1 No excavation or placement of fill shall take place closer than 100 feet to an existing public way unless specifically permitted by the PGA Planning Board and no excavation or placement of fill shall be permitted to occur within 50 feet of any lot line. In those cases where the PGA allows for such operations within 50 to 100 feet of an existing public way or lot line and where the excavation and/or fill activities will have a depth of more than 15 feet with a slope in excess of 1:1, a fence at least three feet high shall be erected to limit access to this area.
- 5.2 Wherever existing natural vegetation occurs, it shall be maintained on the undisturbed land for screening and noise reduction purposes.
- 5.3 Operations shall be conducted during the hours 7:00 a.m. to 5:00 p.m., Monday through Friday, or as permitted by the PGA. No earth is to be removed or fill placed on Saturdays, Sundays, or Massachusetts legal holidays. Loaded trucks shall enter and leave the premises only during permitted hours. All loaded vehicles shall be suitably covered to prevent dust and contents from spilling and blowing from the load. Trucks shall not be left idling prior to 7:00 a.m. or after 5:00 p.m.
- The Permit grantee may conduct earth removal and/or fill operations to the extent necessary to reach the finished grade levels as shown on the site plan as approved by the PGA.
- 5.5 The active gravel removal area and/or fill area shall not exceed a total area of six (6) acres at any one time.
- 5.6 All trucking routes and methods shall be subject to approval by the Chief of Police and the Director of Public Works and shall minimize distance traveled on local roadways.

- 5.7 All access roads leading to public ways shall be treated with stone or other suitable material approved by the PGA for a distance of at least 200 feet back from the public way, and shall be maintained so as to confine dust and mud to the premises.
- Access roads shall be constructed with the approval of the PGA and shall provide for maximum public safety and screening of the operation from public view.
- 5.9 The Permit grantee shall install observation wells having a minimum of 1 ½ inch diameter for the purpose of monitoring groundwater levels. The number and location of observation wells shall be determined by the PGA during the Permit review process. Readings of the water levels shall be taken by the applicant or its agent at thirty (30) day intervals and submitted to the PGA for the duration of the project.
- 5.10 No gravel, soil, loam, or other earth material shall be removed within any elevation less than six (6) feet above spring high water table or at any other higher elevation that would preclude subsequent re-use of the area in accordance with existing public health standards. This elevation shall be established from observation wells and the level related to permanent monuments and/or temporary points of reference on the property.
- 5.11 No area shall be excavated and/or filled so as to cause the accumulation of free-standing water. Permanent drainage shall be provided as needed in accordance with accepted engineering and conservation practices. Measures shall be taken to insure that silting and sedimentation of nearby streams is not caused by any temporary or permanent drainage systems on site.
- 5.12 Sufficient topsoil shall be stripped from the operation area and stockpiled for use in restoring the area after the operation has ceased.
- 5.13 Any temporary shelters or buildings erected on the premises, for use by personnel or storage or maintenance of equipment shall be screened from public view. These structures shall be removed from the premises within thirty (30) days after conclusion of the operation(s) or expiration of the Permit.
- 5.14 All excavation and/or placement of fill shall be in full compliance with Chapter 131 Section 40 of the Massachusetts General Laws, otherwise known as the Massachusetts Wetland Protection Act, and Chapter 202 (Wetlands) of the Town's General Bylaws.

6) Restoration Standards

- No slope shall be left with a grade steeper than one foot (1') vertical to two feet (2') horizontal unless approved by the PGA.
- 6.2 All debris, stumps, boulders, and similar material, shall be removed from the site.

 No such material shall be buried on site without specific written approval from the Board of Health. Organic material such as stumps, brush, wood and similar materials shall be disposed of in accordance with any state and local permits.
- 6.3 On the first of September of the current year, all areas that have been brought to grade, and all other areas where no further earth removal is to occur, shall begin to be restored in accordance with these standards. Such restoration is to be completed no later than October 15th, or such later date as approved by the PGA. Failure to achieve restoration results acceptable to the PGA will require the applicant to re-sow any vegetation during the period between April 15th and May 31st. On a case by case basis, the PGA may require that restoration be done after a certain amount of land disturbance and/or more than once a year.
- 6.4 The work required for restoration shall include sub-grade preparation for topsoil; re-handling and spreading stripped topsoil, including finish grading and compaction; provision for importing loam if required to achieve a depth of topsoil of 4 inches uniformly; application of lime; application of fertilizer, seed and wood fiber or hay mulch employing the hydro-seeding spray method; and maintenance of seeded areas until review and approval by the PGA.
- 6.5 Trees or shrubs may be planted in order to provide screening, natural beauty, and to reduce erosion. The planted area shall be protected from erosion during the establishment period.
- 6.6 The project shall not be constructed as to increase stormwater runoff to abutting properties and/or wetland resource areas in the post development stages, as measured against pre-construction stages.
- 6.7 Prior to the release of the Performance Guarantee, and/or expiration of the Permit, ground levels and grades shall be established as shown on the topographic plan.
- 6.8 Before release of performance guarantee and/or expiration of the Permit, "as built" drawings shall be prepared by a registered engineer or land surveyor at a scale acceptable to the PGA. The drawings shall show final grades; location and elevations of monuments; location, type, and size or capacity of stormwater drainage and other utilities installed; the location, boundaries and depth of organic fill areas; the location of access roads; and similar permanent improvements. An original opaque ink or Mylar or other suitable permanent and reproducible plan,

and one print thereof shall be submitted to the PGA. The plan shall include an insert "locus plan" at a scale of 1"- 300', showing the area in relation to nearby streets, natural features and surrounding areas.

7) Performance Guarantee

A surety bond or similar guarantee may be required for each area on which the Permit has been issued, in order to guarantee performance. The amount of such surety shall be determined by the PGA's consultant (see Section 8 below). The amount of such performance guarantee shall be sufficient to ensure final compliance with the plan as approved including full compliance with the restoration standards contained in these rules and regulations. The performance guarantee will be released upon request of the Permit holder after the PGA has determined that the holder has completed the operation and restored the area excavated in conformity with his Permit and issues a Certificate of Compliance (see Section 8.3 below).

8) Plan Review and Compliance Monitoring

- 8.1 Plan Review Assistance: To assist the PGA in its review of plans during the Permit approval process, the PGA, at its discretion may hire an engineer or other qualified professional to act as a consultant to the Board. The cost of these consultant services shall be paid by the Applicant and the PGA will not sign any Permit decision until all consulting fees are paid in full.
- 8.2 Compliance Monitoring: In an effort to monitor the plan's implementation during the duration of the Permit, the PGA, at its discretion may hire an engineer or other qualified professional that will perform periodic inspections and submit written reports detailing the project's progress and compliance with the Permit's conditions of approval. The interval and content of such inspection and reporting shall be determined during review of the Permit application. The cost of these compliance monitoring shall be paid by the Applicant.
- 8.3 Certificate of Compliance: Upon satisfactory completion of approved project, the applicant shall request a Certificate of Compliance. The PGA, as the case may require, shall perform an inspection prior to granting such Certificate and releasing the performance guarantee or other security.
- 8.4 Use of Guarantee to Restore Discontinued Sites: In the event that an earth removal and/or fill operation is discontinued for a period of twelve (12) months, and the applicant has failed to restore the site, the Town of Westminster may require the use of the performance guarantee to restore the site.

9) Waiver of Compliance

The PGA may waive strict compliance with these rules and regulations when such action is in the public interest and not inconsistent with the purpose and intent of the Earth Removal and Placement of Fill Bylaw or these rules and regulations.

10) Severability

The provisions of these rules and regulations are severable, and the invalidity of any section, subdivision, paragraph or other part of these rules and regulations shall not affect the validity of the remaining rules and regulations.

TOWN OF TRURO
Planning Board
MEETING MINUTES
July 24, 2019
TRURO TOWN HALL

Members Present: Chair-Steve Sollog, Karen Tosh, Jack Riemer, Bruce Boleyn, Anne Greenbaum, Paul Kiernan, Peter Herridge

Members Absent: None

Others Present: Interim Town Planner-Jessica Bardi, Town Counsel-, Atty. Ben Zehnder, Architect- Gary Locke, Atty. Jonathan Silverstein, Andrew Clemens, Christopher Lucy, Nick Brown, Clinton Kershaw, Robin Reid, Michael Guy, Cherie Mittenthal (Executive Artistic Director of Truro Center for the Arts at Castle Hill), Don Poole from Outermost Land Survey

Chair Sollog called the meeting to order at 6:04 pm.

Public Comment Period: No public comments.

Temporary Sign Permit Applications

Truro Center for the Arts, for four (4) signs, either 36" x 22" or 48" x 36" to be located at Castle Road, Pamet Roads exit, Downtown Truro, and Truro Center Road. The signs will be installed on August 1st and removed August 12th for an event on August 10th.

Member Kiernan made a motion to approve the four signs for Truro Center for the Arts. Member Boleyn seconded.

So voted, 6-0-1 (Member Tosh abstained), motion carries.

Erin Sullivan-Silva, for two (2) banners each $4' \times 8'$ to be located at 298 Route 6. The banners will be installed on July 24^{th} for an event on July 24^{th} .

Member Greenbaum had two questions;

• What is the removal date?

Chair Sollog states that he believes the signs will be up for the full 30 days which their permitting allows. Interim Planner Bardi added that the Board could condition the approval for a total of 30 days.

• The sign sizes are 4' x 8' each. They are bigger than what is allowed in the sign code for permanent signs, so she's questioning the size.

Chair Sollog said they can still approve the signs, and have it limited to the time-period that is allotted, or the Board can ask that the applicant reduce the size of the signs.

Member Kiernan had a question as well. He would like to know if the signs would be on their property. Chair Sollog re-read the application, which states the signs would be placed at 298 Route 6. Member Kiernan is willing to err on the applicant's side with the condition that the signs be on their property and that they will be in place for 30 days with this permit.

Member Kiernan made a motion to approve the two banners to be located at 298 Route 6 with the conditions that the signs be on their property and that they will be in place for 30 days with this permit.

Member Greenbaum seconded.

So voted 7-0-0 (with conditions), motion carries.

Friends of the Truro Library, for two (2) yard signs each 27" x 18" to be located at Snows Park and at Route 6 near library, plus four (4) small real estate signs, and one (1) banner 2 and ½' x 6" to be located at the junction of Route 6 and 6A. The banner and signs will be installed on July 31st and removed August 14th for an event on August 7th (rain date August 14th).

Member Tosh made a motion to approve the two yard signs, four real estate signs, and one banner for the Friends of the Truro Public Library.

Member Herridge seconded.

So voted, 7-0-0, motion carries.

Highland House Museum, for one (1) yard sign 48" x 36" to be located on Route 6 near South Highland Road for July, August, and September. The sign will be installed on July 1st and removed July 31st; installed on August 1st and removed August 31st; installed on September 1st and removed September 28th.

Interim Planner Bardi informed the Board that the applicants had submitted three separate applications (one for each month).

Member Herridge made a motion to approve the one yard sign for Highland House Museum for the dates specified.

Member Boleyn seconded.

So voted, 7-0-0, motion carries.

Public Hearing

(continued) 2019-007/SPR Peter Clemons and Marianne Benson, for property located at 40 Cliff Road, Truro (Atlas Map 32, Parcel 19A). Applicants seek approval under Section 70.4 of the Truro Zoning Bylaw for the construction of a single-family dwelling on a 7,616 s.f. parcel of vacant land in the Seashore District.

Member Riemer stated that he signed an affidavit that after missing the last meeting, he watched the recorded video in order to take part in this public hearing. He also disclosed that he'd had a discussion with Mr. Downey after the site visit at 40 Cliff Road, but it had nothing to do with the matter at hand. Member Kiernan was also absent and filled out the Mullins Certification and presented it to the Town for recording. Atty. Zehnder asked Member Kiernan if he also watched the video of the last meeting, which Member Kiernan confirmed.

Atty. Zehnder is representing Peter Clemons and Marianne Benson, who are the owners of 40 Cliff Road. At the last meeting, Atty. Zehnder had requested that the Board deem the application complete, which the Board declined to do. The Board wished to see an existing and proposed landscape plan. Said plan has been received by the site engineers and he would like to pass that out to the Board members. What is in front of the Board today is a determination as to whether or not, under their Site Plan Review law, the application is complete. After that, there are five review criteria;

- The relationship of the building and the structures to the environment. The proposed development shall relate to the existing terrain and lot and shall provide a solar and wind orientation which encourages energy conservation. Atty. Zehnder pointed out that the long side of the house is oriented to the south-southwest.
- **Building design and landscaping.** Proposed development shall be consistent with the character and scale of the buildings and structures in the neighborhood through the use of appropriate

scale, massing, building materials, screening, lighting, and other architectural techniques. The house is of conventional Cape Cod architecture.

- Preservation of landscape. The landscape shall be preserved in its natural state insofar as
 practical by minimizing any grade changes and removal of any vegetation or soil. The lot is
 naturally vegetated and is roughly flat. The majority of the lot will remain in its natural
 vegetated state. Revegetation will be done with native plantings.
- **Circulation**. Curb cuts and driveway shall be safe and convenient, consistent with Chapter 1 Section 9 of the General Bylaws.
- **Lighting**. Shall be consistent with Chapter 4 Section 6 of the General Bylaws. Protection of adjacent properties of the night skies from intrusive lighting will be provided by downward/shielded lighting and a minimum of lights on the exterior of the property.

Member Tosh stated that if the Zoning Enforcement Officer confirms that 40 Cliff Road is a buildable lot, that's good enough for her. She looked into the title herself because she was afraid the question would come up and she wanted to be familiar with it.

Member Kiernan asked if Atty. Zehnder would explain about the title. It's his understanding that there are a number of places where the direct abutter has claimed ownership. Atty. Zehnder stated that the developer deeded out Lot 511 and then Lot 511 continued to be deeded out into the chain of title of Marianne Benson and Peter Clemons. Then a subsequent purported owner executed and delivered a deed to the Dickinson's (abutters to 40 Cliff Road) predecessor in title, but that person did not own the land. There was no back title behind that deed. The problem is that once you execute and deliver a deed to someone, that description carries forward in the subsequent deeds that follow.

Chair Sollog asked to talk about the number of stories proposed in the dwelling. He asked Atty. Zehnder why this dwelling would not be considered three-stories tall. Atty. Zehnder stated that there is an open loft area. An open loft is not considered to be a bedroom space. Member Kiernan added up what he could on the plan and came up with 29.657 feet in height. Atty. Zehnder noted that if the Board would look at the site plan, there was a height calculation on it of 29.9 feet.

Member Kiernan wished to ask some questions to the engineer. Gary Locke came up to the Board. He is the architect of this job. Member Kiernan stated that on the plan it says Cliff Road, private way, and there is about 36 feet of frontage drawn right on the road. He'd like to know if that's a mistake. Mr. Locke answered that it is not a mistake. Member Kiernan then asked how many feet were on the road. Mr. Locke stated that on Cliff Road it has 35 feet. On Chatham Avenue (private way-30 feet wide) there is 107 plus 34.14. There is also frontage on Mayflower Road of 40 feet. Member Kiernan asks if he's satisfied the 50 feet necessary for the original (50 feet of frontage and a 5,000 sq. ft to be a buildable lot). Mr. Locke confirms that it is a buildable lot.

Mr. Kiernan's second question has Mr. Locke looking at the zoning notes. #4 says "gross floor area". He asked if Mr. Locke was aware that there is a bylaw change that has a Seashore District total gross floor area definition. Atty. Zehnder states he'll answer any questions to that, and he is aware of the definition. Member Kiernan goes on to read the definition. As he looks at the third-floor area (described as a loft) there's an additional 351 square feet that are not included in the gross floor area calculation. Mr. Locke states it's a storage loft and not for principal use. Member Kiernan believes this could be livable space as it has six windows, two skylights, and a spiral staircase leading up to it. If you add the square footage in, you get 2,059 square feet. Atty. Zehnder just did a calculation of permissible gross site coverage would be on this lot, he comes up with 3,037 sq. ft of site coverage for a lot of this size. They are still 1,000 feet under the permissible square footage.

Atty. Silverstein asks Atty. Zehnder to speak to the number of stories. If it doesn't meet the definition of an attic then it constitutes a story under the definitions, then you have three stories. Member Riemer noted that there is no definition of a loft. Atty. Zehnder believes Atty. Silverstein is correct, and he

suggests striking the loft from the plans. Member Kiernan would like to see the changed plan. Chair Sollog asks Member Kiernan if they could just condition the approval. Atty. Zehnder states that there will be no change to the outside of the building.

Member Greenbaum noted that the proposed driveway is shown on (not off of) Chatham Avenue, and she asked Atty. Zehnder to explain. Atty. Zehnder answered that Peter and Marianne own the entirety of Chatham Avenue between the two lots, subject to the rights of other people to pass over and use it. They cannot block it. Putting in a driveway does not compete with someone wanting to pass over it. Member Kiernan looked at a plot plan and does not see any ownership to the center of Chatham Avenue. Atty. Zehnder pointed out that plot plans do not show ownership of ways. Atty. Silverstein added that if a deed does not specify that ownership of a road is being maintained by the grantor then the presumption is that the lot owners on either side of a road own the fee in the road along their frontage to the center line. Since they own the frontage on both sides of the road, they would therefore own the fee in the road.

Member Riemer asked why the two lots would not therefore be merged. Atty. Silverstein answered that others have rights to pass over this road. The Doctrine of Merger is a doctrine that the courts created to further the public interest in reducing non-conforming lots. The courts have said, when you own two lots separated by a road, you can't merge those lots because people have the right to drive on the road. The Doctrine of Merger would not apply here.

Member Kiernan had a question regarding Cliff Road. A portion of the road has been maintained with hardening past a few properties and then the hardening stops. You have to go through three large holes before coming to 40 Cliff Road. He would like to know if the road needs to be improved. Atty. Silverstein answered that the courts have recognized that it's legitimate to require safe access. This does not mean building it to subdivision standards. It is something of a discretionary determination. Most towns do not have residential site plan review, therefore normally it would be a determination of the building official. Since Truro does have residential site plan review, it is acceptable for the Board to determine the adequacy of the access. It is something they could condition upon site plan approval. Atty. Zehnder added that if the Board wishes to condition this that they do so with the condition that the improvement of the road be such as is required by the Building inspector, or Fire Chief, for safe and adequate access. He's also asking that they respect the rural character of the road.

Member Kiernan initiated another discussion regarding the size of the dwelling, compared with the next-door neighbor. Atty. Zehnder countered that he believes this house falls within the size and mass criteria, within the neighborhood.

Member Tosh believes the development is totally consistent with the character and scale of the neighborhood. It is a relatively modest house that's nicely done and will not detract from the neighborhood. She asks for the Board to move on.

Member Riemer states that the zoning information is not listed on the site plan. He thinks it should list what the setbacks are. Atty. Zehnder stated that there are no setbacks. Chair Sollog added that this information is not required because it was created long before this information was documented. Member Riemer is also looking for a topography and grading plan. He also believes the Board is to address Massachusetts Natural Heritage Species Act and indicate its jurisdiction. He cannot find that on any of the plans. Member Riemer also points out that there is no indication of limit of work area. Atty. Zehnder states that there is a limit of work area and a topographical plan. Member Riemer continues, stating that there are no photographs of the area to depict the neighborhood. Member Riemer believes the application is not complete.

Atty. Zehnder responded. At the last meeting the completeness of the application was explored. He was informed by the Board that it was complete, save for an existing and proposed landscape plan. Member Riemer was not present at that meeting. The members have been out to the site and he's not

sure that providing photographs of the adjacent houses is in any way going to change the view of any member.

Chair Sollog has announced that he will now go through the list of items which Member Riemer has raised, to see if any of them are necessary. Chair Sollog asks Mr. Locke what the setbacks are from the lot lines on the Northwest side. Mr. Locke stated they are 12.5 feet from the proposed deck to the Dickerson lot line, and 16 feet in the rear portion of the house to the Dickerson lot line. From Cliff Road, it is 23.07 feet to the angled 34.14 property line. The South side has 16.09 feet closest to Cliff Road and 12.72 feet at the rear. Member Tosh thinks the aerial view is helpful as it shows the setbacks for the Dickerson's property as well. Chair Sollog asks the Board if the zoning needs to be clearly stated somewhere on the plan, or are they satisfied that this is pre-zoning.

Member Tosh states it's single-family as of right.

Member Kiernan states he is satisfied.

Chair Sollog asks if there was supposed to be a contact to MESA. Member Riemer thinks it's required. In order to not stall this, Chair Sollog stated they can condition that a MESA approval could be forthcoming with any conditions they have.

Member Kiernan stated that as a practical measure, they have a building which is 30 feet high, and a sideline that's 12 feet away. If you put a ladder up 30 feet and you're only out 12 feet from the edge of the house, is that safe?

Chair Sollog opens the Public Hearing up to the audience.

Andrew Clemens comes up to speak. He is a resident of Truro. He explained that this application is for his brother and himself to have year-round housing. This is their best shot at having a future here in Truro.

Member Riemer wanted to discuss the staging area. Will staging occur on seashore property? Atty. Zehnder pointed out that they own the property across the street, and the street. So as long as the road is not blocked, they can do whatever they want on that other lot.

Regarding the MESA question, Atty. Zehnder would ask for a condition on the plan that they resubmit the plan to the Building Inspector, showing the mapped area if it's there. Member Riemer stated that he'd had a discussion with Health/Conservation agent Emily Beebe and mapped areas require notification and filing with MESA. Chair Sollog believes that is for the building permit. Chair Sollog closes the public hearing.

Member Kiernan asks that conditions be voted on before a motion is made.

Member Tosh makes a motion to approve conditions as follows:

- That a plan will be submitted to the Building Commissioner showing removal of the loft and the staircase.
- That the plan submitted to the Building Commissioner will show MESA mapping and that the plan will be subject to review and approval by MESA, or otherwise complying with their requirements.
- The Building Commissioner, in consultation with the Fire Department and the Chief of Police, would determine that the road is safe and adequate. If they did not make that determination, that improvements would be made to their satisfaction.

Member Herridge seconds.

One condition added by Member Kiernan:

The building shall remain two floors only and shall remain a single-family residence.

Member Tosh objects to the conditions posed by Member Kiernan stating that they are outside the Board's jurisdiction. Member Tosh states that there is a motion and a second <u>on the first three conditions.</u>

So voted; 7-0-0, motion carries.

Member Herridge makes a motion to approve the site plan with the three conditions as stipulated. Member Greenbaum seconds.

So voted, 6-1-0 (Member Kiernan opposed), motion carries.

Public Hearing

2019-008/SPR-Jeffrey and Jennifer Goldstein, for property located at 37 Old Outermost Road (Atlas Map 41, Parcel 2, certificate of title number 219048, land court lot number 11 and plan number 18231-0). Applicants seek Residential Site Plan approval under Section 70.4 of the Truro Zoning Bylaw for the reconstruction of a single-family dwelling and construction of a garage/habitable studio. This property is located within the Seashore District.

Atty. Ben Zehnder is before the Board on behalf of the Goldsteins. Jeffrey Katz is in attendance and was the architect that designed the structure and can answer any questions about the design of the structure. From a procedural standpoint, this is going to require a Special Permit from the Zoning Board of Appeals. They will be going before the ZBA in a couple of weeks. This is an alteration on a pre-existing, non-conforming lot lacking street frontage. This is not an application that is going to exceed the By-Right site coverage under the National Seashore house size bylaw. The lot is 3.75 acres. The permitted site coverage is 3750 square feet, as of right. By Special Permit you can apply for up to 4,750 square feet. When you total the various sections of the habitable studio and the sections of the house, it's 3,483 square feet. They only need to go to the Zoning Board for alterations on a house on a pre-existing, non-confirming lot. Member Riemer asked if the habitable studio would also need to be reviewed by the ZBA. Atty. Zehnder stated that it is not an ADU and therefore does not need to go before the ZBA. There is no kitchen in this structure. If you do not place a kitchen in it, it's like any other accessory dwelling, like a shed or garage. He also added that he'd been in touch with Lauren McKean, Chief Land Planner of the National Seashore, and she'd indicated that she would have no comments on this project.

An existing site plan has been submitted, along with a proposed site plan showing the removal and rebuild of the existing dwelling in the same location. There is a proposed addition connected by a second story passageway via the main dwelling, and a garage with a studio above it. Lighting is shown on the plan, assessor's field cards are being submitted along with photographs of other homes in the neighborhood.

Chair Sollog asked if the National Seashore responded in any other way to Atty. Zehnder as far as this project. Atty. Zehnder explained that when they filed the application with the Town, he submitted a copy of the application to the Superintendent at the National Seashore, and Lauren McKean. He got a phone call Monday from Ms. McKean asking for copies of the plans and he resent them to her. He received an email thanking him for the plans and that she would not have any comments. He also informed her of the site visit, in case she or a representative wished to go.

Chair Sollog went over the review criteria.

- The abutters list was supplied
- Filing fee was paid for
- Property Assessment Card
- The title was searched back
- Outdoor lighting and landscape plan
- Existing conditions
- Sewage disposal system design
- Building plans

Member Riemer asked if there had been a filing with MESA, he noticed on the plan it had been identified as falling within an area which would require filing. Atty. Zehnder explained that per the Planning Board bylaw requirement they have to show on the plan the MESA location. Member Riemer stated that was not consistent with the report received by the Conservation Agent. He was advised that the area had been identified as being within a mapped area and that documentation and filing with MESA, and a review, is a requirement. Atty. Silverstein explained that there were two things:

- 1. Whether or not the site plan approval application is complete. The completeness requirement in the bylaw is simply to show the jurisdictional limits of any wetlands and endangered species.
- 2. Whether there's also a regulatory requirement to proceed through MESA or through the Conservation Commission or Board of Health, those are all separate regulatory schemes that would be required in addition to site plan approval.

Chair Sollog asked who would get to make the choice how it is applied. If the Planning Board is doing a site plan review, and they see that it is within a MESA review area, who gets to determine that the applicants need to apply to MESA for review of their project. Atty. Silverstein replied that MESA would be the ones to determine that. The Planning Board doesn't tell them what to do with any other regulatory agency. He presumes that Town Meeting included this mapping requirement so that the Board would have a broader understanding of what some of the site constraints might be. If the applicants go through MESA review and the site plan changes, they'll have to come back to the Board. The Board could argue that it may be in the best interests of the applicant to try and resolve as much as possible before coming to the Board, but it is up to the applicant to do that.

Chair Sollog confirmed that the bylaws only require MESA areas to be mapped on the plan, it doesn't ask the applicant to do anything other than identify. Atty. Silverstein agreed. Chair Sollog asked, if the Board approves to move forward, at what point would MESA be involved. Atty. Silverstein stated that it would be before the applicant got a building permit.

Member Riemer cited section 70.1-Purpose-site plan review, it states that the Board is supposed to determine the potential impact on public services, infrastructure, pedestrian and vehicular traffic, and significant environmental and historical resources. He believes an environmental resource would be an endangered species. Chair Sollog countered that's why MESA exists. The Board is to ensure the identification of locations. Atty. Zehnder added that it's the Board's purpose to protect those interests. The purpose does not say that it's the Board's job to take action. If the Board requires that the applicant go to MESA, Atty. Zehnder does not have a problem with that, as they have to go to MESA before obtaining a building permit anyway.

Member Riemer wished to refer to a drawing indicating Assessors Map 41 Parcel 2. He states that it identifies the access to where the construction will be, wandering outside the line and into abutting lots. Chair Sollog stated that it's an existing drive. Member Riemer does not know what the effect will be of heavy equipment going over the existing driveway, and he's not sure the National Park Service reviewed this. Atty. Zehnder let the Board know that if the NPS had any concerns over any aspect of the application, they have a right to participate and be heard. He recognizes the roadways to this property (all the way from Longnook or Dew Line Road) are two track dirt roads, and the driveway is similar in nature. The seashore has a policy of not interfering with, or obstructing the use of, existing driveways and roads that provide access to properties within the seashore. A condition on this application which requires the applicant to remediate and repair any damage caused to this road in completely appropriate.

Chair Sollog asked if anyone in the audience wanted to come up and comment. No one came forth. **Chair Sollog closed the public hearing.**

Member Tosh made a motion that the Board adopt the following condition on the approval of the site plan 2019-008/SPR-Jeffrey and Jennifer Goldstein:

• The applicant will remediate any damage to the roadways leading to the property that occurs during the construction of the residence.

Member Herridge seconds.

So voted; 7-0-0, motion carries.

Member Tosh made a motion in the matter of 2019-008/SPR-Jeffrey and Jennifer Goldstein to approve the residential site plan for the reconstruction of a single-family dwelling and construction of a garage/habitable studio on property located on 37 Old Outermost Road (Map 41, Parcel 2) in accordance with Section 70.4 of the Truro Zoning Bylaw, and as per plans filed with this Board based on findings that the criteria under Section 70.4D have been complied with and with the condition as previously voted on that any damage to the road will be remediated at the conclusion of the construction.

Member Herridge seconds.

So voted; 7-0-0, motion carries.

Public Hearing

2019-003/PB-Christopher Lucy, for property located at 16 Glacier Drive (Atlas Map 47, Parcel 150). Applicant seeks an Accessory Dwelling Unit Permit pursuant to Section 40.2 of the Truro Zoning Bylaw. The proposed location of the Accessory Dwelling Unit is within the existing garage structure on the property.

Christopher Lucy approached the Board. Chair Sollog mentioned that the Board visited the site and began going over requirements of completion of the application.

- Application for an Accessory Dwelling Unit.
- Certified abutters list.
- Site Plan of 16 Glacier Drive.
- Septic system design plan.
- Upgraded septic system design plan.
- Existing dwelling building plan.
- Existing dwelling elevations.
- Existing dwelling floor plans.
- Proposed garage/attic conversion.
- Proposed garage/attic conversion elevation plan.
- Proposed garage/attic conversion lower level plan.
- Approved title 5 variance by the Health Department.
- Affidavit of applicant declaring ADU will be rented on a 12-month basis.
- Public notice was posted in the Banner.

Member Riemer would like to acknowledge the letter the Board received from Mr. and Mrs. Burhoe. He appreciates input from people in the neighborhood that abut a project. Chair Sollog agrees and reads the letter for the record. The Burhoe's are in favor of the project. Mr. Lucy added that he also has a letter from the neighborhood association stating that they have no objection to the project as well. Chair Sollog asked Mr. Lucy to describe the septic system as it is a style which the general public may have no knowledge of. Mr. Lucy explained that while planning the project he found that he had a three-bedroom home on a three-bedroom lot. The regulation, through the Board of Health, stated that an innovative system (IA system) can only be used for remedial use, or in a situation where there were no other options for a situation of setbacks from wetlands, ground water, etc. The bylaw was then changed to use IA systems with apartments. Mr. Lucy continued, explaining exactly how an IA system works. Part of the system is that you need a management agreement where an outside agency comes and tests

the water and tests the nitrogen that's in the wastewater four times per year for the first year. The end result is the effluent that comes out of the system is much cleaner before going into a leaching area, and subsequently back into the ground water. It removes 70 to 80 percent of the nitrogen that would typically go into a normal septic system. Member Riemer asked when the alarm gets set off in the event that a gallon of bleach gets dumped into the system. Mr. Lucy explained that it's a remote monitoring where the company can tell you various issues such as a leak in your tank, chemicals dumped into the system, etc. Member Riemer asked about the cost to the homeowner. Mr. Lucy answered that the components themselves, depending on the size of the system, cost between \$12,000-\$15,000. The leaching is a minimally priced. The difference between this, and another IA system (the Fast system) is that the Fast system costs an additional \$100-\$150 extra per month electrically, vs. \$10-\$12 per month electrically. Member Kiernan confirmed that with this system, it would allow an extra bedroom and kitchen with a better effluent. Mr. Lucy agreed. He also confirmed that he would have the alarm component on the system.

Chair Sollog asked the public for any comments. Nick Brown came before the Board. He has installed six of these systems already. He thinks that the cost being paid for by the owner, and not the Town, is the way to go. He applauds the effort and would like to see more.

Chair Sollog stated that if there were no other comments, he would close the public hearing. No further comments were heard, and the public hearing was closed.

Mr. Herridge made a motion in the matter of 2019-003/PB-Christopher Lucy to grant a permit for an Accessory Dwelling Unit pursuant to Section 40.2 of the Truro Zoning Bylaw with respect to property located at 16 Glacier Drive (Atlas Map 47, Parcel 150) in accordance with plans submitted with this application subject to the following conditions:

- Once an ADU has been added to a dwelling structure or lot, the ADU shall not be enlarged beyond the square footage specified in the permit granted pursuant to Section 40.2 of the Truro Zoning Bylaw without first obtaining a subsequent permit from the Planning Board and in no case shall an ADU be permitted to exceed the square footage allowed by Section 40.2 of the Truro Zoning Bylaw.
- The principal dwelling, ADU, and lot on which they are located, shall remain in common ownership and shall not be severed in ownership, including that the lot, buildings or units thereon shall not be placed in a condominium form of ownership.
- Either the ADU or the principal dwelling on a lot with an ADU must be leased for a term of at
 least twelve months. Rental of said unit for a period of less than twelve months, including but
 not limited to seasonal rental and rental through vacation rental services (including websites)
 is prohibited. Proof of year-round rental should be provided annually to the Building
 Commissioner by the owner in the form of a lease and a signed affidavit from both the owner
 and the renter stating the unit is being rented accordingly and is used as a primary residence.
- The ADU shall be inspected annually, or as frequently as deemed necessary, by the Health and Building Departments for compliance with public safety and public health codes. The owner of the property shall be responsible for scheduling such inspection and shall pay any applicable inspection fee.

Member Boleyn seconded.

Member Riemer mentioned that it was recommended by the Interim Town Planner, that if a permit is granted the Board should consider adding language about enlargement of the ADU in the conditions of the permit. Both Interim Town Planner Bardi, and Member Kiernan both let Member Riemer know that exact topic was covered in condition number 1.

So voted; 7-0-0, motion carries.

Public Hearing

2019-004/PB-Clinton Kershaw, seeks approval of an application for an Accessory Dwelling Unit Permit pursuant to Section 40.2 of the Truro Zoning Bylaw. The property is located at 9 Highland Avenue, Map 22 and Parcel 35, and includes two existing structures.

Clinton Kershaw and Robin Reid approached the Board. Ms. Reid wished to remind the Board that the ADU application was for the smaller, older, building on the property. This property is also subject to a variance from the Board of Health concerning the technical difference between two bedrooms in one dwelling unit and two bedrooms (one each) in a dwelling unit. That is why they are going to the Board of Health, to deal with the septic issue. The matter has been continued, because the Board of Health does not want to decide on the variance until they have heard from the Planning Board that this is an ADU. Ms. Reid proceeded to review criteria to prove that the until conforms to the definition of an ADU.

Member Kiernan pointed out that under the ADU Bylaw, the Board cannot waive parking. Under their parking requirements they require that the parking spaces be on the property and that they not be within ten feet of the property line. For the Board to approve this, they would need to see a plan (that had been proposed when Ms. Reid first came to the Board) showing that there was an entrance in and four parking spaces in part of the lawn. With that, the two parking spaces that are right on the property line on one end, the applicant wouldn't have to take the garden out and the three parking spaces shown could turn into a single driveway coming in to serve the four spaces. Secondly, the previous ZBA Special Permits seemed to go away. There were two Special Permits that said there should only be two bedrooms on the lot, and it turned out there were three bedrooms. Member Kiernan has a suggestion which may help. Between the existing bedroom in the old building and the existing den if a seven-foot wide opening is created between the two it will essentially create one large bedroom and prevent a tenant from taking in a second boarder.

Ms. Reid wished to ask a question about the parking spots. She would like to know if the Board is asking them to deliver a plan that shoes those parking spots or if they are asking her to build the parking spots. Member Kiernan stated that she needs to show those parking spots on the property. They can condition it, to grant the ADU, but they must be created. Ms. Reid stated they were trying to avoid moving the parking as doing so would destroy an area. Member Kiernan read from the bylaw which states an ADU must have two off-street parking spots. Ms. Reid argues that the parking as it is works just fine. Member Kiernan is unwilling to violate the law. Member Riemer would support Member Kiernan and would be willing to support the plan with the applicant accepting the two conditions suggested by Member Kiernan. Member Kiernan pointed out that there is already a tenant on the property and that the owner is already living in a building that has two special permits stating there should be no sleeping there and no living space there. Per Member Kiernan, Mr. Kershaw is currently in violation. The bylaw also states that the Board can condition the ADU or deny it if they cannot come up with conditions. Ms. Reid believes the bedroom piece is going to be properly dealt with at the Board of Health. She is hoping to come to an agreement about the parking without having to move it, unless the way is widened. Michael Guy came up to speak. He lives directly behind Mr. Kershaw and completely supports the project.

Atty. Silverstein mentioned that looking at Section 30.9, Section B, indicates that single or two-family dwellings are exempt from the entire section except for the section which requires two parking spaces. It would appear that the other design requirements, perhaps, might not apply to a single-family house with an ADU. His suggestion would be that the Board impose a condition that the applicant either obtain a determination from the Zoning Enforcement Officer that the existing parking complies or, if the Zoning Enforcement Officer determines it does not comply then the applicant would either need to move the parking spaces fully onto the lot or obtain a variance from the ZBA.

Member Greenbaum had a question. She wasn't at the site visit. Is she correct in understanding that the parking shown on the plan is not the current parking? Mr. Kershaw and Ms. Reid explained what she was looking at.

Member Riemer recalls discussion at a Town Meeting either one or two years ago where there was a change in the General Bylaw with regard to parking. He believed the determination was that you cannot park within the layout of the road. Chair Sollog thought that had to do with Route 6A and the Vineyard.

Member Tosh made a motion in the matter of 2019-004/PB-Clinton Kershaw that if the Board grants a permit for an Accessory Dwelling Unit that the permit be conditioned on;

- The applicant obtaining the opinion of the Zoning Enforcement Officer that the existing parking for the Accessory Dwelling Unit is defined by the Zoning Enforcement Officer as offstreet.
- If the Zoning Enforcement Officer determines that the existing parking is not off-street that the applicant will then move the parking onto the property or obtain a variance from the Zoning Board of Appeals.

Member Herridge seconded.

Member Riemer stated that the Town's definition of <u>street</u> includes not just the travelled way but right-of-way as well. He asked Counsel if that meant that parking would need to be off the right-of-way, which is forty-feet wide. Chair Sollog stated that they were leaving that question up to the Zoning Enforcement Officer. Atty. Silverstein is uncomfortable with not giving the Zoning Enforcement Officer the first opportunity to make a determination about whether the parking complies. If there is a determination of non-compliance, then the applicant would have to deal with that. Member Kiernan stated that the parking plan revision dated May 10th, 2019 shows three proposed parking spaces on one portion of the property and two proposed parking spaces on another portion of the property. Currently the parking spaces are in the layout of Highland Avenue. He's asking if the Board is asking the applicant to move the spots or leave them in the road. Chair Sollog explained that they are not determining if the parking is illegal, they are leaving that determination up to the Zoning Enforcement Officer. Member Kiernan wants to be sure that's a condition so he can vote. Member Tosh explained the conditions to him for better understanding.

So voted; 6-0-1 (Member Kiernan abstains), motion carries.

Member Kiernan made a motion in the matter of 2019-004/PB-Clinton Kershaw to grant a permit for an Accessory Dwelling Unit Permit pursuant to Section 40.2 of the Truro Zoning Bylaw. The property is located at 9 Highland Avenue, and in accordance with plans submitted with this application subject to the following conditions:

- Once an ADU has been added to a dwelling, structure, or lot, the ADU shall not be enlarged beyond the square footage specified in the permit granted, pursuant to Section 40.2 of the Truro Zoning Bylaw without first obtaining a subsequent permit from the Planning Board, and in no case shall an ADU be permitted to exceed the square footage allowed by Section 40.2 of the Truro Zoning Bylaw.
- The principle dwelling, and ADU and lot on which they are located shall remain in common ownership and shall not be severed in ownership including that the lot, buildings, or units thereon shall not be placed in a condominium form of ownership.
- Either the ADU or the principle dwelling on the lot with an ADU must be leased for a term of at least twelve months. Rental of said unit for a period of less than twelve months, including but not limited to, seasonal renting and rental through vacation rental services and websites

- is prohibited. Proof of year-round rental shall be provided annually to the Building Commissioner by the owner in the form of a lease and a signed affidavit from both the owner and renter stating the unit is being rented accordingly and is used as a primary residence.
- The ADU shall be inspected annually or as frequently as deemed necessary by the Health and Building Departments for compliance with public safety and public health codes. The owner of the property shall be responsible for scheduling such inspection and shall pay any applicable inspection fees.
- Prior to the issuance of the building permit, the owner of the property shall obtain approval from the Health Department under Title V of the State Sanitary Code and the local Board of Health Regulations as applicable.

Member Boleyn seconded.

Member Kiernan feels that the Planning Board is ignoring the part of the bylaw that says there shall be two off-street parking spaces in addition to parking otherwise required by the property for the ADU. Chair Sollog acknowledges his feelings.

So voted; 5-2-0 (Member Kiernan and Member Riemer oppose), motion carries.

Board Action

Discussion and possible Board vote of a full release from the Town of Truro "Form F – Certification of Completion & Release of Municipal Interest in Subdivision Performance Securty" for Ladoyt K. Teubner, et als, First Light Lane, Plan Book 573, Page 53, Covenant Book 15141, Page 179. The original Lot 1 (Plan Book 249, Page 56) has been subdivided into six (6) lots. Lots 4 and 5 conform to requisite frontage on Castle Road and therefore are not part of the Covenant. Lots 2, 3 and 6 have already been released in previous years by the Truro Planning Board.

Chair Sollog asked if the Board was satisfied that the subdivision was completed as shown on the plan. Member Kiernan was satisfied. Chair Sollog then asked if the Board found any problem with this particular subdivision. There were no problems.

Member Kiernan made a motion that the Planning Board release the covenant. Member Boleyn seconded.

So voted; 7-0-0, motion carries.

Discussion and possible Board vote on Truro Center for the Arts at Castle Hill, Inc.'s request for a presubmission review, pursuant to Section 2.3 of the Truro Subdivision Regulations for modification of a plan entitled "Modified Definitive Subdivision Plan of Land in Truro," made for Malcolm Meldahl, Trustee dated December 9, 2015, of record at Barnstable Registry of Deeds, Plan Book 662, Page 87. Member Tosh recused herself and left the room as she is a member of the Board at Castle Hill and she is also a Trustee of the Truro Conservation Trust (which is an abutter).

Cheri Mittenthal and Don Poole approached the Board. Per Ms. Mittenthal, the existing subdivision plan for Edgewood Farm shows a "no construction" section of Edgewood Way, which is a section which was not intended to be built as intended because that section only serves Lots 1 and 2. Since then, they've purchased the property, and sold Lots 3 and 4 to the Truro Conservation Trust. The Truro Conservation Trust has no access to that subdivision section of the frontage. They are looking to see if they can remove the paper road. Member Kiernan asked Mr. Poole to show exactly what was planned. Mr. Poole brought the plan up to Members Kiernan and Herridge and pointed out the area they wished to be expunged. A discussion ensued suggesting including a turn-around in the layout of the road, they would then gain frontage. Mr. Poole stated doing so would violate setbacks and would require approval

through the Zoning Board of Appeals. Mr. Poole instead suggested that they do a paper cul-de-sac. They could dead-end the road at the site of no construction and do a paper cul-de-sac there. Atty. Silverstein reviewed the plan and stated that from a subdivision control standpoint, what they are proposing isn't an issue to the extent that exacerbates any existing zoning nonconformity they may need to go to the ZBA for a Section 6 finding. He says it's straightforward and can be done under Section 81W, and if it were to cause any zoning issues, that would be for the Zoning Board of Appeals to deal with.

Chair Sollog does not see a problem with them proposing a paper road change. Member Tosh comes back to the room and re-joins the Board.

Discussion and approval of updated Truro Zoning Bylaw amended through April 2019.

Member Kiernan stated that it has to be certified by the Town Clerk. Chair Sollog stated that it was submitted to the Board to make sure it was inclusive of everything to date. Interim Planner Bardi stated that member Greenbaum pointed out a few clerical issues that they can take out now, but any substantive would need to go through Town Meeting. Tonight, is for the Board to sign off to get it certified at the clerk's office and posted online for the public. The Board went over the clerical issues Member Greenbaum noticed.

Member Riemer went through some inconsistencies he noticed with the Board. He would like those inconsistencies worked on. Chair Sollog agreed that there are some items which they need to be sure <u>are</u> included. Member Greenbaum thinks they should take the time to continue to review and bring changes to the next meeting.

Discussion and approval of updated Planning Department forms for applications before the Board. Chair Sollog suggests to the Board that they use the forms included in their packet, review and make notes so that they can discuss at the next meeting.

Discussion for setting date for Board public workshop.

Chair Sollog wished to speak to the Select Board liaison to the Planning Board about a possible joint meeting. Besides a workshop, a possible workshop with join boards would be a good concept. Member Greenbaum believes the Planning Board should have their own work session before holding a joint work session with the Select Board. Chair Sollog agrees. A date of August 6th was suggested.

Member Kiernan wished to ask Atty. Silverstein a question. He has seen members of other Boards get up to speak at meetings, state that they are a member of a certain Board, but then announce they are speaking as a private citizen. After that announcement, Member Kiernan feels that some people then say some inappropriate things. All Board, Committee, Commission members must sign Policy #54, which dictates standards of professional conduct. Member Kiernan would like to know, if you want to speak as a private citizen must you resign from your position on a Board, Committee or Commission. Atty. Silverstein answered that he doesn't want to answer that question, in that format, in a blanket fashion, however as a general rule being a member of a town board doesn't mean that you give up your first amendment rights to speak on any matter that you choose. To speak on behalf of a board, unless you've been tasked to do so, would not be right.

Approval of Minutes

June 28, 2019 Minutes of Site Visits for First Light Lane and 40 Cliff Road.

Member Tosh made a motion to approve the June 28, 2019 minutes of site visits for First Light Lane and 40 Cliff Road.

Anne Greenbaum seconded.

So voted; 7-0-0, motion carries.

Chair Sollog announced that the next meeting would be Wednesday, August 14, 2019 at 6:00 pm.

Member Kiernan made a motion to adjourn. Member Herridge seconded. So voted; 7-0-0, motion carries.

Meeting adjourns at 9:42 pm.

Respectfully Submitted, Noelle L. Scoullar