



Truro Zoning Board of Appeals Agenda

Remote Meeting

Monday, October 23, 2023 – 5:30 pm
www.truro-ma.gov

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Open Meeting

This will be a remote public meeting. Citizens can view the meeting on Channel 8 in Truro and on the web on the "Truro TV Channel 8" button under "Helpful Links" on the homepage of the Town of Truro website (www.truro-ma.gov). Click on the green "Watch" button in the upper right corner of the page. Please note that there may be a slight delay (approx. 15-30 seconds) between the meeting and the television broadcast/live stream.

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing Liz Sturdy, Planning Department Administrator, at esturdy@truro-ma.gov.

Public Comment Period

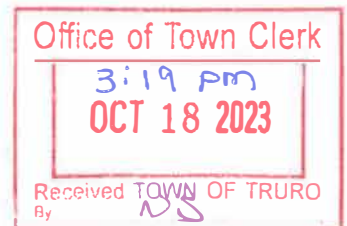
The Commonwealth's Open Meeting Law limits any discussion by members of the Board of an issue raised to whether that issue should be placed on a future agenda. Speakers are limited to no more than 5 minutes.

Minutes

- ◆ July 24, 2023
- ◆ August 21, 2023

Public Hearings – Continued

2022-017/ZBA (VAR/SP) – Ebb Tide on the Bay Condominiums for property located at 538 Shore Road (Atlas Map 7, Parcel 7, Registry of Deeds title reference: Book 5671, Page 232). Applicant seeks an Amended Variance under M.G.L. Ch. 40A §10 and §40.3.B.2/§30.9.C of the Truro Zoning Bylaw for a reduction in number of parking spaces (from 12 spaces to **8**); Special Permit under M.G.L. Ch. 40A §6 and §30.7.A of the Truro Zoning Bylaw for the relocation of three non-conforming structures on a lot in the Beach Point Limited Business District. **[Original material in 9/26/2022, 10/24/2022, 2/27/2023, and 5/22/2023 packets] {New material included in this packet}**



2023-004/ZBA (SPs) – Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee for property located at 12 Ocean Bluff Lane (Atlas Map 37, Parcel 6). Applicant seeks: (1) Special Permit to approve construction on non-conforming lot, including (completed) construction unauthorized by earlier permit, and additional square footage; and (2) Special Permit to exceed Gross Floor Area in Seashore District. **[Original material in 5/22/2023, 7/24/2023, and 8/21/2023 packets] {New material included in this packet}**

2023-006/ZBA Robert J. Martin II and 100 Route 6 LLC for property located at 100 Route 6 (Atlas Map 55, Parcel 12). Applicant appeals a cease and desist order issued by Building Commissioner on May 3, 2023, with respect to property located in the Seashore District. **[Original material in 7/24/2023 and 8/21/2023 packets and again in this packet] {New material included in this packet}**

- ◆ Letter from Stephen Williams
- ◆ Letter from Shirley Smith

Public Hearings – New

2023-009/ZBA – Kimberly Peters for property located at 4 Harrier Way (Atlas Map 50, Parcel 263). Applicant seeks a Special Permit to exceed Gross Floor Area in the Residential District under Zoning Bylaw Sections 50.2 and 30.8 with the construction of an ADU on the property.

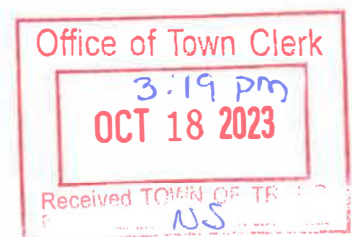
Board Action/Review

- ◆ **2023-008/ZBA – Charles Silva** for property located at 379 Shore Road (Atlas Map 10, Parcel 10). Applicant seeks a Special Permit to construct a two-story dwelling replacing a 1-½ story dwelling on nonconforming lot (lot area and frontage; front setback, side setback, and two dwellings on lot) in the Beach Point Limited Business District. **[Original material in 8/21/2023 packet and again in this packet] {New material included in this packet}**
 - Letter from Charles Silva dated August 28, 2023
 - Abutter Letter from Blanche W. Shanley dated September 12, 2023
- ◆ Appointment of Zoning Board of Appeals Representative to the housing sub-committee
- ◆ Discussion and Vote on Proposed 2024 ZBA Meeting Schedule

Next Meetings

- ◆ Monday, November 20, 2023 at 5:30 p.m.

Adjourn



STAFF MEMORANDUM

To: Truro Zoning Board of Appeals

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: October 18, 2023

Re: Meeting October 23, 2023

This memo covers the hearings for 538 Shore Road (Ebb Tide), 12 Ocean Bluff Lane, and 100 Rt. 6. I will provide a memo to the Board on 4 Harrier and the agenda item 379 Shore Road (Silva) before the weekend.

CONTINUED HEARINGS:

2022-017/ZBA (VAR/SP) – Ebb Tide on the Bay Condominiums for property located at 538 Shore Road. Applicant seeks a variance for a reduction in the number of parking spaces from **12 to 8 (as amended)** and a special permit for reconstruction of three nonconforming structures (dwellings) in Beach Point Limited Business District.

Update: The Planning Board granted Commercial Site Plan Approval on August 23, 2023 by a vote of 4-3. A draft decision has been prepared, but not yet reviewed by the Planning Board. The Site Plan approved by the Planning Board is dated December 29, 2022; that is the operative Plan before this Board.

The following is adapted from the September 2022 Staff Memo.

Existing Conditions and Proposed Project

Ebb Tide consists of 6 units in three buildings on a lot containing 14,224 square feet (nonconforming where 33,750 square feet required) and 100 feet of frontage (nonconforming, where 150 feet required) in the Beach Point Limited Business District.

Building 1 is single story, contains one unit and has a nonconforming setback of 7.16 feet from the eastern (side) lot line. **Building 2** is single story and contains one unit. **Building 3** is two stories, contains four units and has a nonconforming setback of 1.91 feet from the western (side) lot line. See Existing Site Plan SE.1. In this portion of the District, the minimum side yard setback is 5 feet per story. See note 4 to Zoning Bylaw Table 50.1. The front setback of **Building 1** is 22.24 feet; of Building 2 is 37.6 feet; and **Building 3** is 40.06 feet. The required front setback is 25 feet.

Currently, there is a row of nine parking spaces across the front of a lot, with a second row of three spaces behind the front row on the western side of the property. See Sheet SE-1, Detail of Existing Parking.

Due to erosion under the three buildings, the property owners began developing a plan in 2020 to retreat from the shore, reconstructing Buildings 1, 2 and 3 at a uniform distance of 25 feet from the front lot line. Among other impacts, this will result in a loss of the second row of three spaces. This will reduce the number of spaces per unit to 1.5, short of the 2 units per unit required under the Zoning Bylaw; hence the variance request before the ZBA.

Based on the plans provided, including tables (see SP-1 and SP-2), **Building 1** will increase from 1 to 1 ½ stories, and increase in Gross Floor Area from 883 square feet to 1681 square feet. **Building 2** will increase from 1 to 1 ½ stories, and increase in Gross Floor Area from 578 square feet to 1040 square feet. **Building 3** will remain a 2-story structure, decreasing in Gross Floor Area from 2016 square feet to 1917 square feet. Total Gross Floor Area will increase from 3,477 square feet to 4,638 square feet. (The Gross Floor Area limits applicable in the Residential and Seashore District do not apply in this zoning district, Beach Point Limited Business)

The side yard setback of **Building 1** will be increased from 7.16 feet to 8 feet. Because the building is increasing to 1 1/2 stories, the side yard setback requirement will increase as well. The Bylaw requires "five (5) feet per story" (see n. 4 to Table 50.1), but does not specify the required setback per half-story. The applicant suggests that the setback required for a 1 -1/2 story building is 7.5 feet (i.e., the additional half story requires an additional 2.5 feet). However, it could be argued that any additional *portion* of a story requires an additional 5 feet, which would result in a requirement of 10 feet for this side yard setback.¹ The side yard setback of **Building 3** will be increased from 1.91 feet to 3.3 feet, slightly more conforming to the 10 feet required.

The front yard setback of **Building 1** will increase from 22.24 feet to a conforming 25 feet. The front setbacks of **Buildings 2 and 3** will be reduced but to a conforming 25 feet.

The height of **Building 1** will increase from 16.76 feet to 29 feet 10.49 inches. The height of **Building 2** will increase from 13 feet to 29 feet. The height of **Building 3** will increase from

¹ This interpretation is supported by the remaining language in note 4 to Table 50.1, that a structure less than a full story "shall meet the minimum 5 ft setback". The Building Commissioner will be consulted prior to the meeting for his interpretation of this Bylaw requirement. If the side yard requirement for the new 1 -1/2 story structure is 7.5 feet, then the structure will be conforming at 8 feet. If the side yard requirement for a 1 -1/2 story is 10 feet, however, the new structure will be *nonconforming* (8 feet where 10 required). Since the existing structure has a conforming setback (7.16 feet where 5 feet required), this project will create a new nonconformity. Under G.L. c. 40A, s. 6, a new nonconformity requires a variance rather than a special permit, but Bylaw section 30.7.A is more forgiving – the Board may grant relief under the special permit standard:

"Lawful, pre-existing, nonconforming uses and structures may, *when a variance would otherwise be required*, be altered or extended with a special permit if the Board of Appeals finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure and that the alteration or extension will exist in harmony with the general purpose and intent of this bylaw." [emphasis added]

24.23 feet to 29.95 feet. The structures must be elevated to meet requirements for building in the Flood Zone; see peak heights in tables on SP-2. Based on the average grade for each, it appears that the structures will not exceed the 30-foot height limit.

The distance between proposed **Building 2** and **Building 3** appears to be 8 feet. See Addendum to Site Plan, AD-1 (indicating 8 foot wide easement running between buildings and to the shore). This is narrower than the existing configuration. See 1986 Plan of Land (in recent submission) The distance between **Buildings 1 and 2** appears to be approximately 2 or 3 feet at its narrowest, where covered porches and stairs on the buildings meet a narrow boardwalk. This is also narrower than the existing configuration. Both the existing and proposed configurations are nonconforming with a Bylaw requirement of 30 feet between "units in cottage colonies or motor courts" (see Bylaw s. 50.1.D); the new configuration is more nonconforming.

The project will require Coastal Dune Restoration and a planting plan approved by the Conservation Commission. Septic improvements accommodating 11 bedrooms are intended, to be relocated furthest from shore. See SE-1 and SE-2. An existing eight foot wide easement from Shore Road to the beach is illustrated on the plans; it appears that a boardwalk will be removed. See SE-1 and SE-2.

Standard for Special Permit under G.L. c. 40A, s. 6 and Section 30.7 of the Zoning Bylaw

The lot is nonconforming as to area and frontage; the structures are nonconforming as they are within side setbacks. Alteration, extension, or reconstruction of a dwelling on a nonconforming lot increases the intensity of the existing nonconformity and requires a special permit under G.L. c. 40A, s. 6. Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008).

The Board may grant a special permit under G.L. c. 40A, s. 6 if it finds that the proposed alternation and reconstruction “shall not be substantially more detrimental than the existing nonconforming [structure and] use to the neighborhood.”

Likewise, the Board may grant a special permit under Section 30.7.A if it finds that: “the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure and that the alternation or extension will exist in harmony with the general purpose and intent of this bylaw.”

In this case, the structures as proposed – all three elevated and two closer to Shore Road – will have a different impact on the streetscape and neighboring properties than the existing configuration. This and other considerations are entrusted to the Board’s judgment, based on its “intimate understanding of the immediate circumstances [and] of local conditions” Fitzsimonds v. Board of Appeals of Chatham, 21 Mass.App.Ct. 53, 55 (1985).

Standard for Variance from Parking Requirement

The parking schedule of s. 30.9.C requires 2 spaces per dwelling unit for multi-family use. The existing development complies with that requirement at 12 spaces for 6 units; the proposed modifications to the site (**as amended**) will result in the loss of **4 spaces**, leaving only **8 spaces** for 6 units, or 1.3 spaces per dwelling unit.

The requirement for a variance from parking requirements is the same as for variances from dimensional requirements. Under G.L. Chapter 40A, Section 10, a variance may be granted where a Board “specifically finds that:

[1] owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located,

[2] a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and

[3] that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.”

The Board must find all three of the above to grant a variance.

The project narrative provides a sufficient basis upon which the Board *could* make the required findings and grant a variance, but of course this is a matter of judgment for the Board.

2023-004/ZBA (SPs) – Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee for property located at 12 Ocean Bluff Lane. Applicant seeks special permits to 1) approve construction on nonconforming lot, included completed construction unauthorized by earlier permit, and additional square footage; and 2) exceed Gross Floor Area in the Seashore District.

Update: The applicant has submitted two plan sheets stamped by an architect with a table indicating Seashore District Gross Floor Area, with a third sheet enlarging the table.

Previously, the applicant had submitted certain other additional materials, including a timeline prepared by counsel; an engineer’s certification as to the setback from the front lot line; building permit application materials relating to earlier construction; and stamped site plans.

Counsel advises that the applicants have redesigned the project “to remove the deck on the south side to reduce the encroachment.” Counsel advises that this Plan will be sent to the Board later today (Wednesday, October 18th), with the hope that it might be considered by the Board.

Status of Ocean Bluff Lane: According to counsel, the prior owners of property will convey Ocean Bluff Lane to the current owners/applicants. Counsel may address this at the hearing.

The following is adapted from previous memo.

Existing conditions and prior proceedings

The lot is nonconforming as to area (approx. 2.69 acres where 3 acres required) and as to frontage. Related ZBA (November 2017) and Planning Board (May 2018) approvals issued allowing the removal of an existing cottage; construction of a new dwelling; and construction of a garage/habitable studio structure on the property. The cottage was nonconforming as to setback from the front lot line.

The new dwelling and habitable studio were constructed in 2018. As a baseline, the square footage approved for these structures must be determined. A “Site Plan of Land in Truro as prepared for Kenneth S. Kuchin Depicting Proposed Conditions” dated October 2017 (evidently approved in the 2018 Planning Board Decision; included in the applicant’s original packet) provides a “Proposed Gross Floor Area” of 1,181 square feet for the new dwelling and 660 square feet for the studio (total approved Gross Floor Area of 1,841 square feet for the property). This is almost consistent with the “Prior Approval” square footage in the applicant’s submitted Zoning Table (1,842 square feet).

Next, it must be determined what was in fact constructed. A previously-submitted Site Plan (J.M. O’Reilly, June 28, 2023) contains a zoning table, but it is not clear how these dimensions were determined. *The most recently-submitted floor plans identify certain dimensions “Existing as of Purchase,” but without as-built plans, it is not possible to confirm what was in fact constructed.*²

The applicant’s originally-submitted Zoning Table indicates an Existing Gross Floor Area of the principal dwelling of 2,141 square feet: 1,483 square feet constructed on the 1st floor (302 square feet more than approved) and 658 square feet of habitable space constructed in the basement (none originally approved). The Zoning Table further provides an existing Gross Floor Area of 674 square feet for the studio (660 approved), for a total existing Gross Floor Area on the property of 2,815 square feet. *These dimensions are not confirmed.*

Proposed Project

The current applicants purchased the property following the above approvals and construction. They seek to add 458 square feet of additional habitable area in the basement (see Zoning Table; 1,116-658) and 299 square feet of additional area on the 1st floor (1,782-1,483). Together, this is 757 additional square feet for the house. The total Gross Floor Area proposed for the property is 3,572 square feet (house 2,898 plus studio 674). *Subject to confirmation of as-built dimensions.*

Special Permits are needed 1) for alteration/expansion of the dwelling on a nonconforming lot; and 2) to exceed Gross Floor Area in the Seashore District.

²The applicant had previously submitted a plan set from 2022, which indicates square footage of rooms individually, but these plans were for permitting and cannot be relied upon for as-built dimensions.

Special Permit under G.L. c. 40A, s. 6 and Section 30.7 of the Zoning Bylaw
(Alteration/Expansion on Nonconforming Lot)

The lot is nonconforming as to lot area, frontage, and front setback. Alteration, extension, or reconstruction of a dwelling on a nonconforming lot increases the intensity of the existing nonconformity and requires a special permit under G.L. c. 40A, s. 6. Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357 (2008).

The Board may grant a special permit under G.L. c. 40A, s. 6 if it finds that the proposed alternation and reconstruction “shall not be substantially more detrimental than the existing nonconforming [structure and] use to the neighborhood.”

Likewise, the Board may grant a special permit under Section 30.7.A if it finds that: “the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure and that the alternation or extension will exist in harmony with the general purpose and intent of this bylaw.”

In this case, in considering whether the resulting expanded structure is “substantially more detrimental. . .”, the Board should consider *all expansion* beyond the original 2017 and 2018 approvals, not simply the additional square footage now requested. Although the current owners are not responsible for the unlawful construction prior to their purchase, they have inherited the additional square footage. The impact of the total expansion beyond the original permits must be considered.

Special Permit to Exceed Seashore District Gross Floor Area

The Zoning Bylaw limits Total Gross Floor Area in the Seashore District to 3,600 square feet for a lot containing three acres, “minus 200 square feet for each continuous acre less than 3 acres, as the case may be, where the square footage per acre specified above is prorated for a portion of an acre.” Section 30.3.1.A. Where the parcel is 2.69 acres, the prorated as-of-right square footage is approximately 3534 square feet.³

Section 30.1.A.2 does not provide a standard or criteria for the Board to apply in considering a request to exceed Gross Floor Area,⁴ but Section 30.8 of the Bylaw does provide a standard applicable to all special permits:

“Special permits may be approved only after a finding by the Board of Appeals or Planning Board (as applicable, see use table) that the proposed use is in the opinion of the Board in harmony with the general public good and intent of this bylaw. The approval shall be subject to any other applicable provision of this bylaw and the Board may

³ At 2.69 acres, the lot is approximately 1/3 of an acre "short" of the required 3.0 acres. 1/3 of 200 square feet is 66 square feet. Subtracting this shortage of 66 square feet from the 3600 square foot baseline, an approximate prorated 3,534 square feet as-of-right is reached.

⁴ In contrast, Section 50.2, Building Gross Floor Area for the Residential District, does contain criteria. See Section 50.2.D.

impose conditions, safeguards, and limitations on time and use, which in the Board's opinion are necessary to comply with the intent and purpose of this bylaw." 3

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

2023-006/ZBA – Robert J Martin II and 100 Route 6 LLC for property located at 100 Route 6 (Atlas Map 55, Parcel 12). Applicant appeals cease and desist order issued by Building Commissioner on May 3, 2023 with respect to property located in the Seashore District.

Facts and Procedural History

This property is located in the Seashore District. Containing 1.7 acres, it was the site of Jack's Gas Station, in operation prior to the creation of the Cape Cod National Seashore in 1961. It is currently owned by 100 Route 6 LLC (an entity evidently related to the Aiken Family Realty Trust) and leased to the applicant Robert Martin. Commercial uses (other than commercial fishing activity and food trucks) are prohibited in the Seashore District. See Bylaw s. 30.2, Use Table. In addition, the "continuous storage of materials or equipment" is prohibited. See s. 30.3(C)(7).

In 1998, a gas leak from an underground storage tank was discovered on the site. According to documents in the Building Department file, all underground gasoline tanks were removed; remediation was commenced; and gas station operations ceased as of March 1998. See Immediate Response Action Plan dated May 1998 ("The site activities no longer include the public dispensing of fuel but are restricted to the selling of firewood.") . At that time, Owner Richard Aiken sold firewood (and, according to contemporaneous newspaper articles, other items including frozen candy bars) on the site.⁵

Documents in the Building Department file (including correspondence from the Park Service and counsel to Mr. Aiken) indicate that proceeds from the sale of firewood on the property were paid into an escrow account for site remediation purposes. Mr. Aiken began

⁵ There is no direct evidence of when the sale of firewood commenced in the property (in particular, whether the sale of firewood existed at the time the gas station ceased operations in March 1998). However, minutes of the ZBA's November 1, 2004 meeting state that Mr. Aiken identified 1981 as when firewood sales began. Minutes of the ZBA's September 27, 2004 meeting state that the site "had been a gas station and firewood business for seventeen years."

Direct evidence is also lacking as to whether the sale of firewood ceased at any point, and for how long. A letter from Mr. Aiken's counsel to the Park Service dated September 15, 2008 states that firewood sales were "suspended" due to economic conditions, but the term of this suspension is not evident.

leasing out the property in 2005; both the sale of firewood and payment of proceeds into the escrow account continued.

The station building itself succumbed to fire on November 14, 2003. On November 4, 2004, Mr. Aiken was granted a special permit by the ZBA "to rebuild a pre-existing, nonconforming structure on its original location. . . . [and] a Condition to said Grant is the Special Permit shall extend for thirty (30) years from the date of approval."⁶ According to ZBA meeting minutes of September 27, 2004, Mr. Aiken's stated intent was not to re-establish a gas station; he stated that "he did not intend to expand beyond the sale of firewood." A building permit issued on February 1, 2006, but the building was never constructed.

Sale of firewood on the site evidently continued, although, as discussed in footnote 4, it is not evident from the Building Department file whether such use was subject to interruption, and if so, for what period(s) of time.⁷

In early 2023, Mr. Martin began renting the property. He cleared portions of the site; installed additional storage structures for the firewood and signs for the business; and placed additional materials such as loam and gravel on the site in separate storage areas contained by concrete block walls. Such activities require prior Commercial Site Plan Approval by the Planning Board, which had not been obtained. On March 15, 2023, at the direction of the Building Commissioner, Mr. Martin filed an application with the Planning Board for Commercial Site Plan Review. Hearing opened on April 12, 2023. The application stated "No change of use, selling firewood and other materials like the previous tenant."⁸ The application did not include certain required materials, including a site plan reflecting existing conditions. Hearing was continued.

On May 5, 2023, the Building Commissioner issued a cease and desist order to Mr. Martin, stating:

"This operation is in violation of the Town of Truro Zoning Bylaws paragraph 30.3 Seashore District item 12 which states, 'Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or

⁶ The position of the Park Service at the time, as indicated in correspondence to the ZBA, was that the preexisting nonconforming use for a commercial gas station had been abandoned, and no new commercial use could lawfully be established in the Seashore District.

⁷ The Building Department file contains a sign permit issued in August 2021 (evidently to a prior tenant) for installation of a sign for "Cape Cod Firewood."

⁸ A letter in support of the application from Andrew Aiken to the Planning Board stated:

"The principal use of the property has been to process and sell firewood and related landscape materials, in accordance with the lease, as it has been with previous tenants and as my late father Richard Aiken used the property over the past forty years."

converted to another commercial use.' The current use is an alteration and intensification of the prior use and therefore NOT ALLOWED."

This CEASE and DESIST order is effective immediately. . . ."

Mr. Martin timely appealed the cease and desist order. Hearing before the Planning Board on Site Plan Review has been continued pending resolution of ZBA proceedings.

Review of Building Commissioner's Cease and Desist Order

Review of the Building Commissioner's Cease and Desist Order is provided for under G.L. c. 40A, s. 8 and s. 15, and Zoning Bylaw Section 60.2. The vote of four Board members is required to overturn the Building Commissioner's order. G.L. c. 40A, s. 15, para.4.

As noted by the Building Commissioner in his Cease and Desist Order, s. 30.3 of the Seashore District Bylaw provides that:

"Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use."

Zoning Bylaw s. 30.3(B)(12). A zoning bylaw or ordinance may permissibly provide for such strict regulation of nonconforming uses. See Blasco v. Board of Appeals of Winchendon, 31 Mass.App.Ct. 32, 39 (1991)(recognizing "the continuing right of a municipality through its zoning by-law to regulate *or forbid changes* in nonconforming uses")(emphasis added); Almeida v. Arruda, 89 Mass.App.Ct. 241 at n.5 (same).

The Building Commissioner found that Mr. Martin's current use of the property "is an alteration and intensification of the prior use and therefore not allowed." In determining whether to uphold the Building Commissioner's Order, the Board must first identify a "lawfully pre-existing nonconforming commercial use" of the property, against which the current use will be measured to determine whether there has been an "alteration" of that pre-existing use or a "conversion to another commercial use." See s. 30.3(B)(12).

Based on the 2004 special permit and related ZBA meeting minutes, it appears that the sale of firewood on the property has been considered by the Town to be a lawfully pre-existing nonconforming use. There are several arguments against this finding (discussed below, with an alternate analysis), but for the current discussion, the Board may consider the sale of firewood to be a "lawfully pre-existing non-conforming use" that may, under s. 30.3(B)(12), "continue" on the site.

The next question is whether the current use of the site is an "alteration" or "conversion" of the pre-existing sale of firewood. Evidence would support such a finding. Where materials *in addition* to firewood (e.g., loam; gravel; sand; shells) are now sold on the site, the preexisting use has been expanded in scope, which is an "alteration" of the use. In addition, the scale of the operation has increased to serve contractors, which is another "alteration" of the use.⁹ If the

⁹ As discussed above, Mr. Martin has also made significant alterations to the site, clearing a substantial area; installing additional storage structures for the firewood and signs for the

Board makes such findings, then it agrees with the Building Commissioner that the current use violates s. 30.3(B)(12) and should uphold the Building Commissioner's Cease and Desist Order. Such decision would require the permanent cessation of all activities other than the sale of firewood.

If, in the alternative, the Board finds that the current use of the property is *not* an alteration of the preexisting use of firewood sales, then the Board would reverse the Building Commissioner's Cease and Desist Order. Such decision would allow the current use, at the current scope and scale, to continue.

Is the sale of firewood a lawful preexisting nonconforming use?

The above discussion assumes that the sale of firewood is a lawful preexisting nonconforming use. The Town has seemingly treated it that way, as evidenced by the 2004 ZBA hearing and special permit issued, and as also evidenced by the Town allowing the use to continue unimpeded over the years.

However, it may be noted that the nonconforming use that predated establishment of the Seashore in 1961 was use of the property *as a gas station*, not use for the sale of firewood. There is no evidence that firewood sales were conducted on the property in 1961, when the gas station use became lawfully nonconforming. The only evidence in the record regarding the commencement of firewood sales was that they started in 1981; this date was provided by Mr. Aiken in 2004 at ZBA proceedings.

The sale of firewood could possibly be viewed as a use accessory to the gas station use. An accessory use is defined in the Zoning Bylaw as:

“A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.”

It would be fair to say that the sale of firewood is “customarily incidental” at gas stations on the Cape and elsewhere. It would also be fair to say that when firewood was sold at the gas station in this case, such sales were “subordinate” to the gas station use. Therefore, the sale of firewood may be considered to have been a use accessory to the principal gas station use of the property.

However, the nonconforming use of the property as a gas station ceased in 1998 following the tank leak and removal. Under Section 30.7 of the Zoning Bylaw, preexisting nonconforming uses lose their lawful status if abandoned for a period of two years or more:

business; and placing additional materials such as loam and gravel on the site in separate storage areas contained by concrete block walls. However, these alterations of the site go to Site Plan Review, rather than use, and to the extent such alterations were made without prior approval, that is a zoning violation separate from the violation of s. 30.3(B)(12) by alteration of the pre-existing use.

“Abandonment. Nonconforming uses which have been abandoned for a period of 2 years or more shall not be re-established, and any future use shall conform to the then-current bylaw.”

Zoning Bylaw s. 30.7(C).¹⁰ As of March or perhaps May of 2000, the gas station use had been abandoned or discontinued for a period of two years. As a result, at that time, gas station use of the property lost its status as a *lawful* preexisting nonconforming use. Such use could not (and cannot) be reestablished. See s. 30.7(C) above.

What had been an *accessory* use on the property – the sale of firewood – continued on the property following the cessation of the principal gas station use. However, an accessory use cannot exist on a property except in relation to a principal use. “An incidental or accessory use under a zoning law is a use which *is dependent on or pertains to the principal or main use.*” Town of Needham v. Winslow Nurseries, Inc., 330 Mass. 95, 101(1953)(emphasis added). Put more simply, without a principal use, there can be no accessory use.

Under this rule, after the principal gas station use was extinguished in 2000 (two years after operation of the gas station ceased), there was no principal use on the property on which firewood sales were “dependent.” See italicized language in paragraph above. The firewood sales – formerly dependent upon the gas station use - were in effect orphaned when the nonconforming gas station use was extinguished in 2000 (if not in 1998, when operations ceased). At that time, firewood sales ceased to be a lawful accessory use, and became simply an unlawful use.¹¹

If the Board agrees with the above analysis, then the sale of firewood is not a permitted use on the property: 1) prohibited under the Bylaw, which prohibits commercial uses, and 2) not protected by connection to any lawful preexisting nonconforming use. Cessation of firewood sales would be required (in addition to cessation of sales of other materials).

Prohibition on Continuous Storage of Materials and Equipment

Under Section 30.7(C), once a nonconforming use is lost, any future use of property must conform to the then-current Bylaw. Where the nonconforming gas station use of the property was extinguished in 2000 – and with it, any uses accessory to that principal use – the property

¹⁰ This provision is consistent with G.L. c. 40A, s. 6, which provides in part:

“A zoning ordinance or by-law may define and regulate nonconforming uses and structures abandoned or not used for a period of two years or more.”

¹¹ The fact that the Town has not enforced the Bylaw with respect to the sale of firewood on the property would not prevent it from taking enforcement action now, should the Board conclude such use is unlawful. See Building Commissioner of Franklin v. Dispatch Communications of New England, Inc., 48 Mass.App.Ct. 709, 715 (2000) (“The building commissioner's original conclusion that the tower did fall under the definition of public utility does not preclude the board's later enforcement of a contrary position.”)

must comply with current Bylaw requirements. Among prohibited uses in the Seashore District is the "continuous storage of materials or equipment." See Section 30.3(C)(7).

Use of the property for sale of firewood and other materials at the current scale entails continuous storage of a sizeable quantity of materials, as well as equipment used to load and unload materials. In determining whether The Board may consider this section of the Bylaw in determining whether to uphold the Building Commissioner's cease and desist order.

STAFF MEMORANDUM

SUPPLEMENTAL

To: Truro Zoning Board of Appeals
From: Barbara Carboni, Town Planner and Land Use Counsel
Date: October 19, 2023
Re: Meeting October 23, 2023

2023-009/ZBA – Kimberly Peters for property located at 4 Harrier Way (Atlas Map 50 Parcel 263). Applicant seeks a special permit to exceed Gross Floor Area in the Residential District.

Existing Conditions and Proposed Project

The lot is conforming as to area (75,972 square feet where 33,750 required) and frontage (166.66 feet where 150 required). An existing dwelling is conforming as to all setbacks and contains 3,833 square feet of Gross Floor Area. The applicant seeks to construct an ADU of 900 square feet to the south of the existing dwelling, conforming to setbacks. This would result in a total of 4,733 square feet.

Per the Building Commissioner, the maximum as of right Gross Floor Area for the parcel is 3,968 square feet,¹ plus an ADU of 900 square feet, for a total of 4868 square feet. Seemingly, the proposed project, containing a 4,733 square feet of Gross Floor Area, falls within this maximum and does not require relief. However, what is permissible under Bylaw section 50.2.B is not entirely clear, due to certain changes in the ADU Bylaw last year; perhaps this is why the applicant filed for zoning relief.²

¹ 3,668 sq ft for the first acre, plus 300 square feet for the additional portion of an acre, see sections 50.2.B.1 and 50.2.B.1.a.

² Pursuant to Section 50.2.B.2.c., a “Planning Board Approved Accessory Dwelling Unit of up to 1,000 sq. ft.” is allowed in addition to the square footage calculated according to acreage. However, amendments to the ADU Bylaw (Section 40.2) last year removed the requirement of Planning Board approval and reduced the maximum square footage to 900 square feet. Section 50.2.B.2.c. is therefore no longer consistent with the ADU Bylaw.

Should the Board find that a special permit is required for the proposed ADU of 900 square feet, the following standard applies:

A Special Permit may be granted only where the Zoning Board of Appeals finds by clear and convincing evidence that the proposed alteration, construction or reconstruction is consistent with the criteria found in Section 30.8 (Special Permits) of these Bylaws. In addition, the Zoning Board of Appeals shall make specific written findings of objective facts that support the request for additional gross floor area, and demonstrate that the additional gross floor area is in the public interest of the Town of Truro, and not inconsistent with the intention and purpose of this Bylaw, which is to promote the health, safety, convenience and welfare of the inhabitants of Truro, prevent the overcrowding of land, conserve the value of land and buildings, enable the protection of clean and adequate water supply, conserve natural resources, prevent blight of the environment, encourage the most appropriate use of land in Truro. In considering whether the proposed alteration, construction or reconstruction is in harmony with the public good and is not detrimental to the neighborhood the Zoning Board of Appeals shall consider, among other relevant factors, the size of neighboring buildings and the surroundings in which the additional gross floor area is proposed.

Section 50.2.D.

BOARD ACTION/REVIEW

2023-009/ZBA – Charles Silva for property located at 379 Shore Road (Atlas Map 10, Parcel 10). Applicant seeks reconsideration of the Board’s vote to deny a special permit to construct a two-story dwelling replacing a 1 -1/2 story dwelling on a nonconforming lot in the Beach Point Limited Business District.

As the Board may remember, on August 21, 2023, public hearing on this application opened, and following testimony, the Board voted to deny the special permit. On August 28, 2023, the applicant filed a request that the Board reopen the hearing regarding his application. Among other points raised in this request, the applicant noted that he was not given an opportunity to withdraw his application or ask for a continuance. See Chuck Silva letter dated August 28, 2023, in packet. No decision reflecting the Board’s vote has been filed with the Town Clerk, nor has any other action has been taken on the denial.

Basis for Board Action

There is no express provision in G.L. c. 40A nor in the Town’s Zoning Bylaw for reopening a public hearing. However, I found several Massachusetts cases in which a board did reopen a hearing, after a vote was taken, but before a decision issued - which is the case here.³

³ The ability to reopen a public hearing was not the legal question considered by the Board in any of these cases; it was just noted in passing that a board of appeals had done so. The fact that the

Course of Action

Reconsideration of Mr. Silva's application would involve two steps. The first step would be for the Board to vote to reopen the hearing. If the Board votes to reopen the hearing, then the application would be scheduled for hearing at a future ZBA meeting (with notice, etc.).

The Board is at Step 1 tonight, with the applicant having an opportunity to explain why the hearing should be reopened. The Board will then vote on whether to reopen the hearing. A simple majority vote would be needed.

court did not take issue with the board reopening a hearing suggests that this is a defensible and reasonable action for the Board to take in this case.



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

July 24, 2023 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Chris Lucy (Vice Chair); Darrell Shedd; Heidi Townsend; Nancy Medoff; Dave Crocker (Alt.); Joseph McKinnon (Alt.)

Members Absent:

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Robert Weinstein-Select Board Liaison; William Henchy-Attorney for Robert J. Martin II (Applicant); Ben Zehnder-Attorney for Bruce Jacobson-Trustee (Applicant); Bruce Jacobson (Applicant)

Remote meeting convened at 5:30 pm, Monday, July 24, 2023, by Town Planner/Land Use Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Chair Hultin introduced the Members of the ZBA.

Public Comment Period

Chair Hultin invited the Members and the public to offer public comments, and there were none.

Minutes

Chair Hultin led the review of the minutes from the June 26, 2023, meeting for corrections or edits and there were none.

Member Shedd made a motion to approve the minutes of June 26, 2023, as written.

Member Medoff seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Member Shedd – Aye

Vice Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Chair Hultin - Aye

So voted, 7-0, motion carries.

Public Hearings (Continued)

2022-017/ZBA (VAR/SP) - Ebb Tide on the Bay Condominiums for property located at 538 Shore Road (Atlas Map 7, Parcel 7, Registry of Deeds title reference: Book 5671, Page 232). Applicant seeks a

Variance under M.G.L. Ch. 40A § 10 and §40.3.B.2/§30.9.C of the Truro Zoning Bylaw for a reduction in number of parking spaces (from 12 spaces to 9); Special Permit under M.G.L. Ch. 40A §6 and §30.7.A of the Truro Zoning Bylaw for the relocation of three nonconforming structures on a lot in the Beach Point Limited Business District.

Chair Hultin announced that the Applicant had requested a continuance until August 21, 2023.

Chair Hultin made a motion to continue the matter of 2022-017/ZBA until August 21, 2023.

Vice Chair Lucy seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Member Shedd – Aye

Vice Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Chair Hultin - Aye

So voted, 7-0, motion carries.

2023-004/ZBA (SPs) - Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee for property located at 12 Ocean Bluff Lane (Atlas Map 37, Parcel 6). Applicant seeks: (1) Special Permit to approve construction on non-conforming lot, including (completed) construction unauthorized by earlier permit, and additional square footage; and (2) Special Permit to exceed Gross Floor Area in Seashore District.

Chair Hultin recognized Attorney Zehnder who provided background on this matter (to include unpermitted changes made to the home by the previous owner) and the purpose for this application.

Members and Attorney Zehnder discussed the following highlighted topics: an easement right by the Applicant, the Site Plan, the extension of an existing nonconforming structure, the need to review the original decisions and respective meeting minutes (in 2017 and 2018) by the Planning Board and ZBA for the previous owner before the Members could opine or vote on whether the proposed project is more detrimental to the neighborhood, and the specific incorrect setback information included in the packet.

After the discussion, Attorney Zehnder presented a 3D drawing of the proposed plan that displayed the various views of the proposed project as well as the site plan which were included in tonight's packet.

Chair Hultin asked if there were members of the public who wished to speak for or against this matter and there were none.

Chair Hultin stated that he thought it would be best to continue this matter to review new information to be provided by the Applicant and Members were in general agreement. Town Planner/Land Use Counsel Carboni agreed to assist Attorney Zehnder with reviewing the Members' request for additional information to ensure that the Applicant complied with the ZBA's expectations for information.

Prior to voting on a motion on this matter, Chair Hultin announced that Member Crocker would abstain from voting.

Chair Hultin made a motion to continue the matter of 2023-004/ZBA to August 21, 2023, at 5:30 pm.

Vice Chair Lucy seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Member Shedd – Aye

Vice Chair Lucy – Aye

Member Crocker - Abstained

Member McKinnon - Aye

Chair Hultin - Aye

So voted, 6-0-1, motion carries.

Public Hearing (New)

2023-006/ZBA Robert J. Martin II and 100 Route 6 LLC for property located at 100 Route 6 (Atlas Map 55, Parcel 12). Applicant appeals a cease-and-desist order issued by Building Commissioner on May 3, 2023, with respect to property located in the Seashore District.

Town Planner/Land Use Counsel Carboni announced that she had received a request for a continuance in this matter from Mr. Henchy. Mr. Henchy requested that the hearing be opened and then continued. Mr. Henchy provided several reasons regarding the continuance and noted that this was a complicated issue after conducting a review of existing case law.

Prior to voting on a motion to continue, Mr. Henchy, Town Planner/Land Use Counsel Carboni, and Members discussed the reasons for the continuance. Members inquired whether Mr. Martin had continued to comply with the cease-and-desist order and Mr. Henchy could not confirm that he had as he did not have personal knowledge. Town Planner/Land Use Counsel Carboni opined that Mr. Martin had to comply with the cease-and-desist order until the ZBA ruled otherwise.

Prior to the vote, Member Crocker announced that he would abstain from the vote to continue this matter.

Chair Hultin made a motion to continue the matter of 2023-006/ZBA until August 21, 2023.

Member Shedd seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Member Shedd – Aye

Vice Chair Lucy – Aye

Member Crocker - Abstained

Member McKinnon – Aye

Chair Hultin - Aye

So voted, 6-0-1, motion carries.

Board Action

Chair Hultin led the discussion of the election of officers for the ZBA.

Member Shedd made a motion to nominate Chris Lucy as Chair of the ZBA.

Member Townsend seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Member Shedd – Aye

Vice Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Chair Hultin - Aye

So voted, 7-0, motion carries.

After the vote, Chair Lucy led the discussion on the election of Vice Chair of the ZBA.

Member Townsend made a motion to nominate Darrell Shedd as Vice Chair of the ZBA.

Member Hultin seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Member Shedd – Abstained

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 6-0-1, motion carries.

After the vote, Chair Lucy led the discussion on the election of Clerk of the ZBA.

Vice Chair Shedd made a motion to nominate Heidi Townsend as Clerk of the ZBA.

Member Medoff seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 7-0, motion carries.

Chair Lucy led the discussion regarding the selection of a ZBA representative to attend the Town Public Panel Discussion on Town Governance scheduled for August 8, 2023, at the Select Board Chambers, in Town Hall, at a time to be determined. This event was scheduled by Town Manager Darrin Tangeman to educate the public on the roles and responsibilities of Town staff, boards, and committees.

With the Members' general consent (no vote taken), Vice Chair Shedd will attend the event as the ZBA representative.

Topics of Discussion

None

Future Topics of Discussion

Chair Lucy noted that he would like to add a discussion on enforcement of zoning issues on the next meeting’s agenda.

Vice Chair Shedd added that he had attended the most recent Planning Board meeting and those Members would like to request that the ZBA review the language for Special Permit criteria so it is more consistent in its decisions.

Chair Lucy stated to Members that if they wanted to add a topic to next month’s agenda, they must send an email only to Town Planner/Land Use Counsel Carboni to request that topic be added.

Chair Lucy announced that the next ZBA meeting will be held on August 21, 2023, at 5:30 pm.

Member Hultin made a motion to adjourn at 7:02 pm.

Vice Chair Shedd seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 7-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

August 21, 2023 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Chris Lucy (Chair); Darrell Shedd (Vice Chair); Art Hultin; Heidi Townsend; Nancy Medoff; Dave Crocker (Alt.); Joseph McKinnon (Alt.)

Members Absent:

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Robert Weinstein-Select Board Liaison; William Henchy-Attorney for Robert J. Martin II (Applicant); Ben Zehnder-Attorney for Bruce Jacobson-Trustee (Applicant); Bruce Jacobson-Trustee (Applicant); Katherine Rowe (Applicant); Kimberly Chester (Applicant); Alan Cabral-Designer for Kimberly Chester (Applicant); Charles Silva (Applicant); Leif Hamnquist-Architect for Charles Silva (Applicant); Brian Carlstrom-Superintendent of the Cape Cod National Seashore; Patricia Callinan (Truro Voter)

Remote meeting convened at 5:30 pm, Monday, August 21, 2023, by Town Planner/Land Use Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Chair Lucy introduced the Members of the ZBA.

Public Comment Period

Chair Lucy invited the members of the public to offer public comments and Chair Lucy recognized Attorney Henchy who apologized to the Members and Mr. Martin but stated that he had a veterinary emergency at his home and had to depart the meeting to take a family pet to the animal emergency hospital immediately.

There were no other public comments made.

Minutes

None

Public Hearings (Continued)

2022-017/ZBA (VAR/SP) - Ebb Tide on the Bay Condominiums for property located at 538 Shore Road (Atlas Map 7, Parcel 7, Registry of Deeds title reference: Book 5671, Page 232). Applicant seeks a Variance under M.G.L. Ch. 40A § 10 and §40.3.B.2/§30.9.C of the Truro Zoning Bylaw for a reduction in number of parking spaces (from 12 spaces to 9); Special Permit under M.G.L. Ch. 40A §6 and §30.7.A of the Truro Zoning Bylaw for the relocation of three nonconforming structures on a lot in the Beach Point Limited Business District.

Chair Lucy announced that the Applicant had requested a continuance until September 25, 2023.

Chair Lucy made a motion to continue the matter of 2022-017/ZBA until September 25, 2023.

Vice Chair Shedd seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 7-0, motion carries.

2023-004/ZBA (SPs) - Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee for property located at 12 Ocean Bluff Lane (Atlas Map 37, Parcel 6). Applicant seeks: (1) Special Permit to approve construction on non-conforming lot, including (completed) construction unauthorized by earlier permit, and additional square footage; and (2) Special Permit to exceed Gross Floor Area in Seashore District.

Chair Lucy recognized Attorney Zehnder who introduced the Applicant and provided background information on the project. Attorney Zehnder also noted that he could not obtain either an engineer or architect stamp for the plans from the previous owner as no one would validate prior work and calculations. Attorney Zehnder reviewed a historical timeline and photographs of the properties abutting the Applicant's property.

Following the presentation, Members discussed the following highlighted topics: interior space, potential encroachment of another owner's property, obtaining the opinion from the National Seashore regarding this project, the proposed driveway, and potential limiting the incremental expansion in the future created as a condition for approval.

Attorney Zehnder asked Superintendent Carlstrom if he would like to opine on the project and Superintendent Carlstrom noted that the change and massing is consistent with other properties in the area but the proposed project is a significant change to the historical structure.

After a lengthy discussion regarding the proposed changes, Chair Lucy asked if any member of the public would like to comment and there were none.

Chair Lucy made a motion to continue the matter of 2023-004/ZBA to September 25, 2023.

Vice Chair Shedd seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon - Aye

Member Hultin - Aye

So voted, 7-0, motion carries.

2023-006/ZBA Robert J. Martin II and 100 Route 6 LLC for property located at 100 Route 6 (Atlas Map 55, Parcel 12). Applicant appeals a cease-and-desist order issued by Building Commissioner on May 3, 2023, with respect to property located in the Seashore District.

As previously requested during the Public Comments portion of this meeting, Attorney Henchy's request for a continuance in the matter of **2023-006/ZBA** was met without opposition from the Members.

Chair Lucy made a motion to continue the matter of 2023-006/ZBA until September 25, 2023.

Member Medoff seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 7-0, motion carries.

Public Hearing (New)

Prior to the opening of the new public hearings, Chair Lucy recused himself from the first hearing due to conflict of interest and Vice Chair Shedd led the matter of **2023-007/ZBA**.

2023-007/ZBA - Kimberly Bell Chester for property located at 38 Fisher Road (Atlas Map 53, Parcel 35). Applicant seeks a Special Permit to construct a second story on existing dwelling on nonconforming lot (lot area and frontage; front, side, and rear setbacks) in Residential District.

Vice Chair Shedd recognized Ms. Chester who introduced Mr. Cabral and provided background information on the project.

Members discussed with Ms. Chester and Mr. Cabral the determination of the structure's height. Town Planner/Land Use Counsel Carboni noted that a building that doesn't have a ridge will have a maximum height that does not exceed 23' and asked if the Members wanted to discuss whether this note applied to this project.

Vice Chair Shedd made a motion to grant a Special Permit in the matter of 2023-007/ZBA.

Member Hultin seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 6-0, motion carries.

2023-008/ZBA - Charles Silva for property located at 379 Shore Road (Atlas Map 10, Parcel 10). Applicant seeks a Special Permit to construct a two-story dwelling replacing a 1½ story dwelling on nonconforming lot (lot area and frontage; front setback, side setback, and two dwellings on lot) in the Beach Point Limited Business District.

Chair Lucy recognized Mr. Silva who provided background information on the project.

Members discussed with Mr. Silva the proposed new upper-level deck.

Vice Chair Shedd stated that he was not opposed to the project but that it seemed that the ZBA was being asked more frequently to skirt the intent of the Bylaw. Vice Chair Shedd cautioned that future similar projects may not be approved as the Members have to enforce the intent of the Bylaw.

After Vice Chair Shedd's comments, a more detailed conversation occurred among the other Members and Town Planner/Land Use Counsel Carboni regarding the ZBA's discretion in making decisions.

Chair Lucy asked if anyone of the public had a question regarding this project, and Chair Lucy recognized Ms. Callinan. Ms. Callinan asked what the height of the completed structure would be and Mr. Silva replied that he did not know but it would be under the maximum allowable height in accordance with the Bylaw.

Mr. Hamnquist joined the conversation and explained the average grade determination and expressed concerns that Members would consider conditions for approval of this project. Town Planner/Land Use Counsel Carboni noted that the ZBA had the authority to condition any approved projects.

Members then discussed adding a condition to this project by requiring the Applicant to provide a certified elevation according to the plans.

Chair Lucy announced that the full Members would vote on this matter.

Member Townsend made a motion to grant a Special Permit in the matter of 2023-008/ZBA with conditions related to the height of the building.

Member Medoff seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Nay

Chair Lucy - Aye

Member Hultin - Nay

So voted, 3-2, motion does not carry.

After the vote, Members expressed what they would like the Applicant to change. Mr. Silva expressed his disappointment with the decision, but he will review the plans and resubmit. Mr. Silva thanked the Members and departed.

Board Action: None

Topics of Discussion

Chair Lucy led the discussion of Special Permit language and requirements with the Members and Town Planner/Land Use Counsel Carboni. Highlighted topics included: criteria for Special Permit, criteria to exceed gross floor area in the Seashore District and the Residential District, the status of the Planning Board’s consideration to amend the provision of the Bylaw that permits exceeding gross floor area and present it at Town Meeting (Planning Board ultimately decided not to add it to the Warrant and therefore did not present it at Town Meeting), reviewed the intent of the Bylaw and how it can be interpreted with more clarity, and the ZBA’s authority to interpret the Bylaw as it sees fit.

Chair Lucy led the discussion of enforcement with the Members and stated that it is necessary to step up enforcement efforts of the Bylaws. Members discussed Applicants who do not build according to an approved Special Permit and then asking for forgiveness after the fact, the possible need to hire another building inspector or making the building inspector a full-time role, the suggestion that the Select Board create an enforcement officer role whose responsibility to investigates all complaints (Planning Board, ZBA, Health & Conservation), and the process to request the Building Commissioner enforce the Bylaw.

Future Topics of Discussion

Chair Lucy noted that he would like to continue the discussion on enforcement of zoning issues for the next meeting’s agenda.

Town Planner/Land Use Counsel Carboni suggested that the Building Commissioner present to the ZBA and explain how height is measured and how the average grade is determined.

Chair Lucy also would like to request that the Building Commissioner attend the next meeting to update the Members on the cease-and-desist order for the matter of **2023-006/ZBA**. Town Planner/Land Use Counsel Carboni will investigate that possibility.

Members discussed the possibility of “in-person” meetings and Town Planner/Land Use Counsel Carboni will review the current guidance as well as the guidance for hybrid meetings.

Chair Lucy announced that the next ZBA meeting will be held on September 25, 2023, at 5:30 pm.

Vice Chair Shedd made a motion to adjourn at 7:51 pm.

Member Crocker seconded the motion.

ROLL CALL VOTE:

Member Townsend - Aye

Member Medoff – Aye

Vice Chair Shedd – Aye

Chair Lucy – Aye

Member Crocker - Aye

Member McKinnon – Aye

Member Hultin - Aye

So voted, 7-0, motion carries.

Respectfully submitted,



Alexander O. Powers

Board/Committee/Commission Support Staff

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4130

REFER TO FILE NO.

August 30, 2023

Hand Delivery and Copy Via Email

Elizabeth Sturdy, Planning Department Assistant
Town of Truro
24 Town Hall Road
Truro, Massachusetts 02666

**Re: Truro Zoning Board of Appeals Application No. 2022-17/ZBA
Ebb Tide By The Bay
538 Shore Road**

Dear Liz:

Enclosed regarding the above referenced pending zoning application, please find the original and nine (9) copies of the following:

1. Town of Truro Amended Zoning Board of Appeals Application for Hearing; and
2. Project Narrative;

Please advise if you have any questions.

Very truly yours,



Christopher J. Snow

CJS:lk

Enclosures

Cc: Ms. Sally McSween

William N. Rogers, II, P.E., P.L.S.

Barbara Carboni, Esq.

Truro Town Planner/Land Use Counsel (All via Email Only)(w/encs.)



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

AMENDED APPLICATION FOR HEARING - 2022-017

To the Town Clerk of the Town of Truro, MA

Date 8/30/2023

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.

Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section 40.3.B.2 of the Truro Zoning Bylaw concerning *(describe)* Reduction of 4 parking spaces from existing 12 spaces due to required relocation of 3 buildings. Seeking variance from Sections 30.9.C. and 40.3.B.2.

APPLICATION FOR SPECIAL PERMIT

Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____.

Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section 30.7.4 of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* Rebuild and relocate three non-conforming structures away from beach to the 25' setback line with timber foundations elevated to meet FEMA standards,

Property Address 538 Shore Road Map(s) and Parcel(s) 7-7

Registry of Deeds title reference: Book 30288, Page 288, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name Christopher J. Snow, Esq.

Applicant's Legal Mailing Address P.O. Box 291, Provincetown, MA 02657

Applicant's Phone(s), Fax and Email 508-487-1160 - Fax: 508-487-2694 - office@snowandsnowlaw.com

Applicant is one of the following: *(please check appropriate box)*

*Written Permission of the owner is required for submittal of this application.

Owner Prospective Buyer* Other*

Owner's Name and Address Ebb Tide on the Bay Condominiums

Representative's Name and Address Sally M. McSween - 240 Dale Street, Syracuse, NY 13208

Representative's Phone(s), Fax and Email 315-430-6347 - smcswee1@twcny.rr.com

2. The completed application shall also be submitted electronically to the Town Planner at planner1@truro-ma.gov in its entirety (including all plans and attachments).

- The applicant is *advised* to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

Signature(s)

Christopher J. Snow

Applicant(s) Representative Printed Name(s)

Applicant(s)/Representative Signature

Sally M. McSween

Owner(s) Printed Name(s) or written permission

Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

Amended Variance and Special Permit Application of Ebb Tide on the Bay
Condominium: Property Address: 538 Shore Road

I. Introduction

A Variance is requested from the provisions of Section 40.3.B.2 and Section 30.9.C. of the Truro Zoning By-Law for the reduction in the number of parking spaces on the property from the current number of 12 spaces to 8 spaces, a 4-space reduction.

Further, a Special Permit is requested under Section 30.7.A. to authorize the relocation of the three (3) buildings on the site moving the buildings back from the water due to the significantly and dramatically eroding shoreline.

The Ebb Tide Condominium consists of three (3) buildings, two (2) of which contain a separate Unit as well as a third building that contains four (4) Units for a total of six (6) Units on the site. Over the past few years severe erosion has occurred undermining all of the buildings and requiring emergency repairs to temporarily support the buildings. For nearly 5 years the Unit Owners with their engineers, attorneys and wetlands experts have been attempting to develop an overall comprehensive creative plan to relocate the buildings away from the eroding shoreline, provide proper waterfront side support for this and abutting properties and relocate the fully Board of Health ordered and approved, new innovative designed septic system. The plans presented to the Board are a result of that effort and represent the collaboration of the property owners, conservation personnel, a Board of Health decision and a Planning Board decision approving the project with conditions after a rigorous time-consuming site plan review process.

In order to accomplish this building relocation, zoning relief in the forms of a Variance as well as a Special Permit are required.

II. Variance Request

In order to grant a Variance under General Laws Chapter 40A, Section 10, the Board must make certain specific findings.

- That owing to circumstances related to the soil conditions, shape, or topography of this particular piece of land and especially affecting it, but not affecting the Beach Point Limited Business District generally, a literal enforcement of the two (2) parking spaces per Unit requirement will involve substantial financial hardships to the Unit Owners.
- a reduction from 12 to 8 parking spaces on this site will not cause substantial detriment to the public good.
- such a reduction will not nullify or substantially derogate from the intent and purpose of the parking requirements of the By-law.

At the present time, portions of the Buildings and Units on the site are at serious risk of collapsing into the sea due to the waterfront erosion that has severely damaged the supporting structures and portions of the foundations have washed away. The property owners, their engineer, designer, and wetlands expert have been working with the Conservation Department of the Town and town officials/boards for almost five (5) years on a resolution and the project has been approved by the Truro Conservation Commission and the Truro Planning Board during site plan review.

Significantly, the applicant originally proposed installation of a seawall that would have avoided moving the buildings. However the Conservation Commission refused to even consider that alternative in favor of the proposed repositioning of the buildings, building a beachfront dune, related beach nourishment and redesigning the long pre-existing right-of-way to further protect the sensitive coastal resource area. Attempting to install the necessary bulkheads, foundations, supports and other structures in order to maintain the buildings in their present location would not be approved by the Conservation Commission due to the ongoing erosion occurring at this particular region of the Beach Point zoning district. The Conservation Agent and the Commission Members made it

abundantly clear on many occasions that the only manner in which to stabilize the buildings in the long term was to relocate them back towards Shore Road and away from the waterfront. This is exactly what was approved and ordered by the Conservation Commission and the buildings would be set back 25 feet from the Road, the minimum setback under the Zoning By-law. Similarly, the Board of Health required an innovative septic system designed to be installed between Shore Road and the proposed relocated buildings. However, doing so also means that four (4) parking spaces currently on site would need to be eliminated. There is not enough distance between the proposed new building locations and Shore Road to preserve tandem parking spaces.

There is no doubt that the need to relocate the buildings is due entirely to the topography and soil conditions encountered on the water side of the property. The elevations fall down to the water and the property suffers from coastal beach conditions involving constantly migrating soils due to both wind and water action. The buildings are subject to significant storm damage on a regular basis and at times have been unoccupiable. Clearly, this situation presents a severe and significant financial hardship to the Unit Owners, not to mention the domino effect risk of loss to abutting properties, and should the owners be unable to relocate the buildings as proposed many of the Buildings and Units and abutting waterfront properties will foreseeably become subject to a significant risk of collapse and condemnation.

The Applicants in this case are confronted with the a situation that in order to comply with the decisions of the Board of Health, Conservation Commission and Planning Board, it is necessary to remove four (4) parking spaces to accommodate the ordered relocation of these buildings, provide beach nourishment and install the newly designed septic system embracing the highest standards presently available to safeguard against what could otherwise become a public nuisance and a threat to public safety, health and the well-being of surrounding property owners. Since Section 40.3.B.2 and Section 30.9.C require that there be two (2) parking spaces for each Residential Unit in the Condominium, absent the grant of the variance reducing the parking requirement, the relocation cannot be accomplished.

The Ebb Tide on the Bay Condominium is dealing with a situation in which both the topography of this site as well as the shore front soil conditions create a situation compelling the relocation of the buildings from the eroding shoreline which makes the ability to locate the four (4) spaces impossible. Accordingly, in order to accomplish the relocation and conform to Conservation, Health and Planning Board orders, a Variance is necessary authorizing the reduction in the number of parking spaces from twelve (12) to eight (8).

Importantly, this particular situation with the lack of depth of the parcel, erosion of existing supporting structures and limited area between the buildings and Shore Road is not a situation that generally affects properties in the Beach Point Limited Business Zone. Certainly, some other properties on the water side are experiencing erosion just as some other properties are experiencing accretion in this district. None of the Route 6 side properties have any of these conditions and the situation Unit Owners are experiencing here does not occur generally in the Zoning District.

A reduction from twelve (12) to eight (8) parking spaces on the site will not cause substantial detriment to the public good nor will it nullify or substantially derogate from the intent and purpose of the Zoning By-law.

The parking space reduction will not cause substantial detriment to the public good, nor will it cause overcrowding of land, be detrimental to the water supply, cause blight of the environment or damage natural resources, all of which are purposes of the Zoning By-laws. On the contrary, the public good will be enhanced as will the water supply. A clear and present danger causing a blight on the environment or damage to natural resources will be averted by approval of the variance request.

Finally, during the site plan review process, it was determined by opinions from the Truro Building Commissioner, Fire and Police Chiefs that the project will not cause or threaten public safety access/egress concerns.

III. Special Permit Request

In addition to the parking space Variance, we are also requesting relief in the form of a Special Permit under Section 30.7.A to allow the lawfully pre-existing non-conforming buildings to be moved back from the water to the 25' setback from Shore Road while adding timber pile foundations elevated to meet FEMA standards.

Under Section 30.8.C the Board may only grant a Special Permit if it finds that the proposal is in harmony with the general public good and intent of the By-law. Further, under Section 30.7.A, lawful, pre-existing non-conforming structures may be altered or extended if the Board finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing non-conforming structures and that alteration or extension will exist in harmony with the general purpose and intent of the By-law.

Applicant is proposing to increase the sideline setback of Building 1 from 7.16 feet to 8.00 feet and Building 3 from 2.37 feet to 3.3 feet, reducing the existing nonconforming setbacks . Although the height of the buildings is being modestly increased, this increase is due to the need to elevate the buildings to remove same from the flood zone and every other element of this project is primarily influenced by federal, state and local mandates. The actual building heights from grade will all be under 30 feet and Zoning compliant and with an appropriate scale to the abutting property. The footprints of the buildings are changing slightly, building 1 is 140 square feet greater, Building 2 is 82 square feet greater and Building 3 is 98 square feet less, overall, a 124 square foot increase from 27.8% to 28.9% lot coverage.

Additionally, the distance between the existing building is currently lawfully pre-existing nonconforming and in order to comply with the mandate of the Conservation Commission to move the buildings, the distance between the buildings will be necessarily decreased thereby increasing slightly this pre-existing non-conformancy.

Green space is increasing by 406 square feet from 47.7% to 50.1%. A new Title 5 innovative design septic system will be installed with the leaching area being moved further from the water and adjacent coastal resources.

The end result will be a much more environmentally sensitive property which has been the goal of the Conservation Department. This will be accompanied with a modest reduction in sideline setback non-conformities, a slight increase in lot coverage, safer and more secure Buildings and Units and an overall more attractive and flood zone compliant property. Given the significant upgrade and improvements there are no substantial detriments to the neighborhood but rather significant and substantial benefits. Although the Buildings will be higher and slightly closer together this is a direct mandated result of flood zone requirements. If, as and when any of the neighboring properties are substantially improved or replaced, they will have to be built to the same standards.

The purpose of the Truro Zoning By-law, set forth in Section 10.2, is to:

“Promote the health, safety, convenience and welfare of the inhabitants of the Town.”

“Prevent the overcrowding of land, conserve the value of land and buildings, enable the protection of clean and adequate water supply, conserve natural resources, prevent blight of the environment, encourage the most appropriate use of land in Truro and promote the Local Comprehensive Plan.”

As stated, green space is increased by 2.4% while building coverage increases by 1.1%, and presently endangered buildings will be relocated and rebuilt. Property is on Town water and new construction will use water saving devices, existing dangerous conditions with Buildings almost falling into the Bay will be removed and the buildings will be built to flood zone standards. This could avert what is a looming catastrophic threat to health, safety and environmental concerns.

Clearly the proposal is also harmonious with the public good and the purpose and intent of the By-law.

Project Narrative / Construction Protocol
Ebb Tide Condominium, 538 Shore Road, North Truro

The proposed project at 538 Shore Road will follow all of the approved Conditions and Special Conditions required by the Truro Conservation Commission. Prior to the commencement of any work activities, the project contractor, the project engineer, and the Truro Conservation Commission Agent will meet onsite to review the approved site plans and the approved Order of Conditions. No work will commence until this onsite meeting occurs with the Truro Conservation Commission Agent.

1. Installation of erosion controls at the limit of work lines, and the installation of temporary plastic fencing to prevent debris from blowing into the coastal dune, coastal beach, and the marine/tidal waters of Cape Cod Bay.
2. The existing pedestrian easement and pathway leading to the coastal beach and Cape Cod Bay, which is located at the location of the 3 buildings within this property will be maintained, kept open, to provide safe pedestrian access to the coastal beach and Cape Cod Bay, for all of the subject property owners and guests (Ebb Tide), and all of the abutting property owners, who have rights to this subject pathway area leading to the coastal beach and Cape Cod Bay. There will be no obstruction of this access pathway to the beach, from any construction activities associated with the building construction located at 538 Shore Road (Ebb Tide Condominium). The beach access path must remain clear and open at all times.
3. All access for construction workers, vehicles, and equipment will be from Shore Road, for this proposed project. All construction workers must stay off of the primary coastal dune wetland resource areas.
4. Demolition and removal of the three existing buildings onsite at 538 Shore Road will be completed first within this site. All construction equipment required for the required demolition of the existing buildings and the removal of the demolished building materials from the property will access the site from Shore Road. A large front-end loader and large dump truck will be utilized to remove the old building structures. The removal of all demolished building materials includes the use of a dump truck to take the materials to a proper off-property location (upland location), for the proper disposal of the construction materials and debris.
5. Proper installation of the required piles for the new flood-compliant structures will occur next. Construction of the 3 new flood-compliant buildings, and wooden decks will follow after the installation of the required pilings.
6. Proper removal of old septic system components will occur next. Proper installation of the proposed Title 5 septic system (FAST system) and leaching field, located as close to Shore Road as possible will be completed next.
7. Installation of the new sand and shell parking area located landward of the buildings towards Shore Road will be done next.

8. Restoration of the primary coastal dune, and the dune profile located just seaward of the new buildings and pilings, showing existing and proposed dune elevations, the volume of sand required to match the contours at the property lines and at the existing easement area (beach access), with suitable sand (color, grain size, texture), planting of the dune with American Beach Grass, Bayberry shrubs, and Beach Plum shrubs. A plan for monitoring and maintaining the primary coastal dune within this subject property. Match the existing elevations of the coastal dune located at the property lines. Monitoring of the new coastal dune and the native dune plantings will occur next, with annual reports submitted to the Truro Conservation Commission.

9. The project contractor is responsible for making sure that the subject building site is kept clean and free of trash and debris. It is the responsibility of the project contractor to keep the building site clean on a daily basis, to prevent any trash and/or debris from blowing into the abutting property owners lands, into Shore Road and the properties (Sutton Place) located on the other side of Shore Road, or into the protected coastal wetland resource areas and/or wetland buffer zones, including the primary coastal dune, the coastal beach, and the marine/tidal waters of Cape Cod Bay.

10. At the completion of the project, a Request for a Final Certificate of Compliance will be submitted to the Truro Conservation Commission.

TOWN OF TRURO—ORDER OF CONDITIONS
538 Shore Rd; Map 7, Parcel 7
DEP file # SE 75-1133
Ebbtide Condominiums, APPLICANT/OWNER

DOCUMENTS

1. Notice of Intent application; wetland fee transmittal form; project description; variance request; locus map; abutters list; abutters notice and proof of certified mailing.
2. DEP notice of file number
3. **Coastal Dune Restoration and Planting Plan** and **Construction Protocol** by Independent Environmental Consultants (IEP) dated 2/25/2022.
4. **Letter from Stan Humphries, 2/4/2022**
5. **Emails between IEP & the Truro Conservation Agent** dated 2/15/2022 and 2/26/2022
6. **Email from Janis Baker, et al to the Truro Conservation Commission** dated 2/7/2022
7. **Existing Site Plan of Land** by William N. Rogers, dated September 14, 2020, revised 10/25/2021 with I/A and PD; and Site Plan with revision dated April 14, 2022 showing the access path and Coastal Dune improvements
8. **Plan of Land** by William N. Rogers, dated 5/14/2021.
9. **Elevation & Floor Plans** by William N. Rogers, dated December 2019, 1A.1 thru 1A.5; 2A.1 thru 2A.5; 3A.1 thru 3A.6.

PROJECT DESCRIPTION

1. The area of this waterfront property on Cape Cod Bay is ~15,681 sf, and it is currently developed with three residential condominium buildings. These 3 buildings are located furthest seaward than other dwellings in their vicinity.
2. Over the past 12 year, the buildings at this location have been impacted by significant storms that have damaged the foundations and have required emergency permitting from the Town to facilitate repairs to the structures. The owners have also added compatible beach sand to the areas adjacent to the foundations annually. Because of these conditions the Commission finds that they can approve the variance request.
3. The work approved includes the demolition of the existing buildings and the construction of new buildings that are elevated to conform with current flood zone standards.
4. The resource areas include the Barrier Beach, Coastal Dune, Coastal Beach and Land Subject to Coastal Storm Flowage.

The Commission determined that the project could be permitted subject to the following special conditions. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.

CONDITIONS

A. Pre-construction

1. Notice of a work start date shall be given to the Commission in writing at least 48 hours prior to the commencement of work. The applicant or contractor shall provide the name and contact information of the person responsible on site for compliance with this Order.
2. **Prior to the commencement of work the following activities shall be completed:**
 - The Order of Conditions shall be recorded at the Barnstable County registry of deeds and a stamped copy shall be submitted to the Conservation office.
 - A sign shall be conspicuously displayed at the site showing the DEP file number assigned to this project. The sign shall be 2-3 square feet in size, separately staked and read **only: MA DEP file # SE 75-1133**. Lettering/numbering shall be clearly and permanently printed, and at least 2" in height.

- A **pre-construction site visit** shall be scheduled by the applicant's representative and include the project Contractor and the Conservation Agent. During this site visit the Order of Conditions, construction protocols, work limit, access plans and site plan details shall be reviewed.
3. Members of the Commission, its Agent or the Department of Environmental Protection (DEP) reserve the right to enter and inspect the property at all reasonable times, until a Certificate of Compliance is issued, to evaluate compliance with this Order of Conditions, the Act, 310 CMR 10.00 and Town regulations, and may acquire any information, measurements, photographs, observations, and/or materials, or may require the submittal of any data or information deemed necessary by the Commission for that evaluation.

B. Construction & Revegetation

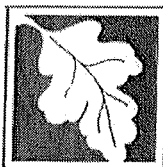
1. The Coastal Dune Restoration & Planting plan, along with the Construction Protocol, are specifically incorporated into this Order. Annual reporting to the Commission about the Coastal Dune activities are required for the first 3 years after it is established.
2. During the demolition process, all demo materials, such as concrete shall be removed from the site. Any sandbags used during this process, or placed on the site previously, shall also be removed. This condition shall be an ongoing condition to ensure that any debris from this site and from this project shall be removed from the site, and the beach as it's exposed.
3. All project materials shall be delivered and stockpiled within the existing driveway area.
4. The site shall be inspected daily to prevent any wind-blown material from entering the resource area, and all debris or construction material shall be contained in either a covered truck or a covered dumpster to prevent materials from blowing into the resource area.
5. The easement area may be maintained, but activities in this area must occur in conformance with the performance standards of the coastal dune.
6. The proposal to use driven piles is approved. If the Applicant's engineer finds that they can use a less intrusive and impactful method, such as helical piles, then they shall inform the Commission of the change, in writing.
7. The restricted timeframe for the driving of the piles shall be from Nov 1 to April 1.
8. A construction protocol for driving the piles and ensuring the safety of the neighbor's property, shall be submitted to the Building Commissioner prior to the start of work.
9. The mitigation to reestablish a healthy and functioning Coastal Dune on this property is a required part of this project. At a minimum, annual maintenance to add sand, jute netting, snow fencing and beachgrass to maintain and periodically restore the Dune is expected, and annual sand nourishment volumes must be reported to the Conservation department.
10. The parking area at this location shall remain pervious, using crushed stone.
11. All roof run-off shall be channeled to gutters and downspouts and drywells. Drywells must be listed with proper setback from the septic leaching area.
12. The area under the buildings may not be enclosed and may only be used for seasonal/ temporary storage.

C. General Conditions

1. Prior to the commencement of work or pre-construction site meeting, the form provided at the end of this Order (part G. "Recording Information") shall be completed and stamped at the appropriate Registry of Deeds, after the expiration of the 10-day appeal period and if no request for appeal has been filed with the Department of Environmental Protection.
2. This document shall be included in all construction contracts, subcontracts, and specifications dealing with the work proposed and shall supersede any conflicting contract

requirements. It is the responsibility of the Applicant, Owner, General Contractor and/or successor(s) to ensure that all Conditions of this Order of Conditions are complied with. A copy of this Order shall be available at the work site, during normal work hours, or posted, until the work is complete.

3. Work shall be halted on the site if the Commission, Conservation Agent or DEP determines that any of the work is not in compliance with this Order of Conditions. Work shall not resume until the Commission is satisfied that the work will comply and has so notified the applicant in writing.
4. **Any changes** in the work described in the Notice of Intent or in the plans and specifications submitted to the Commission shall be submitted to the Commission in writing for a determination of whether the change is significant enough to the interests of the Act to require a new Notice of Intent. **No changes shall be made or implemented in the field** prior to the Commission's determination. Should issuance of additional permits result in a change in the project, the applicant shall promptly submit such changes to the Commission for evaluation under this provision.
5. This Order shall apply to any successor in control or successor in interest of the property described in the Notice of Intent and accompanying plans. These obligations shall be expressed in covenants in all deeds to succeeding owners of portions of the property.
6. **Upon completion of this project the applicant shall submit a request to the Conservation Commission to receive a Certificate of Compliance.** The Applicant or Owner shall certify in writing that the work was completed as shown on the plans and documents referenced above. The applicant is required to submit an as-built plan from a registered professional Engineer, Land surveyor or Sanitarian certifying that the work has been conducted as shown on the plan(s) and documents referenced above and as conditioned by the Commission for the public record.



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

Provided by MassDEP:
 SE# 76-1133
 MassDEP File #

oDEP Transaction #
 Truro
 City/Town

E. Signatures

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

Please indicate the number of members who will sign this form.
 This Order must be signed by a majority of the Conservation Commission.

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

May 19, 2022

1. Date of Issuance

2. Number of Signers

Signature *[Handwritten Signature]*
 Signature *[Handwritten Signature]*
 Signature *[Handwritten Signature]*
 Signature *[Handwritten Signature]*

Printed Name *Robert M. White*
 Printed Name *Carl Woodson*
 Printed Name *DIANE MASSINGHAM*
 Printed Name *Carl Woodson*

Signature _____

Printed Name _____

Signature _____

Printed Name _____

Signature _____

Printed Name _____

Signature _____

Printed Name _____

by hand delivery on

by certified mail, return receipt requested, on

Date _____

Date *May 19, 2022*

FLO-WELL®: A BETTER DRY WELL

DRAINAGE



With the Flo-Well®, water can now be infiltrated into the subsoil rapidly and easily. Unlike competitive systems, there is no need for piping systems to transport stormwater to a far-off discharge point, large heavy equipment, considerable excavation of current landscaped areas, nor large labor costs that those systems incur. With Flo-Well, water infiltration is now easier than ever.

Options

Larger 9" or 12" grates can be added to Flo-Well to manage surface water.

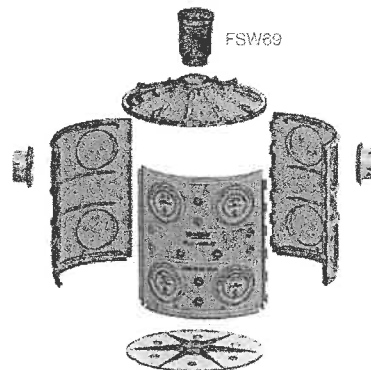
This option is ideal for draining:
 Golf course areas prone to puddling
 Playground areas under slides and swings
 Outdoor drinking fountain runoff
 Outdoor showers at beaches
 Wash-down areas

Ideal as a stand-alone drain.

Disturbs only 4 square feet of turf to install
 Requires less than 10 cubic feet of soil removed to bury
 Measures only 24" in diameter by 28.75" high
 Weighs only 22 pounds
 Holds over 48 gallons. Or, connect to existing system for increased drainage capabilities

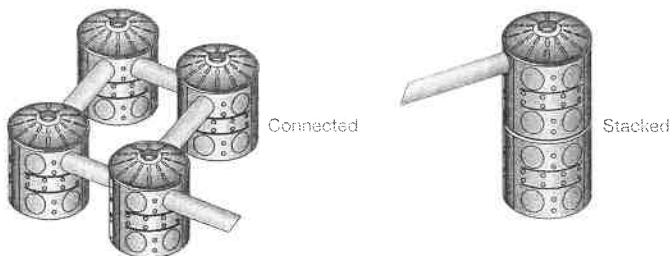
Ideal as a stand-alone reservoir.

Collect and hold rainwater for lawn and garden irrigation (used with a pump connected to a garden hose)
 Connect Flo-Well to rain gutters using a catch basin & grate below each downspout (see drawing)
 Ideal solution for arid areas impacted by drought
 Reservoir for pond and waterfall recirculation pumps

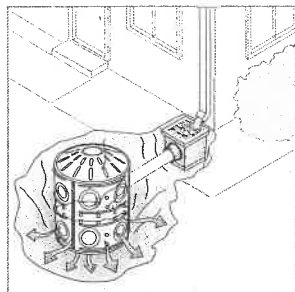


Stackable & Expandable

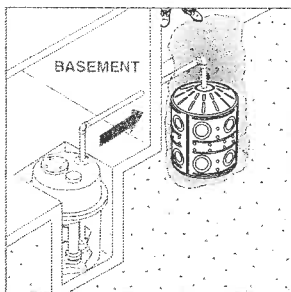
Flo-Well® can be used individually, connected in series or in any array, and can be stacked up to 4 units high (with center support pipe).



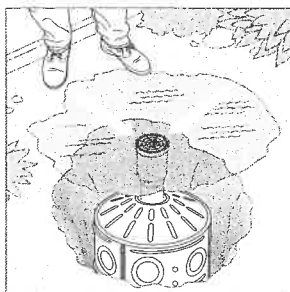
Applications



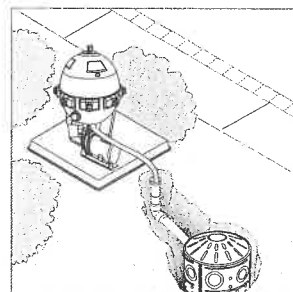
For gutters and downspouts



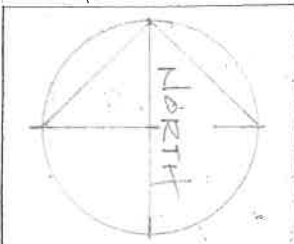
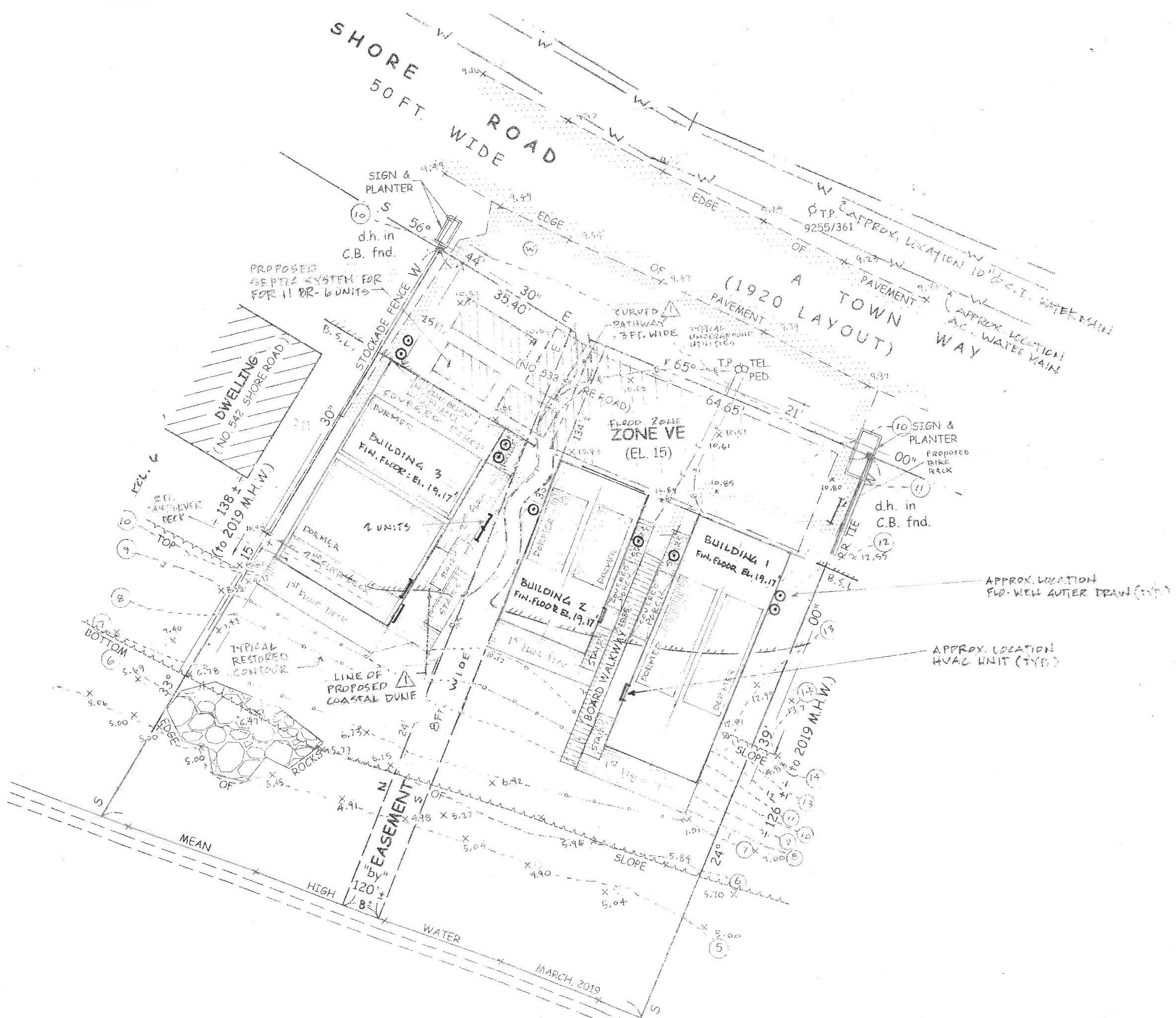
Install with sump pumps



Eliminates puddles



Backwash tank



EBBULIDE ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
ADDENDUM 1
FOCUS: ASSESSOR'S MAP 7, PARCEL 7

William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

ADDENDUM
TO SITE PLAN
SP. 1
DEPICTING
HVAC UNIT
& FLD-WELL
APPROXIMATE
LOCATIONS

SCALE: 1" = 20'-0"
DATE: 02-09-20
DRAWN: AL
JOB NO. T-20-0173
REVISION:

AD-1

BUILDING 1
JAN. 28, 2018



BUILDING 1
JAN. 9, 2018

538 SHORE ROAD
DAMAGE PHOTO'S 2018 ①



NOTE: EMERGENCY SHORING IN PLACE



BUILDING 1
JAN. 28, 2018

BUILDING 1
JAN. 28, 2018

BUILDING 3
MARCH 18, 2019



BUILDING 3
MARCH 18, 2019

BUILDING 3
MARCH 18, 2019



• 538 SHORE ROAD ②
DAMAGE PHOTO'S 2019



BUILDING 2
MARCH 18, 2019



BUILDING 3 FOUNDATION DAMAGE 12-27-22



BUILDING 3 FOUNDATION DAMAGE FACING BEACH



BETWEEN BLDG. 2 & BLDG. 3 12-27-2022



BUILDING 3 REMAINS OF DECK 12-27-2022



BUILDING 2 FOUNDATION DAMAGE FACING BEACH



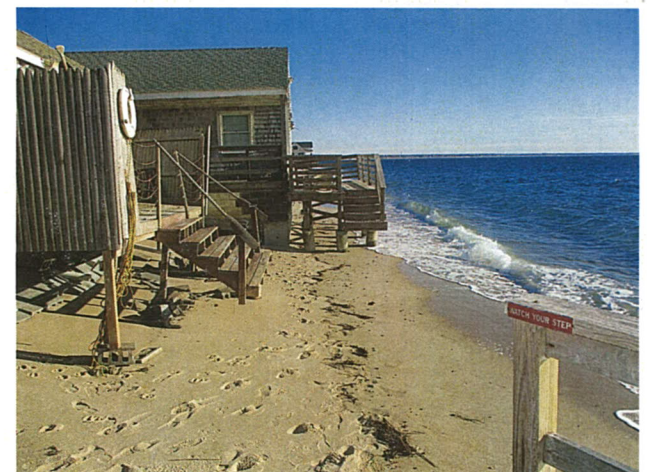
BUILDING 1 FOUNDATION DAMAGE - EAST SIDE



BUILDING 2 FOUNDATION DAMAGE - WEST



BUILDING 3 LOOKING WEST - NOTE HOW CLOSE TIDE IS TO BUILDING



BUILDING 1 - LOOKING EAST

ASSESSOR'S MAP 7, PARCEL 7 - LOCUS

Zoning Notes - Proposed:

- This Property lies within: **Beach Point Limited Business Zone**
- No. of Proposed Principal Buildings: **3** / No. of Proposed Accessory Buildings: **0**
*to replace the 3 Existing Buildings currently on Lot.
- Lot Coverage: (Per Section 10(4) - Definitions, Truro Zoning Bylaws) = **29.5%**
Buildings - total = **2904 s.f.** - (Bldg. 1 = **1092 s.f.** / Bldg. 2 = **710 s.f.** / Bldg. 3 = **1102 s.f.**)
Decks (Including Covered Porches) - total = **1190 s.f.**
Wood Boardwalks = **104 s.f.** Note: Lot Area = **14,224 s.f. +/-**
- Gross Floor Area: (Per Section 10(4) - Definitions)
Building 1 = **1681 s.f.** (1020 s.f. @ 1st Floor - 661 s.f. @ 2nd Floor)
Building 2 = **1048 s.f.** (656 s.f. @ 1st Floor - 392 s.f. @ 2nd Floor)
Building 3 = **1917 s.f.** (1091 s.f. @ 1st Floor - 826 s.f. @ 2nd Floor)
- Mean Ground Level: (Per Section 10(4) - Definitions) - (Datum = 1988 NAVD)
Building 1 = **El. 10.49'** / Building 2 = **El. 10.88'** / Building 3 = **El. 10.49'**
- Building Height/Stories: (Per Section 10(4) - Definitions)
Building 1 = **29.0'** - 1 Story / Building 2 = **29.0'** - 1 Story / Building 3 = **29.95'** - 2 Story
- Building Setbacks:
Frontyard: (25 ft. Required) - Building 1 = **25.0'** / Building 2 = **25.0'** / Building 3 = **25.0'**
Sideward: (5 ft./story Required) - Building 1 @ NE corner = **8.0'** / @ SE corner = **8.0'**
- Building 2: Distance to Building 1 = **4.0'** - (15ft. Req'd.) - Distance to Building 3 = **8.0'**
- Building 3 @ NW corner = **3.30'** / @ SW corner = **3.30'**
To 2019 M.H.W.: (From Decks) - Bldg. 1 = **42' +/-** / Bldg. 2 = **60' +/-** / Bldg. 3 = **51' +/-**

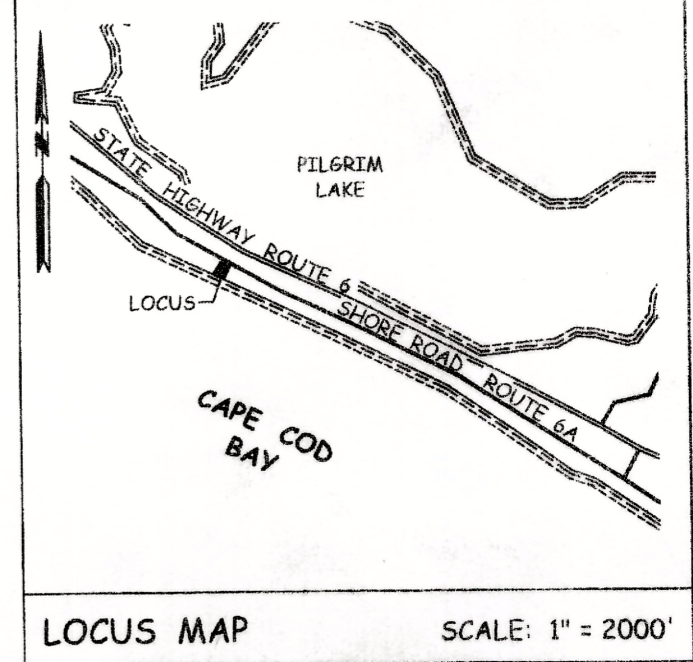
ZONING NOTES (CONTINUED)

- Bedrooms: Building 1 = **3** / Building 2 = **2** / Building 3 = **6** Total = **11 Bedrooms**
* Unit 3 = **2 BR** / Unit 4 = **1 BR** / Unit 5 = **2 BR** / Unit 6 = **1 BR**
- Parking Spaces: (2 spaces per Unit Required) = **9 Total***
* Building 1 (Unit 1) = **2** / Building 2 (Unit 2) = **2** / Building 3 = **4** (Unit 3 = 1 - Unit 4 = 1 - Unit 5 = 1 - Unit 6 = 1)

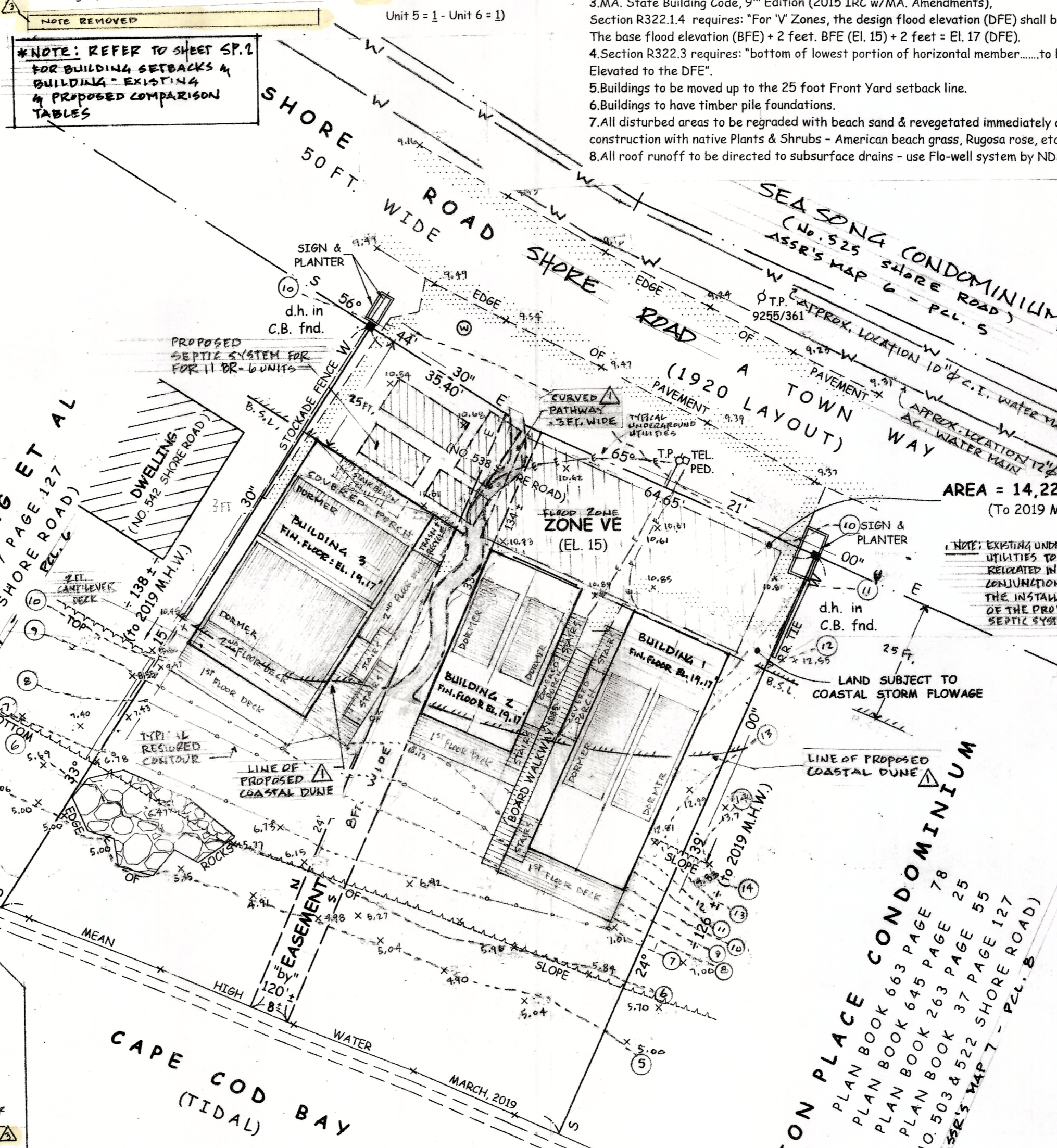
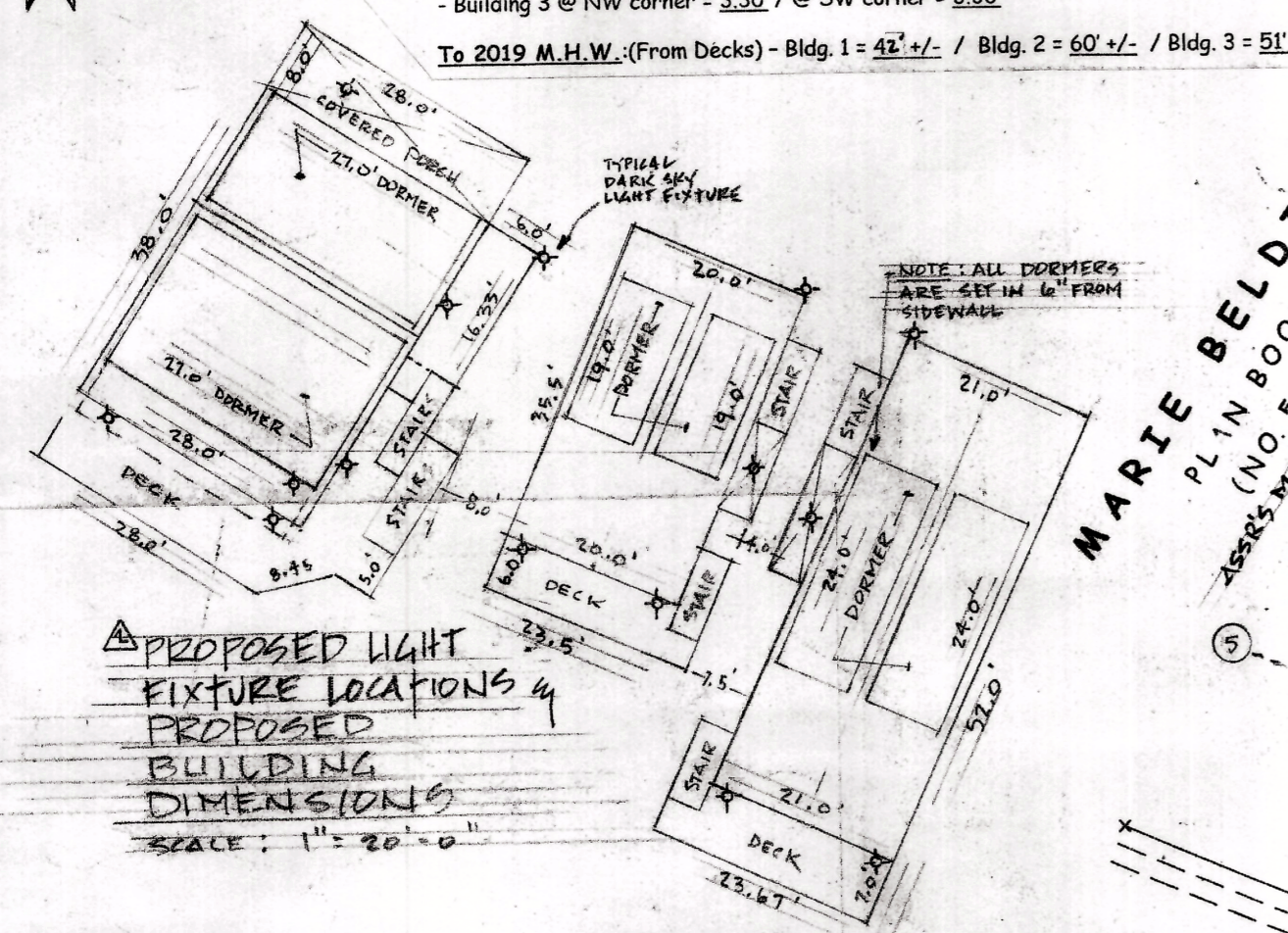
***NOTE: REFER TO SHEET SP.1 FOR BUILDING SETBACKS & BUILDING - EXISTING & PROPOSED COMPARISON TABLES**

GENERAL NOTES:

- Datum = 1988 N.A.V.D.
- Buildings 1, 2 & 3 to be raised in accordance with MA. State Building Code, 9th Edition (2015 IRC & IBC w/ MA. Amendments), 2018 AWC Prescriptive Residential Wood Deck Construction Guide, 2015 IECC, FEMA Technical Bulletin 348 - Protecting Building Utilities From Flood Damage & FEMA Technical Bulletin 449 - Home Builder's Guide To Coastal Construction.
- MA. State Building Code, 9th Edition (2015 IRC w/ MA. Amendments), Section R322.1.4 requires: "For 'V' Zones, the design flood elevation (DFE) shall be The base flood elevation (BFE) + 2 feet. BFE (El. 15) + 2 feet = El. 17 (DFE).
- Section R322.3 requires: "bottom of lowest portion of horizontal member.....to be Elevated to the DFE".
- Buildings to be moved up to the 25 foot Front Yard setback line.
- Buildings to have timber pile foundations.
- All disturbed areas to be regraded with beach sand & revegetated immediately after construction with native Plants & Shrubs - American beach grass, Rugosa rose, etc.
- All roof runoff to be directed to subsurface drains - use Flo-well system by NDS or Equal

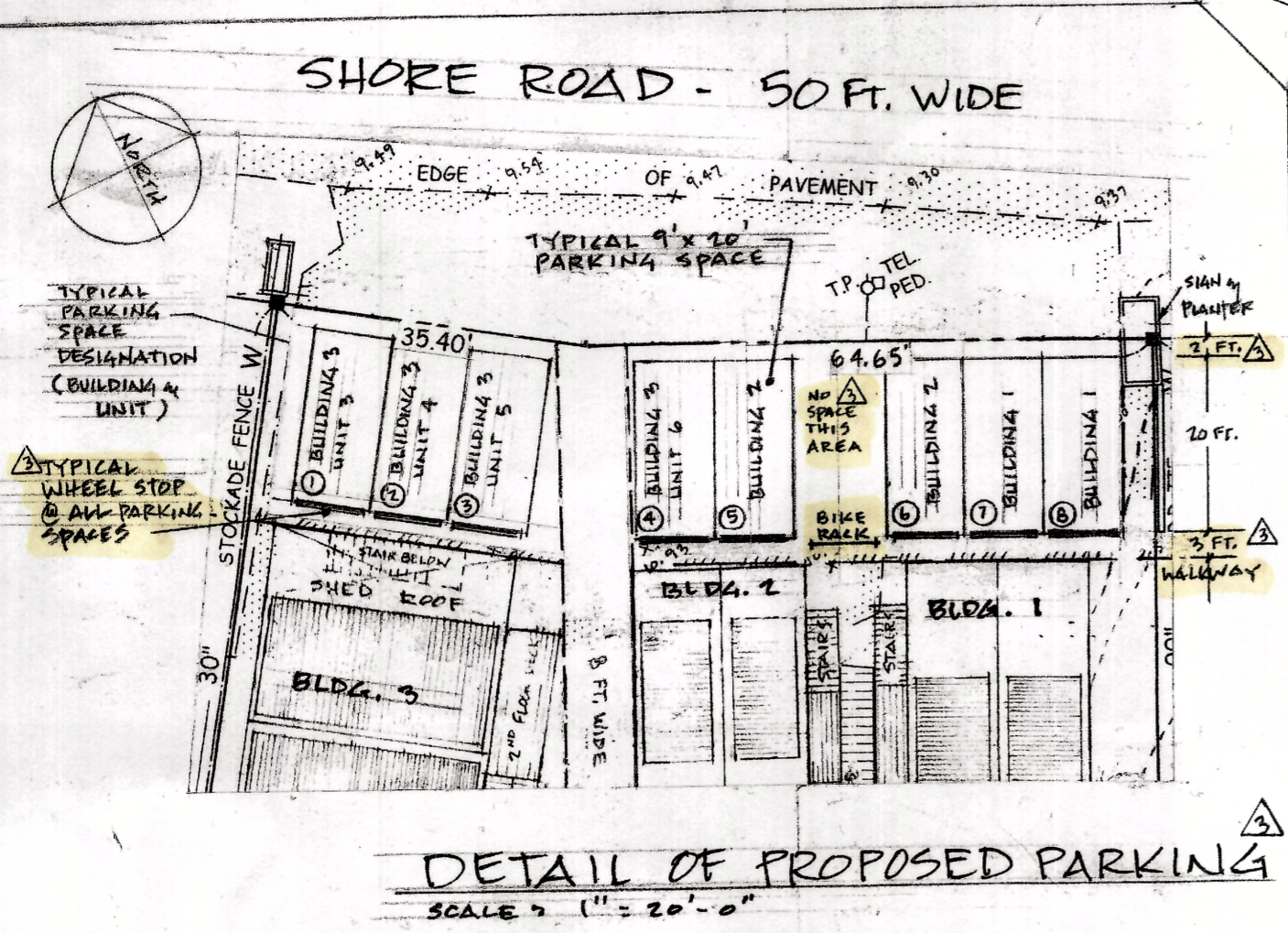


PLAN BOOK 431 PAGE 93



AREA = 14,224± SQ.FT. (To 2019 M.H.W.)

- NOTE: ALL PROPOSED PLANTINGS TO BE NATIVE PLANTS, GRASSES & SHRUBS.
- NOTE: EXISTING AND PROPOSED USE: RESIDENTIAL.
- NOTE: ALL EXTERIOR LIGHTING TO BE DARK SKY COMPLIANT.
- NOTE: ALL ROOF RUNOFF TO BE DIRECTED TO SUBSURFACE DRAINAGE STRUCTURES (FLOW-WELL SYSTEMS, OR EQUAL).
- NOTE: FLOOD ZONES AS SHOWN ON FLOOD INSURANCE RATE MAP NO. 25001C0117J FOR THE TOWN OF TRURO COMMUNITY NO. 235222 DATED JULY 16, 2014.
- NOTE: THIS PROPERTY IS SERVED BY UNDERGROUND ELECTRIC SERVICE.
- NOTE: x 14.55' DENOTES SPOT ELEVATION.
- NOTE: ALL BUILDING OFFSETS ARE MEASURED PERPENDICULAR TO THE PROPERTY LINES.
- NOTE: DATUM = 1988 N.A.V.D.
- REFERENCE: PLAN BOOK 431 PAGE 93
PLAN BOOK 348 PAGE 97
PLAN BOOK 263 PAGE 56
DEED BOOK 30288 PAGE 288



LEGEND:

- = EXISTING CONTOUR
- - - = PROPOSED/RESTORED CONTOUR
- - - = WATER LINE
- TP = UTILITY POLE
- d.h. = DRILL HOLE
- C.B. = CONCRETE FOUND
- B.S.L. = BUILDING SETBACK LINE
- W = WATER TABLE
- E = UNDERGROUND ELEC. & CABLE
- ☆ = PROPOSED DARK SKY LIGHT FIXTURE

NOTE: LIMIT OF WORK ARE THE EAST & WEST PROPERTY LINES AT ALONG BOTTOM OF OLD SLOPE LINE AND IN FRONT OF ROCKS - CONTRACTOR TO STAKE STRAW BALES & SILT FENCE ALONG PROPERTY LINES & BOT. OF SLOPE AND MAINTAIN SAID LIMIT OF WORK DURING CONSTRUCTION.

REVISED: 4-18-2023: RECONFIGURE PARKING - REMOVE 'FLEX' SPACE, TOTAL = 8 SPACES - RELOCATE BIKE RACK



REVISED: 12-29-2022 ZONING NOTES + SCALE OF FEET
0 10 20 40
REVISED: APRIL 19, 2022
PROPOSED
SITE PLAN OF LAND IN
(NORTH) TRURO
AS PREPARED FOR
EBB TIDE ON THE BAY
CONDOMINIUM
(NO. 538 SHORE ROAD)
SCALE: 1 IN. = 20 FT. SEPTEMBER, 2020

WILLIAM N. ROGERS SP.1
PROFESSIONAL
CIVIL ENGINEERS & LAND SURVEYORS
41 OFF CEMETERY ROAD, PROVINCETOWN, MASS.
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538 Shore Road COMPARISON TABLE Δ			
Building #3	Existing	Proposed	COMMENTS
Stories:	2	2	NO CHANGE
Building (Sq.Ft.): (FOOTPRINT)	1200	1102	REDUCTION OF 98 S.F. = 8.17%
Deck/s:	651	586	REDUCTION OF 65 S.F.
Covered Porch:	211	224	INCREASE OF 13 S.F.
Gross Floor Area* (Sq.Ft.):	1139 - 1 st Floor	1091 - 1 st Floor	REDUCTION OF 48 S.F.
*Per Section 10(4)-Definitions	877 - 2 nd Floor	826 - 2 nd Floor	REDUCTION OF 51 S.F.
	Total = 2016	Total = 1917	TOTAL REDUCTION OF 99 S.F. = 4.91%
Mean Ground Level*(Datum = 1988 NAVD) El. 9.39'		El. 10.49'	
*Per Section 10(4)-Definitions		*At Proposed Location	
Peak Height :	El. 33.09'	El. 40.45' (+7.36')	INCREASE OF 7'-4"
First Floor:	El. 10.6'	El. 19.17' (+8.57')	INCREASE OF 8'-6"
Building Height*:	24.23' (24'-3")	29.95' (29'-11") (+5.72')	INCREASE OF 5'-9"
*Per Section 10(4)-Definitions		*Building = 21.28' (21'-3")	
		*Pile Foundation = 8.67' (8'-8")	
Sidyard Setback* (East)			
At NW Corner:	1.91' (1'-11")	3.3' (3'-4") (+1.39')	INCREASE OF 1'-4"
At SW Corner:	2.37' (2'-3")	3.3' (3'-4") (+1.39')	INCREASE OF 1'-4"
*5Ft. Per Story - 10 Ft. Req'd.			
Frontyard Setback (25 Ft. Req'd.):	40.06' (40'-1")	25 Ft. (-15.06')	REDUCTION OF 15'-0"
Distance From 2019 Mean High Water			
Building :	39'+/-	60'+/-	INCREASE OF 21'-0"
Deck:	30'+/-	51'+/-	
Number of Bedrooms:	Unit 3 = 2	2	
	Unit 4 = 1	1 = 6 Total	NO CHANGE
	Unit 5 = 2	2	
	Unit 6 = 1	1	
Number of Parking Spaces	8	4 = 1 Space per Unit Δ	REDUCTION OF 4 SPACES Δ

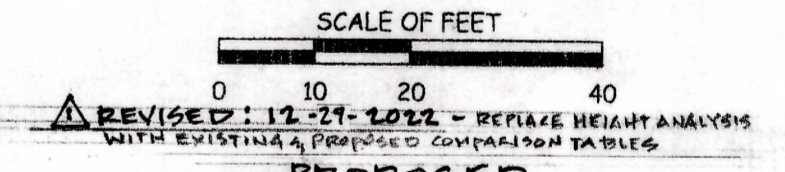


538 Shore Road COMPARISON TABLE Δ			
Building #2	Existing	Proposed	COMMENTS
Stories:	1	1.5	INCREASES BY 1/2 STORY
Building (Sq.Ft.): (FOOTPRINT)	628	710	INCREASE OF 82 S.F. = 13%
Deck/s:	102	167	DECK INCREASES BY 65 S.F.
Covered Porch:	-	-	
Gross Floor Area* (Sq.Ft.):	578	656 - 1 st Floor	
*Per Section 10(4)-Definitions, Truro ZBA Bylaws		392 - 2 nd Floor	
		Total = 1048	470 S.F. INCREASE IN FLOOR AREA = 81.3%
Mean Ground Level* (Datum = 1988 NAVD) El. 10.07'		El. 10.88'	
*Per Section 10(4)-Definitions		*At Proposed Location	
Peak Height :	El. 23.39'	El. 39.88' (+16.49')	INCREASE OF 16'-6"
First Floor:	El. 12.79'	El. 19.17' (+6.38')	INCREASE OF 6'-4"
Building Height* :	13.0' (13'-0")	29.0' (29'-0") (+16.0')	INCREASE OF 16'-0"
*Per Section 10(4)-Definitions		*Building = 20.71' (20'-8 1/2")	
		*Pile Foundation = 8.29' (8'-3 1/2")	
Sidyard Setback:	N/A	N/A	SEE NOTE **
Frontyard Setback (25 Ft. Req'd.):	37.6' (37'-7")	25 Ft. (-12.6')	REDUCTION OF 12'-1"
Distance From 2019 Mean High Water:			
Building :	54'+/-	66'+/- (+12.0')	INCREASE OF 12'-0"
Deck:	48'+/-	60'+/-	
Number of Bedrooms:	2	2	NO CHANGE
Number of Parking Spaces	2	2	NO CHANGE
** NOTE: BUILDING TO BUILDING DISTANCE (EXCLUDING ENTRY DECKS): BUILDING 2 TO BUILDING 1 = 11'-0" (11.0')			

538 Shore Road COMPARISON TABLE Δ			
Building #1	Existing	Proposed	COMMENTS
Stories:	1	1.5	INCREASES BY 1/2 STORY
Building (Sq.Ft.): (FOOTPRINT)	952	1092	INCREASE OF 140 S.F. = 14.7%
Deck/s:	184	213	DECK INCREASES BY 29 S.F. COVERED PORCH ELIMINATED
Covered Porch:	261	-	
Gross Floor Area* (Sq.Ft.):	883	1020 - 1 st Floor	
*Per Section 10(4)-Definitions, Truro ZBA Bylaws		661 - 2 nd Floor	
		Total = 1681	798 S.F. INCREASE IN FLOOR AREA = 90.4%
Mean Ground Level* (Datum = 1988 NAVD) El. 10.24'		El. 10.49'	
*Per Section 10(4)-Definitions		*At Proposed Location	
Peak Height :	El. 26.48'	El. 40.34' (+13.86')	INCREASE OF 13'-10"
First Floor:	El. 12.92'	El. 19.17' (+6.25')	INCREASE OF 6'-3"
Building Height* :	16.76' (16'-9")	29.0' (29'-0") (+12.24')	INCREASE OF 12'-3"
*Per Section 10(4)-Definitions		*Building = 21.17' (21'-2")	
		*Pile Foundation = 7.83' (7'-10")	
Sidyard Setback* (East)			
At NE Corner:	7.16' (7'-2")	8.0' (8'-0") (+.84')	INCREASE OF 10"
At SE Corner:	7.82' (7'-10")	8.0' (8'-0") (+.18')	INCREASE OF 2"
*5Ft. Per Story - 7.5 Ft. Req'd.			
Frontyard Setback (25 Ft. Req'd.):	22.24' (22'-3")	25 Ft. (+2.76')	INCREASE OF 2'-9"
Distance From 2019 Mean High Water			
Building :	41'+/-	50'+/- (+9.0')	INCREASE OF 9'-0"
Deck:	33'+/-	42'+/-	
Number of Bedrooms:	3	3	NO CHANGE
Number of Parking Spaces	2	2	NO CHANGE

SITE PLAN
 DEPICTING
BUILDING SETBACKS
 SCALE: 1" = 20'-0"

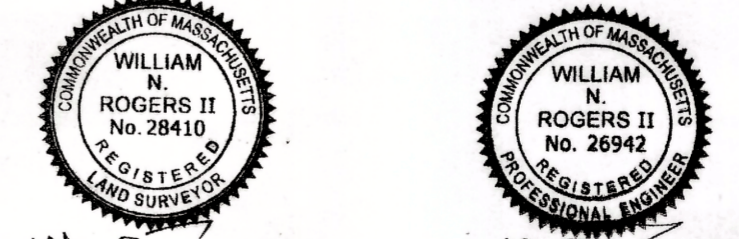
- NOTE: x 14.55' DENOTES SPOT ELEVATION.
- NOTE: ALL BUILDING OFFSETS ARE MEASURED PERPENDICULAR TO THE PROPERTY LINES.
- NOTE: DATUM = 1988 N.A.V.D.
- REFERENCE: PLAN BOOK 431 PAGE 93
 PLAN BOOK 348 PAGE 97
 PLAN BOOK 263 PAGE 56
 DEED BOOK 30288 PAGE 288



REVISOR: 12-21-2022 - REPLACE HEIGHT ANALYSIS WITH EXISTING & PROPOSED COMPARISON TABLES
PROPOSED BUILDING SETBACKS
 EXISTING & PROPOSED COMPARISON TABLES
 IN

(NORTH) TRURO
 AS PREPARED FOR
EBB TIDE ON THE BAY CONDOMINIUM
 (NO. 538 SHORE ROAD)

SCALE: 1 IN. = 20 FT. SEPTEMBER, 2020



William N. Rogers II, PLS
 SEPTEMBER 14, 2020

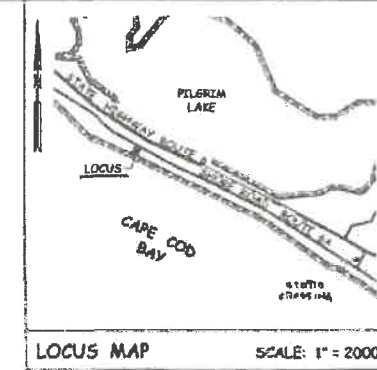
WILLIAM N. ROGERS **SP.2**
 PROFESSIONAL
 CIVIL ENGINEERS & LAND SURVEYORS
 41 OFF CEMETERY ROAD, PROVINCETOWN, MASS.
 508.487.1565 / 508.487.5809 FAX

Zoning Notes - Existing:

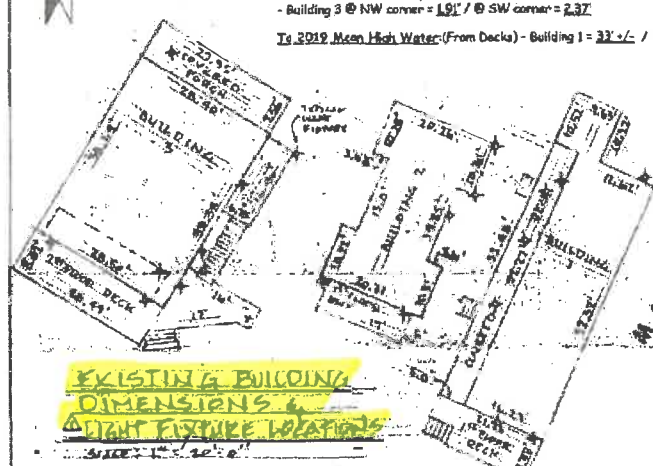
- This Property lies within: Beach Point Limited Access Zone
- Number of Principal Buildings: 2 / Number of Accessory Buildings: 0
- Lot Coverage: (Per Section 10(4) - Definitions, Truro Zoning Bylaws) = 31.4%
Buildings: total = 3186 sq. ft. (Bldg. 1 = 922 sq. ft. / Bldg. 2 = 628 sq. ft. / Bldg. 3 = 1200 sq. ft.)
Decks (Including Covered Porches) - total = 1409 sq. ft.
Wood Boardwalk = 420 sq. ft.
- Gross Floor Area: (Per Section 10(4) - Definitions)
Building 1 = 883 sq. ft. - Building 2 = 578 sq. ft.
Building 3 = 2016 sq. ft. (1139 sq. ft. @ 1st Floor - 877 sq. ft. @ 2nd Floor)
- Mean Ground Level: (Per Section 10(4) - Definitions) - (Datum = 1988 M.A.V.D.)
Building 1 = EL. 10.24' / Building 2 = EL. 10.02' / Building 3 = EL. 9.32'
- Building Height/Stories: (Per Section 10(4) - Definitions)
Building 1 = 16.75' - 1 Story / Building 2 = 13.0' - 1 Story / Building 3 = 23.22' - 2 Story
- Building Setbacks:
Frontyard: (25 ft. Required) - Building 1 = 27.24' / Building 2 = 37.0' / Building 3 = 40.06'
Sideyard: (5 ft./story Required) - Building 1 @ NE corner = 7.18' / @ SE corner = 7.88'
- Building 2: Distance to Building 1 = 9.08' (10ft. Req'd.) : Distance to Building 3 = 13.28'
- Building 3 @ NW corner = 1.91' / @ SW corner = 2.37'
To 2019 Mean High Water: (From Decks) - Building 1 = 32.0' / Building 2 = 48.0' / Building 3 = 30.0'

Zoning Notes - Existing (Continued)

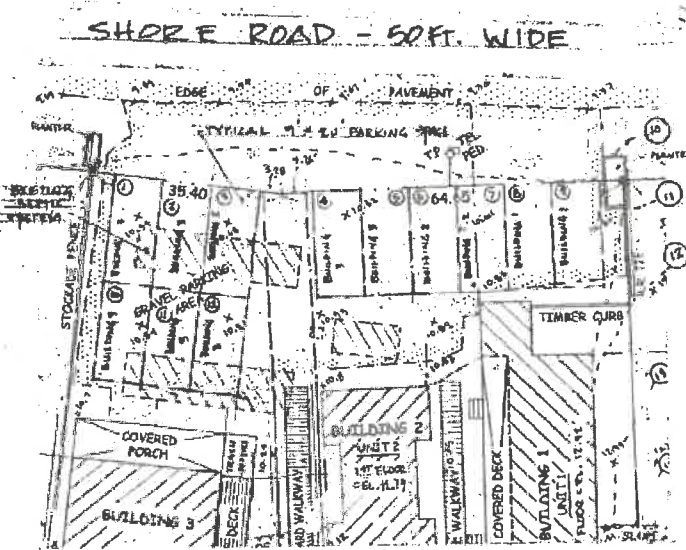
- Bedrooms: Building 1 = 2 / Building 2 = 2 / Building 3 = 6* Total = 11 Bedrooms
* Unit 3 = 2 BR / Unit 4 = 1 BR / Unit 5 = 2 BR / Unit 6 = 1 BR
- Parking Spaces: (2 spaces per Unit Required) = 12 Total
* Building 1 (Unit 1) = 2 / Building 2 (Unit 2) = 2 / Building 3 - (Unit 3 = 2 - Unit 4 = 2 - Unit 5 = 2 - Unit 6 = 2)



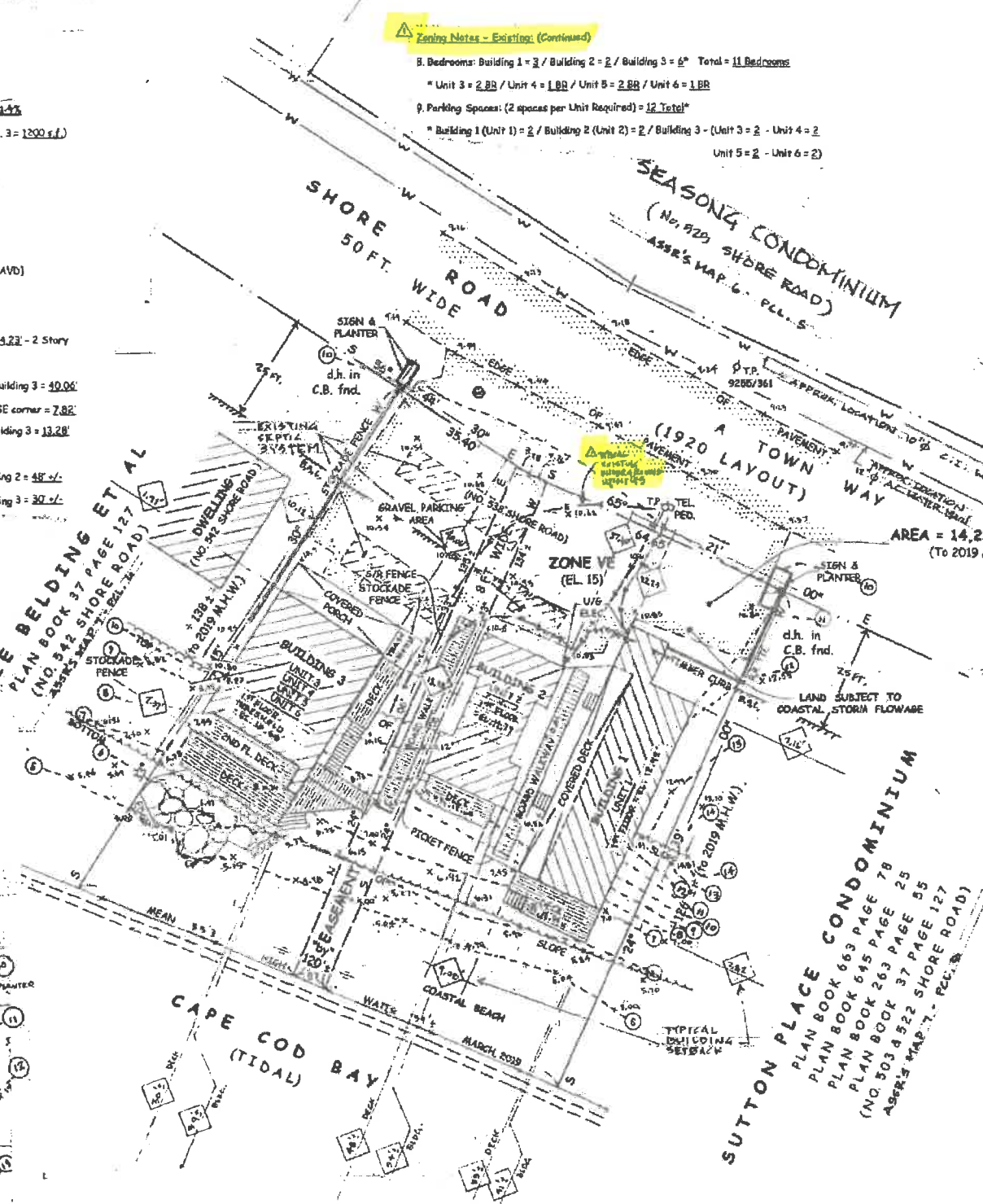
PLAN BOOK 431 PAGE 93



EXISTING BUILDING DIMENSIONS & LIGHT FIXTURE LOCATIONS



DETAIL OF EXISTING PARKING



LEGEND

⬢	BUILDING SETBACK	⊕	LIGHT FIXTURE
⬢	UNPERMITTED	d.h.	DRILL HOLE
—	SEWER LINE	C.B.	COURT BOUNDARY
—	UTILITY PIPE	D.S.L.	DRAINAGE SLOPE
⊕	EXISTING LIGHT FIXTURE	—	UNPERMITTED USE OF DRIVE
⊕	EXISTING LIGHT FIXTURE	⊕	WATER DATE

- NOTE:** FLOOD ZONES AS SHOWN ON FLOOD INSURANCE RATE MAP NO. 25001C0117J FOR THE TOWN OF TRURO COMMUNITY NO. 235222 DATED JULY 16, 2014.
- NOTE:** * 14.55' DENOTES SPOT ELEVATION
- NOTE:** ALL BUILDING OFFSETS ARE MEASURED PERPENDICULAR TO THE PROPERTY LINES.
- NOTE:** DATUM = 1988 M.A.V.D.
- REFERENCE:** PLAN BOOK 431 PAGE 93
PLAN BOOK 348 PAGE 97
PLAN BOOK 263 PAGE 56
DEED BOOK 30288 PAGE 288



EXISTING
SITE PLAN OF LAND
IN
(NORTH) TRURO
AS PREPARED FOR
EBB TIDE ON THE BAY
CONDOMINIUM
(NO. 538 SHORE ROAD)
SCALE: 1 IN. = 20 FT. SEPTEMBER, 2022

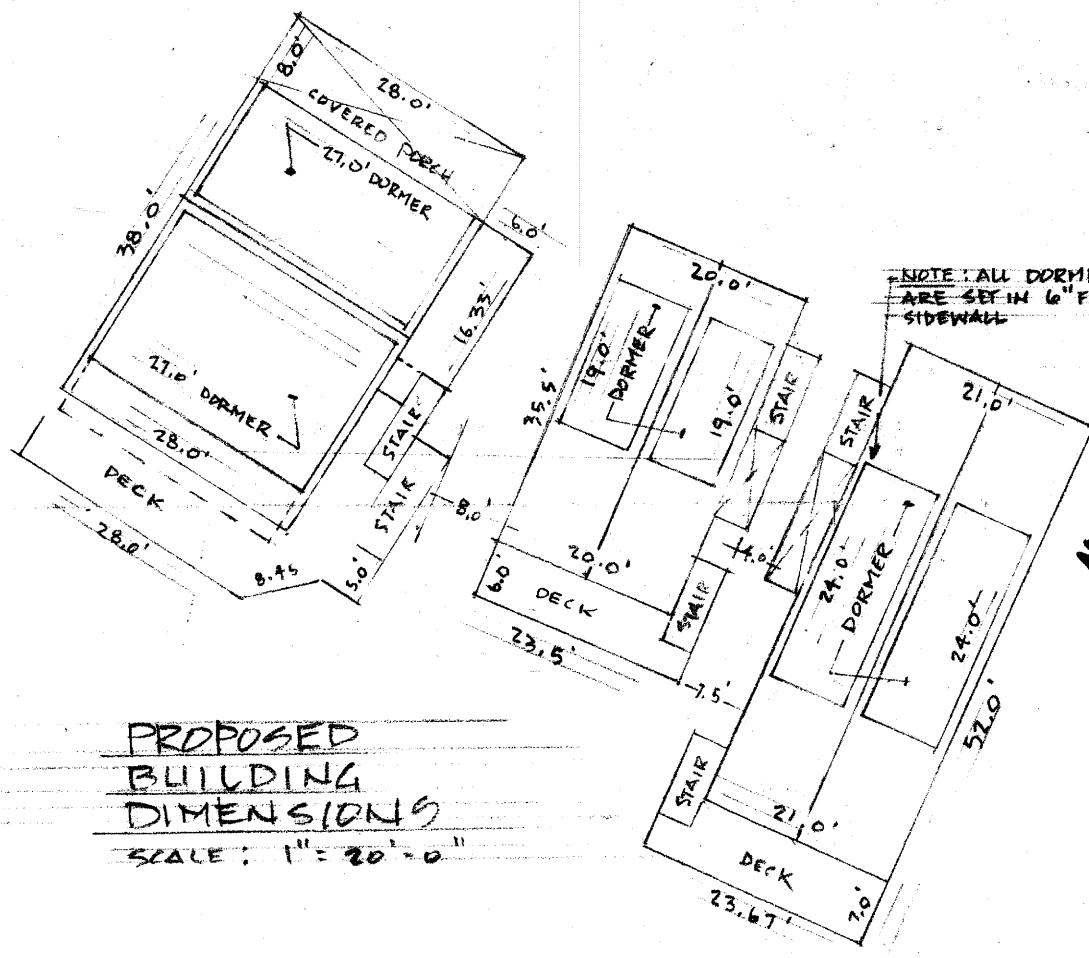


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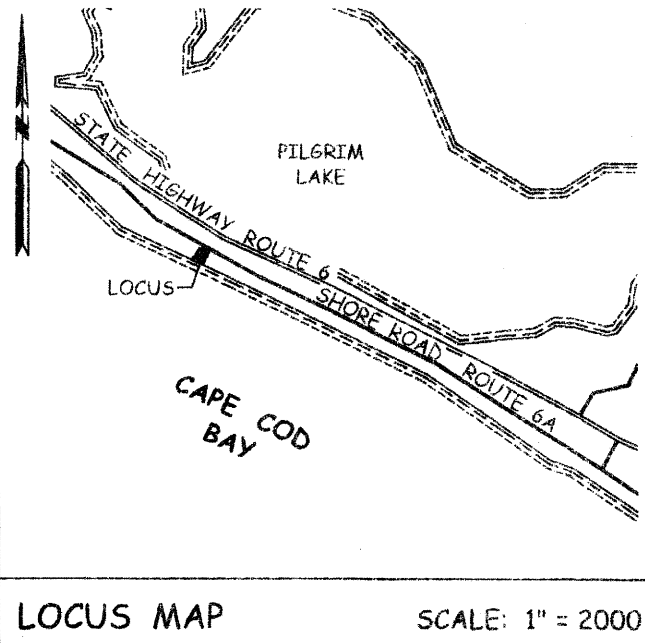
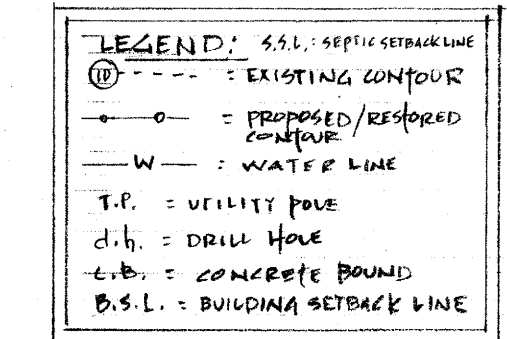
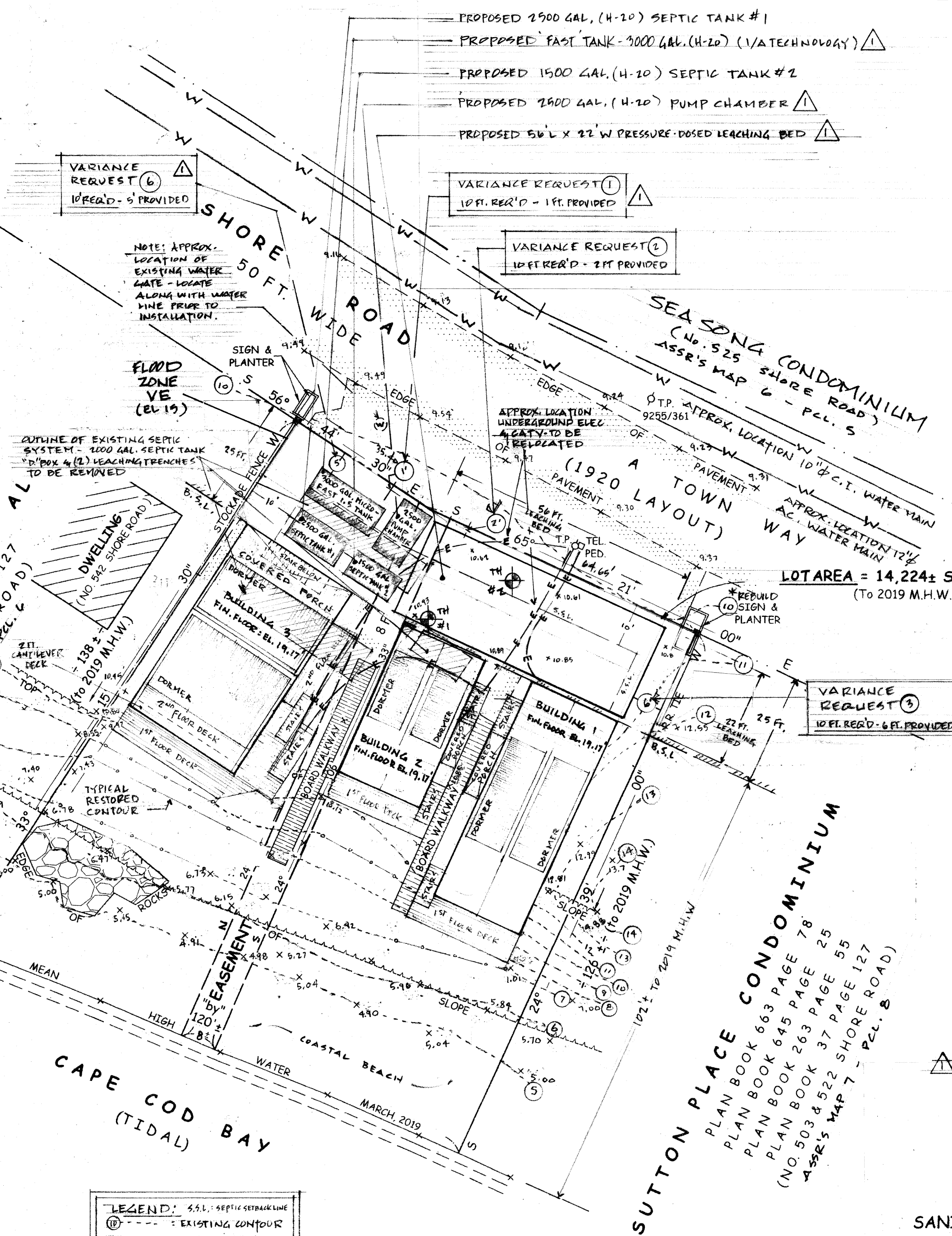
SE.1

GENERAL NOTES:

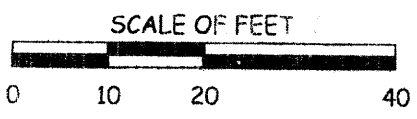
- Datum = 1988 N.A.V.D.
- Buildings 1, 2 & 3 to be raised in accordance with MA. State Building Code, 9th Edition (2015 IRC & IBC w/ MA. Amendments), 2018 AWC Prescriptive Residential Wood Deck Construction Guide, 2015 IECC, FEMA Technical Bulletin 348 - Protecting Building Utilities From Flood Damage & FEMA Technical Bulletin 449 - Home Builder's Guide To Coastal Construction.
- MA. State Building Code, 9th Edition (2015 IRC w/ MA. Amendments), Section R322.1.4 requires: "For 'V' Zones, the design flood elevation (DFE) shall be The base flood elevation (BFE) + 2 feet. BFE (El. 15) + 2 feet = El. 17 (DFE).
- Section R322.3 requires: "bottom of lowest portion of horizontal member.....to be Elevated to the DFE".
- Buildings to be moved up to the 25 foot Front Yard setback line.
- Buildings to have timber pile foundations.
- All disturbed areas to be regraded with beach sand & revegetated immediately after construction with native Plants & Shrubs - American beach grass, Rugosa rose, etc.
- All roof runoff to be directed to subsurface drains - use Flo-well system by NDS or equal.



MARIE BELDING ET AL
PLAN BOOK 37 PAGE 127
ASSESSOR'S MAP 7
(NO 542 SHORE ROAD)
REL. 4

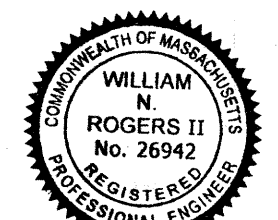
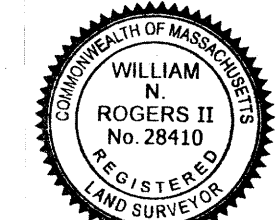


- NOTE: ALL PROPOSED PLANTINGS TO BE NATIVE PLANTS, GRASSES & SHRUBS.
- NOTE: EXISTING AND PROPOSED USE: RESIDENTIAL.
- NOTE: REFER TO SHEET 6.2 FOR DESIGN DATA
- NOTE: ALL ROOF RUNOFF TO BE DIRECTED TO SUBSURFACE DRAINAGE STRUCTURES (FLOW-WELL SYSTEMS, OR EQUAL).
- NOTE: FLOOD ZONES AS SHOWN ON FLOOD INSURANCE RATE MAP NO. 25001C0117J FOR THE TOWN OF TRURO COMMUNITY NO. 235222 DATED JULY 16, 2014.
- NOTE: THIS PROPERTY IS SERVED BY UNDERGROUND ELECTRIC SERVICE
- NOTE: x 14.55' DENOTES SPOT ELEVATION.
- NOTE: ALL UNDERGROUND UTILITIES & WATER SERVICES TO BE LOCATED PRIOR TO COMMENCEMENT OF ANY WORK
- NOTE: DATUM = 1988 N.A.V.D.
- REFERENCE: PLAN BOOK 431 PAGE 93
PLAN BOOK 348 PAGE 97
PLAN BOOK 263 PAGE 56
DEED BOOK 30288 PAGE 288



Variance Requests:

- From 310 CMR 15.211(1) to allow proposed Pump Chamber to be located less than ten (10') feet from the NE property line.
10 ft. Required - 7 ft. Provided.
- From 310 CMR 15.211(1) to allow proposed Soil Absorption System (SAS) to be located less than ten (10') feet from the NE property line.
10 ft. Required - 2 ft. Provided.
- From 310 CMR 15.211(1) to allow proposed Soil Absorption System (SAS) to be located less than ten (10') feet from the SE property line.
10 ft. Required - 6 ft. Provided.
- Per 310 CMR 15.405 (1)(c) to allow the proposed SAS area to be reduced by 25% - 1210 gpd. Required - 912 gpd. Provided.
- Per Section 6, Article 9 of Local Board of Health Regulations to allow the proposed Septic Tanks, Pump Chamber and Soil Absorption system to be located less than one hundred (100') feet and one hundred fifty (150') feet, respectively, from the existing Resource Area Wetland.
- From 310 CMR 15.211(1) to allow proposed 'FAST TANK' to be located less than ten (10') feet from the NE PROPERTY LINE.
10 FT. REQUIRED. - 5 FT. PROVIDED.

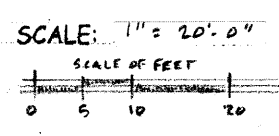


WILLIAM N. ROGERS II
MAY 14, 2021

WILLIAM N. ROGERS II
MAY 14, 2021

REVISED: 10-19-2021 ADD 1/A TECHNOLOGY (PRESSURE DOSE)

PLAN OF LAND
IN
(NORTH) TRURO
DEPICTING A
SANITARY SUBSURFACE SEWAGE
DISPOSAL SYSTEM UPGRADE
AS PREPARED FOR
EBB TIDE ON THE BAY
CONDOMINIUM
(NO. 525 SHORE ROAD)



MAY, 2021

WILLIAM N. ROGERS
PROFESSIONAL
CIVIL ENGINEERS & LAND SURVEYORS
41 OFF CEMETERY ROAD, PROVINCETOWN, MASS.

5.1

PRESSURE DISTRIBUTION SPECIFICATIONS

- PERF. SIZE: 5/16" φ
- PERF. SPACING: 215' O.C.
- LATERAL DIA.: 1" φ
- LATERAL SPACING: 5' O.C.
- LATERAL LENGTH: 10'
- MANIFOLD DIA.: VARIES-SEE PLAN
- MANIFOLD LENGTH: 50.4 TOTAL
- GAL. PER DOSE: 442 GAL.
- TOTAL DYNAMIC HEAD: 14 FT.

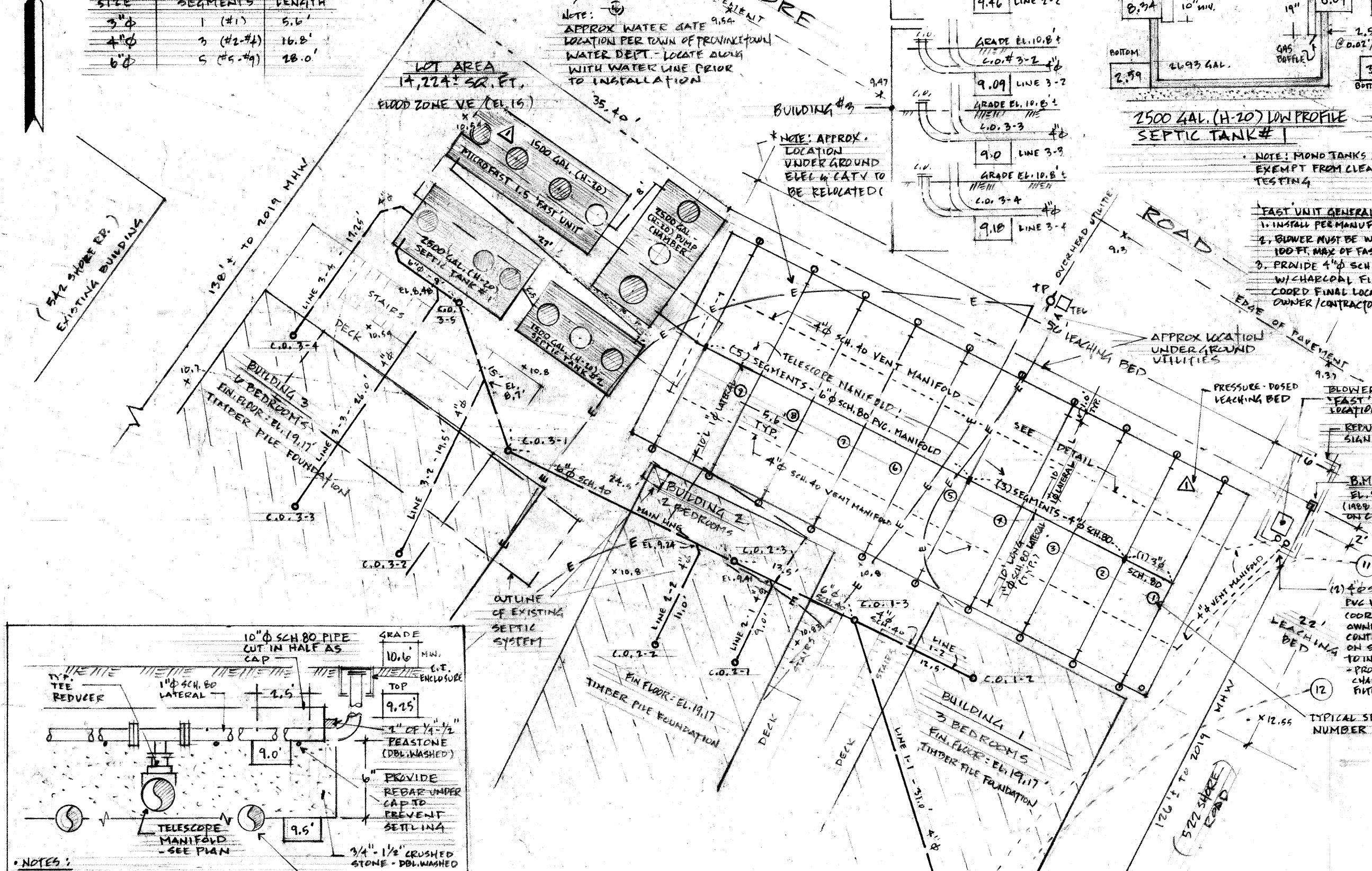
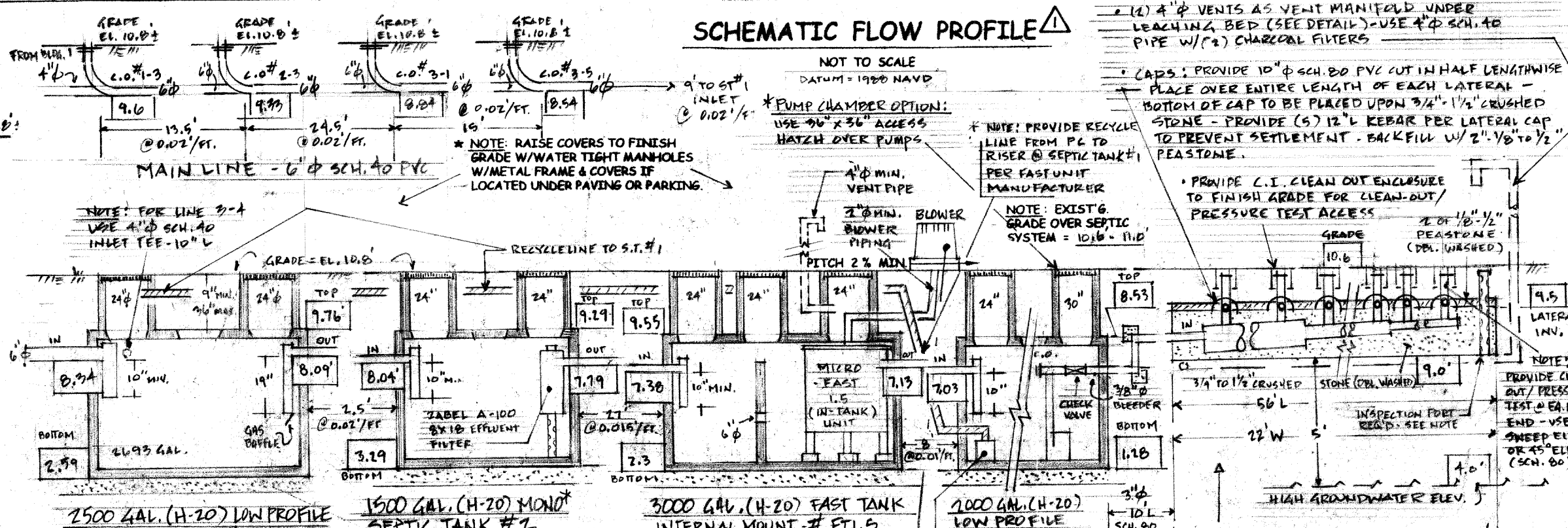
TELESCOPE MANIFOLD DETAILS (SCH. 80 PVC)

SIZE	SEGMENTS	LENGTH
3" φ	1 (#1)	5.6'
4" φ	3 (#2-#4)	16.8'
6" φ	5 (#5-#9)	28.0'

TABLE OF DISTANCES

- LINE 1-1 = 31 FT. @ 0.02'/FT.
- LINE 1-2 = 12.9 FT. @ 0.02'/FT.
- LINE 2-1 = 9 FT. @ 0.02'/FT.
- LINE 2-2 = 11 FT. @ 0.02'/FT.
- LINE 3-2 = 19.5 FT. @ 0.02'/FT.
- LINE 3-3 = 26 FT. @ 0.02'/FT.
- LINE 3-4 = 17.25 FT. @ 0.049'/FT.

SCHEMATIC FLOW PROFILE



PRECAST TANK GENERAL NOTES

- SEPTIC TANK TO BE SEALED COMPLETELY W/ SYNTHETIC POLYMER SEALER.
- SEAL ALL SEAMS W/ PRECO PATCH HYDRAULIC CEMENT OR APPROVED EQUAL (SHOREY E-2 WRAP).
- PROVIDE CLEAN WATER TESTING OF ALL TANKS (SEPARATELY) PRIOR TO OPERATION. EACH TEST TO BE MIN. 24 HR. PRIOR TO OPERATION. GIVE ENGR 48 HR. NOTICE.

FAST UNIT GENERAL NOTES

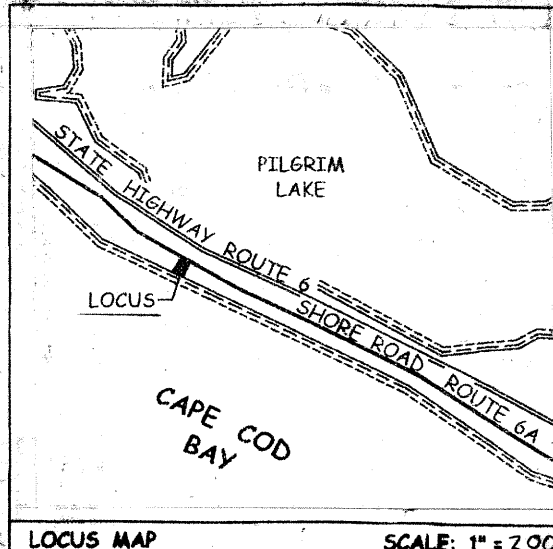
- INSTALL PER MANUF. SPEC'S.
- BLOWER MUST BE WITHIN 100 FT. MAX OF FAST UNIT
- PROVIDE 4" φ SCH. 40 VENT W/ CHARCOAL FILTER - COORD. FINAL LOCATION W/ OWNER/CONTRACTOR ON SITE

INSPECTION PORT REQUIRED:

Minimum 1) 4" φ Sch. 40 PVC perforated pipe shall be placed vertically down into the stone to the naturally occurring soil or sand fill below the stone. Pipe/s shall be capped with a screw-type cap, and accessible to within 3" of Finish Grade.

GENERAL NOTES:

- ALL SYSTEM COMPONENTS SHALL BE INSTALLED IN ACCORDANCE W/ TITLE 5 OF THE SANITARY CODE & ANY APPLICABLE REGULATIONS.
- PRIOR TO BACKFILLING THE INSTALLATION, THE ENGINEER & HEALTH AGENT SHALL BE NOTIFIED FOR INSPECTION.
- ANY ALTERATIONS TO THIS DESIGN MUST BE APPROVED BY THE ENGINEER & BOARD OF HEALTH, IN WRITING.
- ALL LINES SHALL BE 4" DIA. SCH. 40 PVC PIPE PITCHED 0.010'/FT. MINIMUM, EXCEPT AS NOTED.
- ANY/ALL UNDERGROUND UTILITIES ARE TO BE VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO SYSTEM INSTALLATION. (CONTACT DIG SAFE)
- ALL UNSUITABLE MATERIAL WITHIN 5 FT. IN ALL DIRECTIONS FROM THE SOIL ABSORPTION SYSTEM SHALL BE REMOVED & REPLACED W/ CLEAN, COARSE WASHED SAND.
- ALL FILL MATERIAL UTILIZED FOR THE SOIL ABSORPTION SYSTEM SHALL BE CLEAN, COARSE, WASHED SAND FREE FROM DELETERIOUS MATERIAL & SHALL HAVE A PERC. RATE OF LESS THAN 2 MIN./IN. BEFORE & AFTER PLACEMENT.
- ALL FILL SERVICING THE SOIL ABSORPTION SYSTEM SHALL BE PROPERLY PLACED & COMPACTED TO MINIMIZE SETTLEMENT.
- FINISH GRADES SHALL COMPLY W/ MINIMUM COVER & SLOPE SETBACK REQUIREMENTS OF TITLE 5.
- DURING INSTALLATION, THE CONTRACTOR IS RESPONSIBLE TO PROVIDE ADEQUATE PROTECTION TO ADJUTING PROPERTIES & TO MAINTAIN A SAFE EXCAVATION AREA.
- DATUM = 1988 NAVD.
- PROVIDE SHOP DWGS. OF ALL PRECAST COMPONENTS FOR ENGINEERS APPROVAL - PER ENGINEERS REQUEST.
- IN CASE OF FAILURE - LEACHING BED SHOULD BE REMOVED, REHABILITATED & REPLACED.



LEGEND:

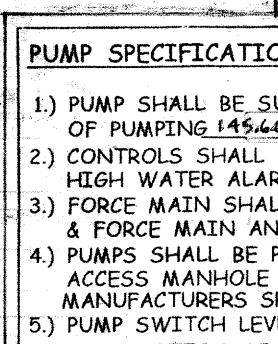
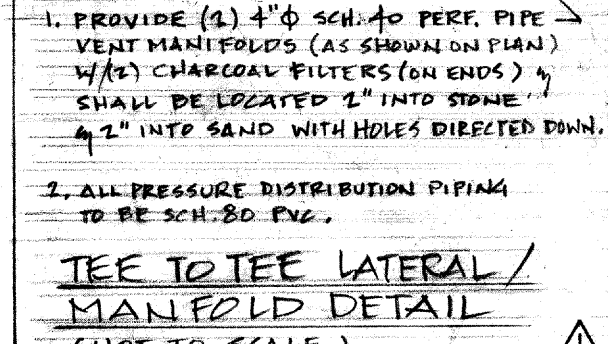
- S.A.S. = SOIL ABSORPTION SYSTEM
- W = WATER SERVICE
- E = UNDERGROUND UTILITIES
- W = WATER GATE
- = EXIST'G CONTOUR
- = PROPOSED CONTOUR
- X10.04 = EXISTING SPOT ELEV.
- φ T.P. = UTILITY POLE
- = CLEANOUT
- TH #1 = TEST HOLE LOCATION
- B.S.L. = BUILDING SETBACK LINE
- S.S.L. = SEPTIC SETBACK LINE
- 29/25 = PROPOSED SPOT ELEV.

PLAN

SCALE: 1" = 10' - 0"
 (DATUM = 1988 NAVD)
 BENCHMARK (1988 NAVD)
 EL. 9.59' ON CORNER

DESIGN DATA:

- BUILDING 1 = 3 BEDROOMS
- BUILDING 2 = 2 BEDROOMS
- BUILDING 3 = 6 BEDROOMS
- TOTAL = 11 BEDROOMS
- DAILY FLOW: 11 BEDROOMS @ 110 GPD/BR = 1210 GPD
- 1210 GPD x .75 = 908 GPD W/ 25% REDUCTION
- SEPTIC TANK #1: 1210 GPD x 2 = 2420 GAL. REQ'D. (2493 GAL. PROVIDED)
- SEPTIC TANK #2: 1210 GPD x 1 = 1210 GAL. REQ'D. (1971 GAL. PROVIDED)
- PUMP CHAMBER CAPACITY: 2621 GAL. - 2693 GAL. PROVIDED
- LEACH FACILITY DESIGN: (BOTTOM ONLY)
- 56 FT. LONG x 22 FT. WIDE x .74 GPD/SQ. FT. = 912 GPD (BOTTOM)
- NOTE: 912 GPD PROVIDED > 908 GAL. REQ'D W/ 25% REDUCTION
- PROVIDE 56 FT. x 22 FT. PRESSURE-POSED LEACHING BED - INSTALLED PER ENGINEERS SPECIFICATIONS.



WATER SERVICE GENERAL NOTE:
 WHENEVER SEPTIC LINES CROSS WATER SERVICE LINES OR WHEN WATER SERVICE LINES COME WITHIN 10 FT. OF THE PROPOSED S.A.S. PIPES SHALL BE SLEEVED W/ CLASS 150 PRESSURE PIPE AND SHOULD BE PRESSURE TESTED TO ASSURE WATER TIGHTNESS. COORD. W/ TOWN OF PROVINCETOWN WATER DEPT. AS NECESSARY.

WATER USE RECORDS

PER TOWN OF PROVINCETOWN WATER DEPARTMENT

- 2020: 83,967 GAL.
- 2019: 97,321 GAL.
- 2018: 63,234 GAL.

PUMPING RECORDS

PER CONDOMINIUM ASSOC. - 2000 GAL.

- SEPTIC TANK LAST PUMPED SPRING 2021
- SEPTIC TANK IS PUMPED EVERY OTHER YEAR.
- (NO ADD'L RECORDS FOUND)

TEST DATE: MAY 12, 2021

TEST BY: L. SCHOFIELD - CERTIFIED SOIL EVALUATOR - SEP 2173
 A. DAVIS - AGENT FOR BOARD OF HEALTH

PERC. RATE: IN HORIZ. C. (COARSE SAND) - BOTTOM OF PERC. = 120" = 2.6 MIN/IN.

GROUNDWATER ENCOUNTERED: @ 120" (EL. 01.9') USE EV. 4.0 ESTIMATED HIGH GROUNDWATER

IT IS THE OPINION OF THE ENGINEER THAT THE SOIL PROFILE DOES NOT VARY SIGNIFICANTLY THROUGHOUT THE LOT.

DEEP OBSERVATION HOLE LOGS

DEPTH	HORIZON	TEXTURE	COLOR	MOTTLING	COMMENTS
0 - 96"	FILL	VARIABLE	VARIABLE	NONE	STONES, GRAVEL HARDENING SINGLE GRAIN - LOOSE
96" - 84"	C1	COARSE SAND	10 YR 6/2		
84" - 120"	C2		10 YR 5/3		

REVIS'D: 10-25-2021 - ADD 1/4" TECHNOLOGY (PRESSURE-POSED)

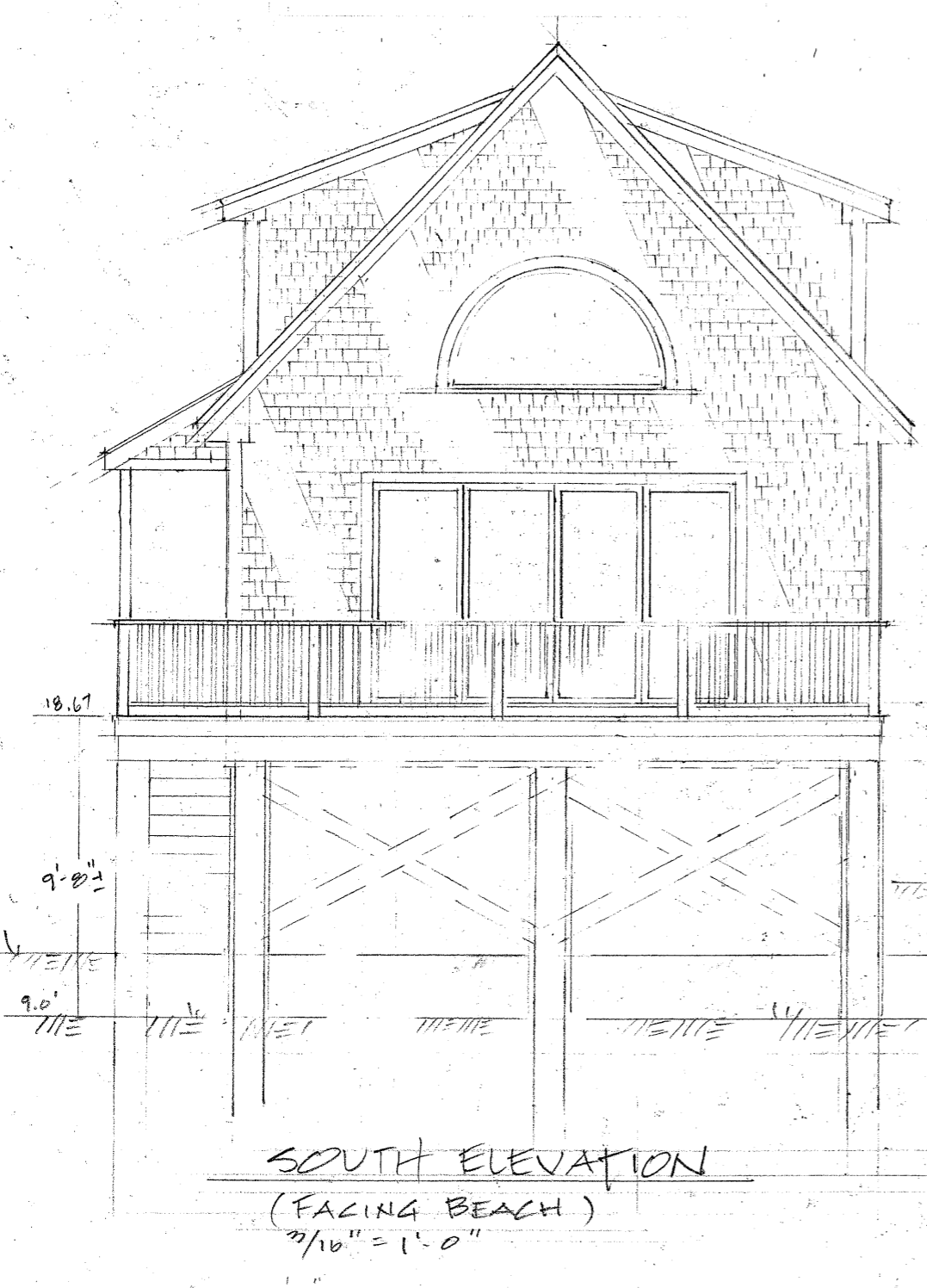
WILLIAM N. ROGERS II
 REGISTERED LAND SURVEYOR
 No. 26942

WILLIAM N. ROGERS II
 REGISTERED PROFESSIONAL ENGINEER
 No. 26942

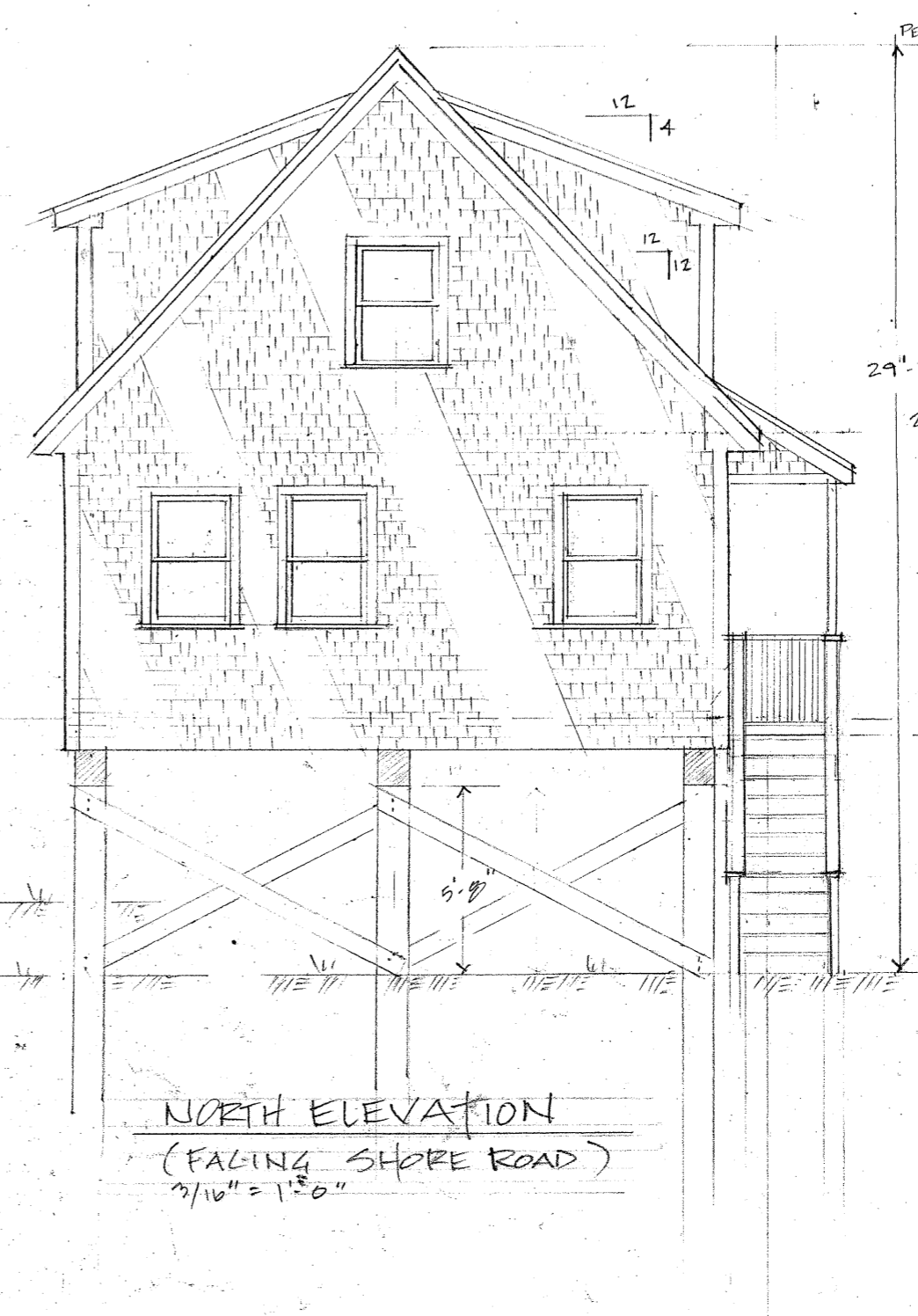
PLAN OF LAND IN (NORTH) TRURO
 DEPICTING A SANITARY SUBSURFACE SEWAGE DISPOSAL SYSTEM UPGRADE AS PREPARED FOR EBB TIDE ON THE BAY CONDOMINIUM (NO. 533 SHORE ROAD)
 SCALE: AS SHOWN
 MAY, 2021

WILLIAM N. ROGERS II
 PROFESSIONAL CIVIL ENGINEERS & LAND SURVEYORS
 41 OFF CEMETERY ROAD, PROVINCETOWN, MASS.

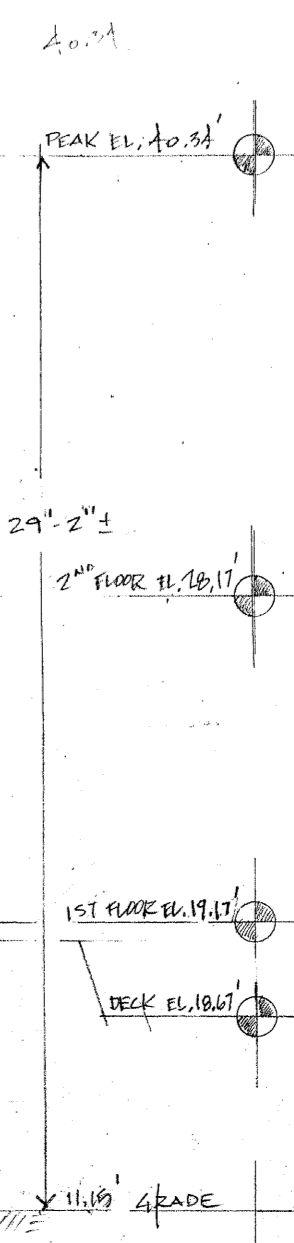
7-21-0773 F



SOUTH ELEVATION
 (FACING BEACH)
 3/16" = 1'-0"



NORTH ELEVATION
 (FACING SHORE ROAD)
 3/16" = 1'-0"



EBBIDE ON THE BAY CONDOMINIUM
 NO. 53B SHORE ROAD
 NORTH TRURO, MA.
BUILDING # 1
 PLOWS: ASSESSOR'S MAP 7, PARCEL 7

William N. Rogers II
 Civil Engineers & Land Surveyors
 Building and Structural Design
 Planning
 41 Off Cemetery Road
 Provincetown MA 02657
 (508) 487-1565 / (508) 487-5809 fax
 Email: wvrogers2@verizon.net

PROPOSED ELEVATIONS
 NORTH & SOUTH

SCALE OF FEET
 0 3 6

SCALE: 3/16" = 1'-0"
 DATE: DEC, 2019
 DRAWN: AL
 JOB NO. T-19-0773D
 REVISION:

1-A.1

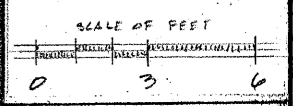


PROPOSED WEST ELEVATION
 (FACING BUILDING #2)
 1/16" = 1'-0"

EBBIDE ON THE BAY
 CONDOMINIUM
 NO. 538 SHORE ROAD
 NORTH TRURO, MA.
 BUILDING #1
 LOCUS: ASSESSOR'S MAP 7, PARCEL 1

William N. Rogers II.
 Civil Engineers & Land Surveyors
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 Planning
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 Provincetown MA 02657
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 Email: wnr Rogers2@verizon.net

PROPOSED
 WEST
 ELEVATION



SCALE: 1/16" = 1'-0"
 DATE: DEC, 2019
 DRAWN: ZK
 JOB NO. T-19-0773D
 REVISION:

1-A.2



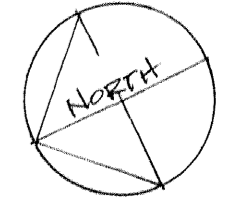
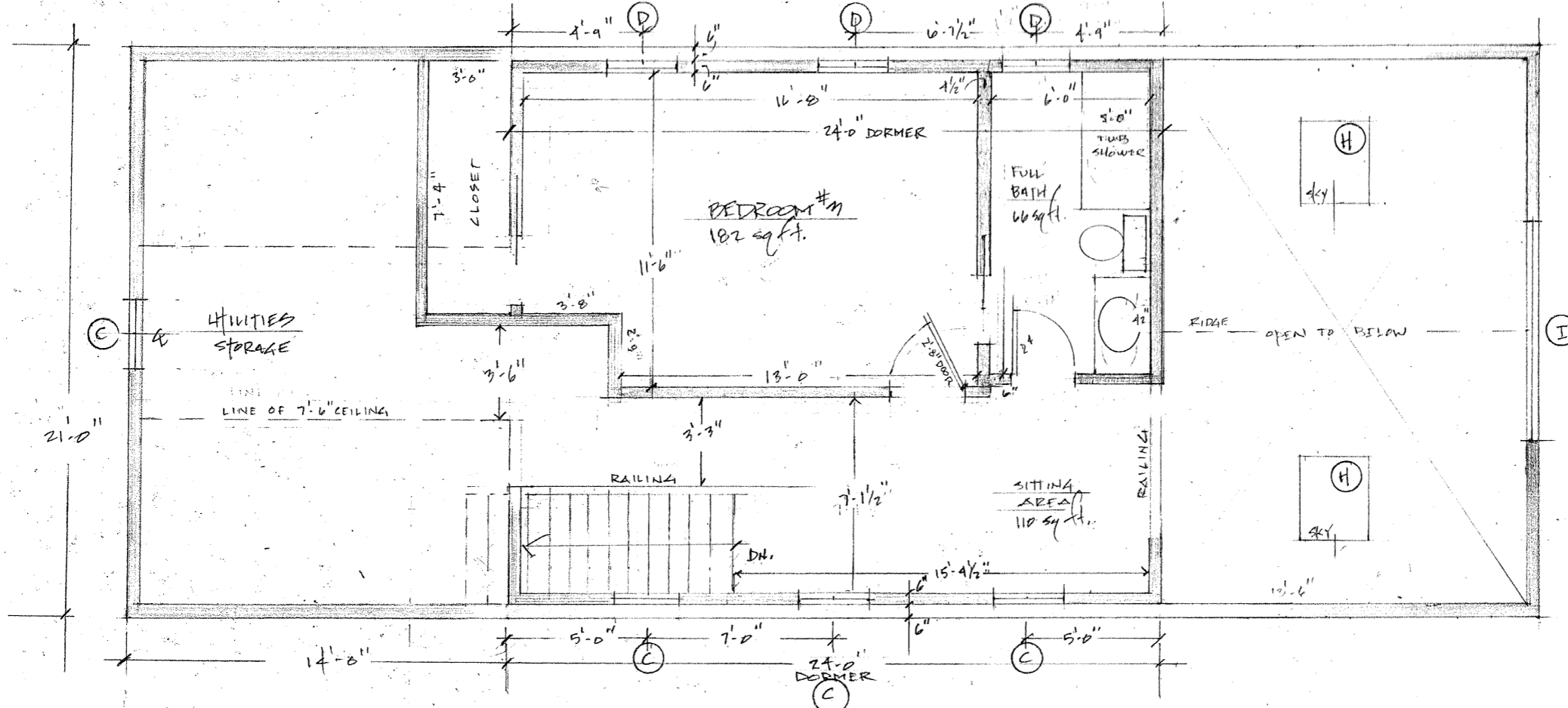
EBBTIDE ON THE BAY
 CONDOMINIUM
 NO. 53B SHORE ROAD
 NORTH TRURO, MA.
BUILDING #1
 LOCALS: ASSESSOR'S MAP 7, PARCEL 7

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 Email: wnr Rogers2@verizon.net

**PROPOSED
 EAST
 ELEVATION**

SCALE OF FEET
 0 3 6
 SCALE: 3/16" = 1'-0"
 DATE: DEC., 2019
 DRAWN: GR
 JOB NO. T-19-0773D
 REVISION:

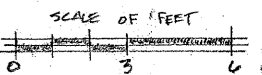
1-A.7



EBBIDE ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
BUILDING #1
LOCALS: ASSESSOR'S MAP 7, PARCEL T

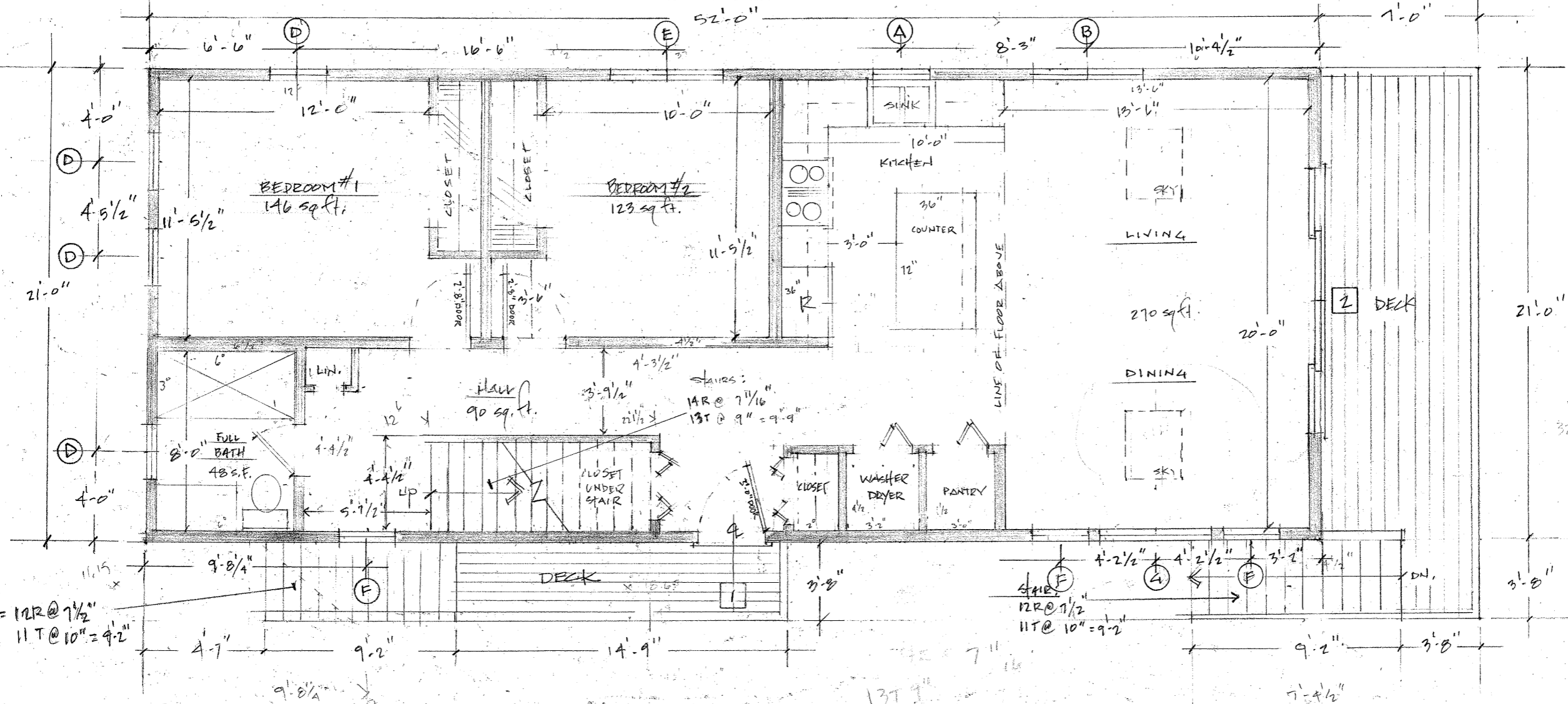
William N. Rogers II
Civil Engineers & Land Surveyors
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Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr0gers2@verizon.net

PROPOSED
1ST & 2ND
FLOOR PLANS



SCALE: 3/16" = 1'-0"
DATE: DEC, 2019
DRAWN: GL
JOB NO. T-19-0773D
REVISION:

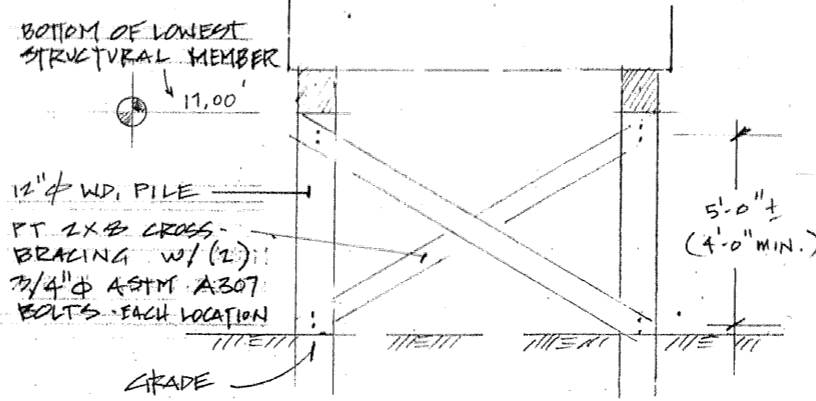
1-A.4



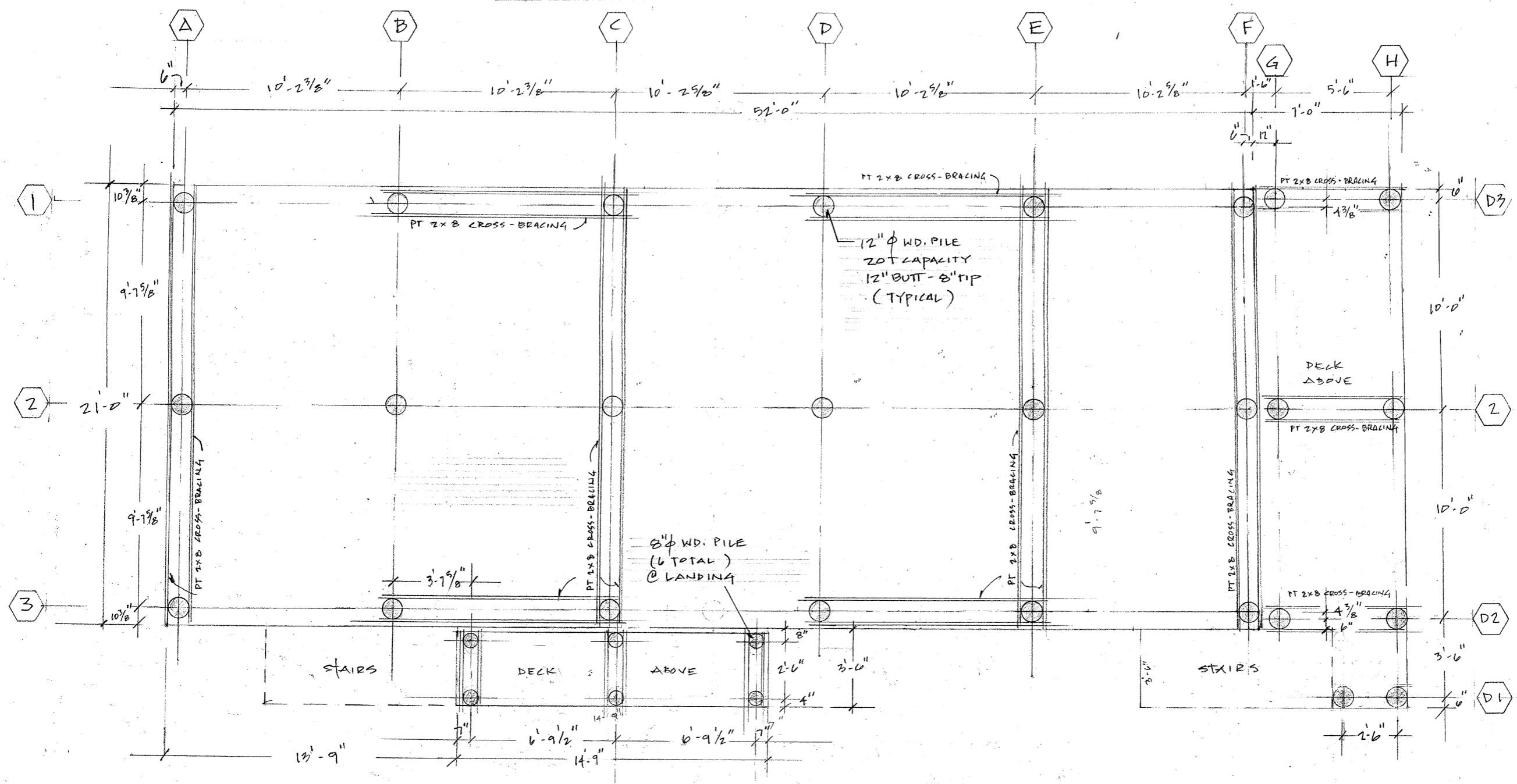
STAIR = 12R @ 7 1/2"
11T @ 10" = 9'-2"

STAIR
12R @ 7 1/2"
11T @ 10" = 9'-2"

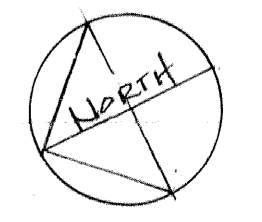
37.00 dia



1 TYPICAL CROSS-BRACING DETAIL
SCALE: 3/16" = 1'-0"



PROPOSED TIMBER PILE FOUNDATION
SCALE: 3/16" = 1'-0"



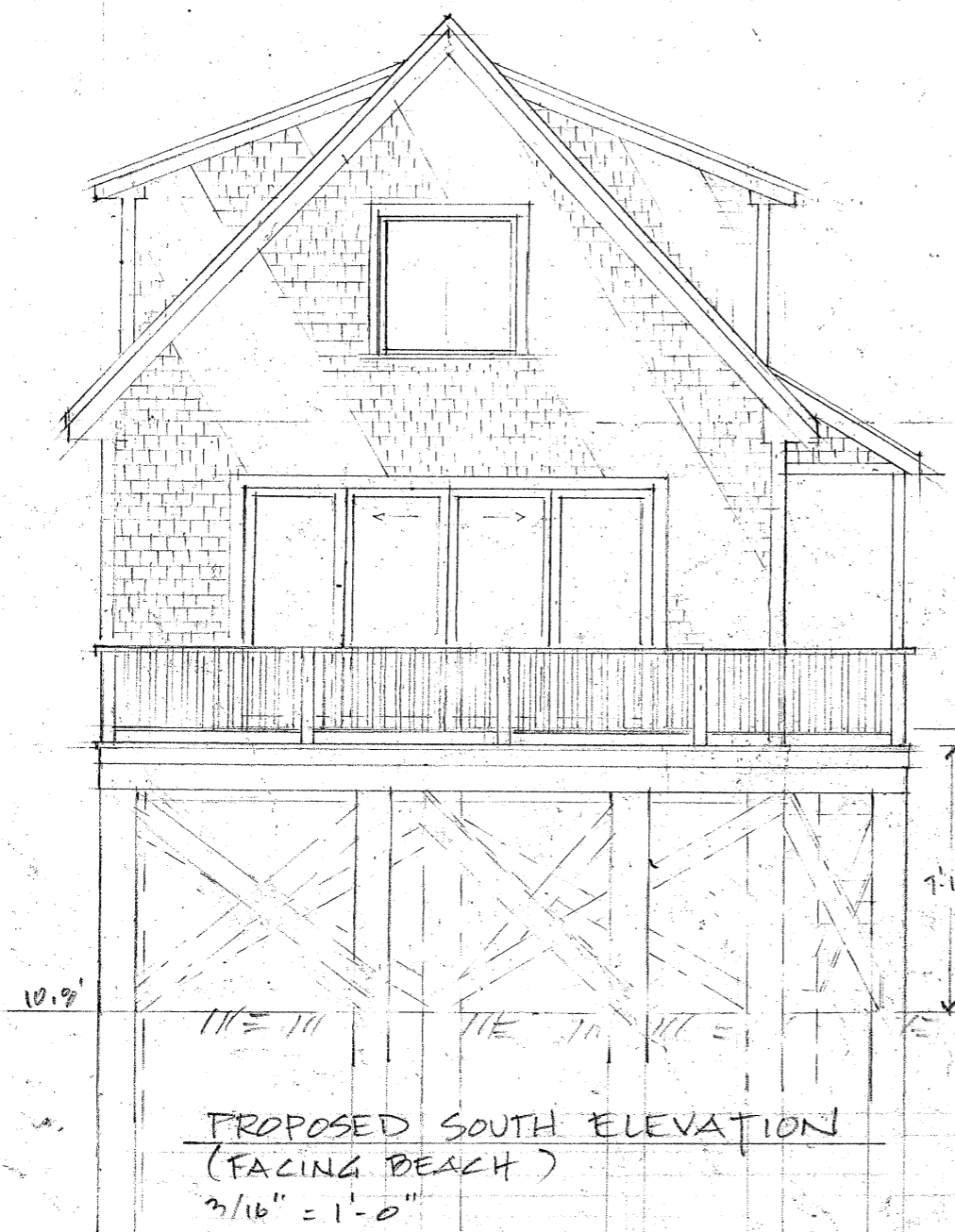
EBBLIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING #1
POCS: ASSESSOR'S MAP 7, PARCEL 7

William N. Rogers II,
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Planning
41 Off Cemetery Road
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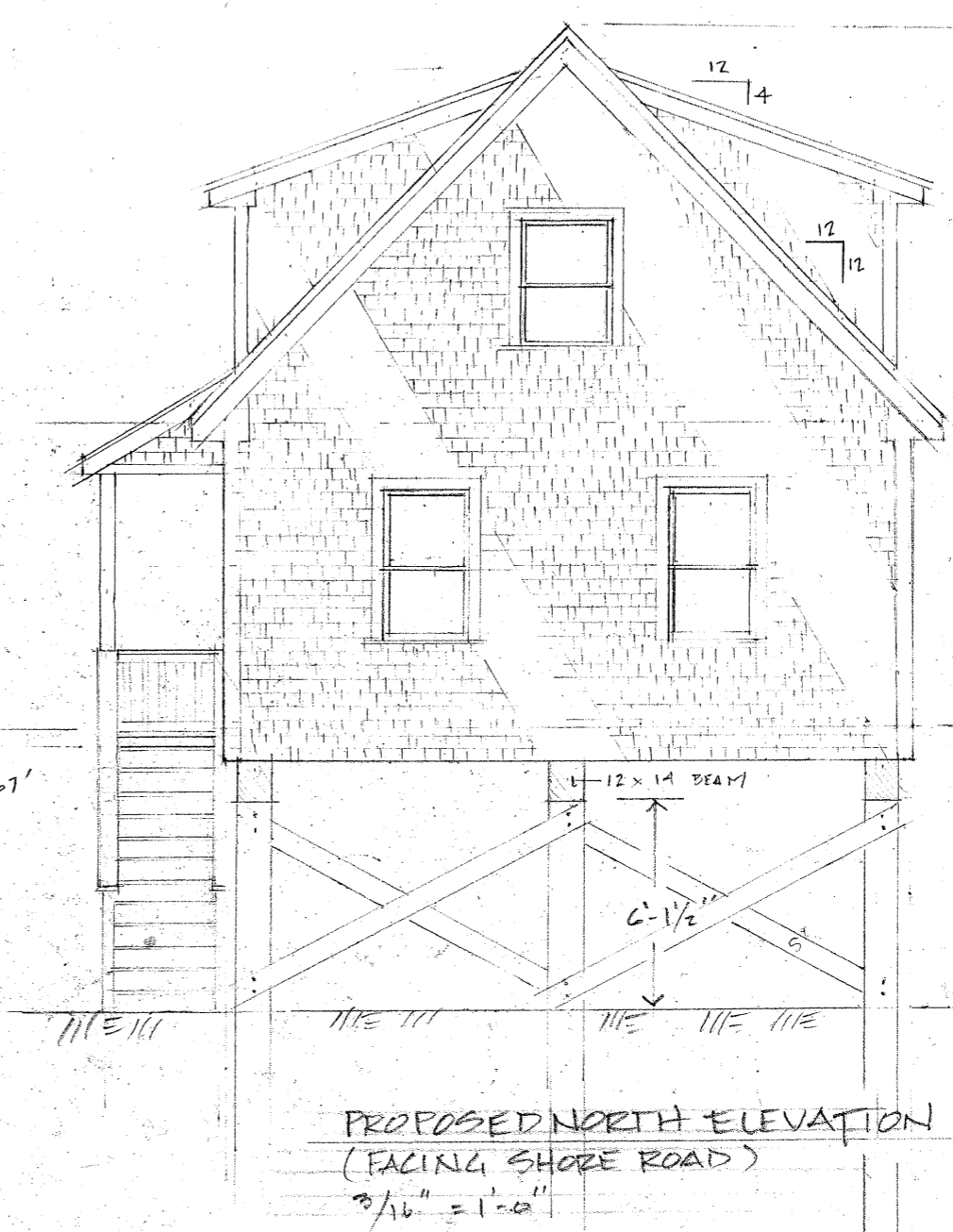
FOUNDATION
PLAN IN
DETAILS

SCALE: AS NOTED
DATE: DEC. 2019
DRAWN: ZHL
JOB NO. T-19-0773D
REVISION:

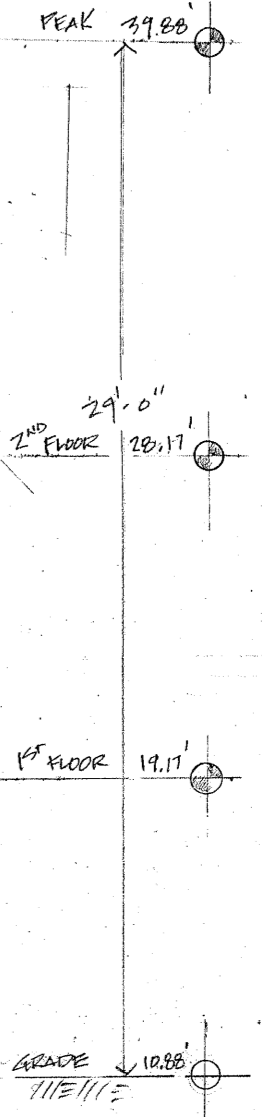
1-A.5



PROPOSED SOUTH ELEVATION
(FACING BEACH)
3/16" = 1'-0"



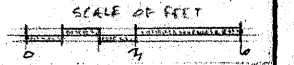
PROPOSED NORTH ELEVATION
(FACING SHORE ROAD)
3/16" = 1'-0"



EBBIDE ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
BUILDING # 2
LAWY: ASSESSOR'S MAP 7, PARCEL 7

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PROPOSED
ELEVATIONS
NORTH &
SOUTH



SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: AL
JOB NO. T-19-07730
REVISION:

2-A.1

MOB
301 SA

MOB



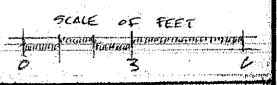
PROPOSED EAST ELEVATION
 (FACING BUILDING #1)
 $\frac{3}{16}'' = 1'-0''$

19.11
 7'-9 1/2"
 10.88
 7'-9 1/2"
 12 = 7 13/16"
 11 @ 10" = 9'-2"

EBBIDE ON THE BAY
 CONDOMINIUM
 NO. 53B SHORE ROAD
 NORTH TRURO, MA.
 BUILDING # 1
 TOWNS: ASSESSOR'S MAP 7, PARCEL 7

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 (508) 487-1565 / (508) 487-5809 fax
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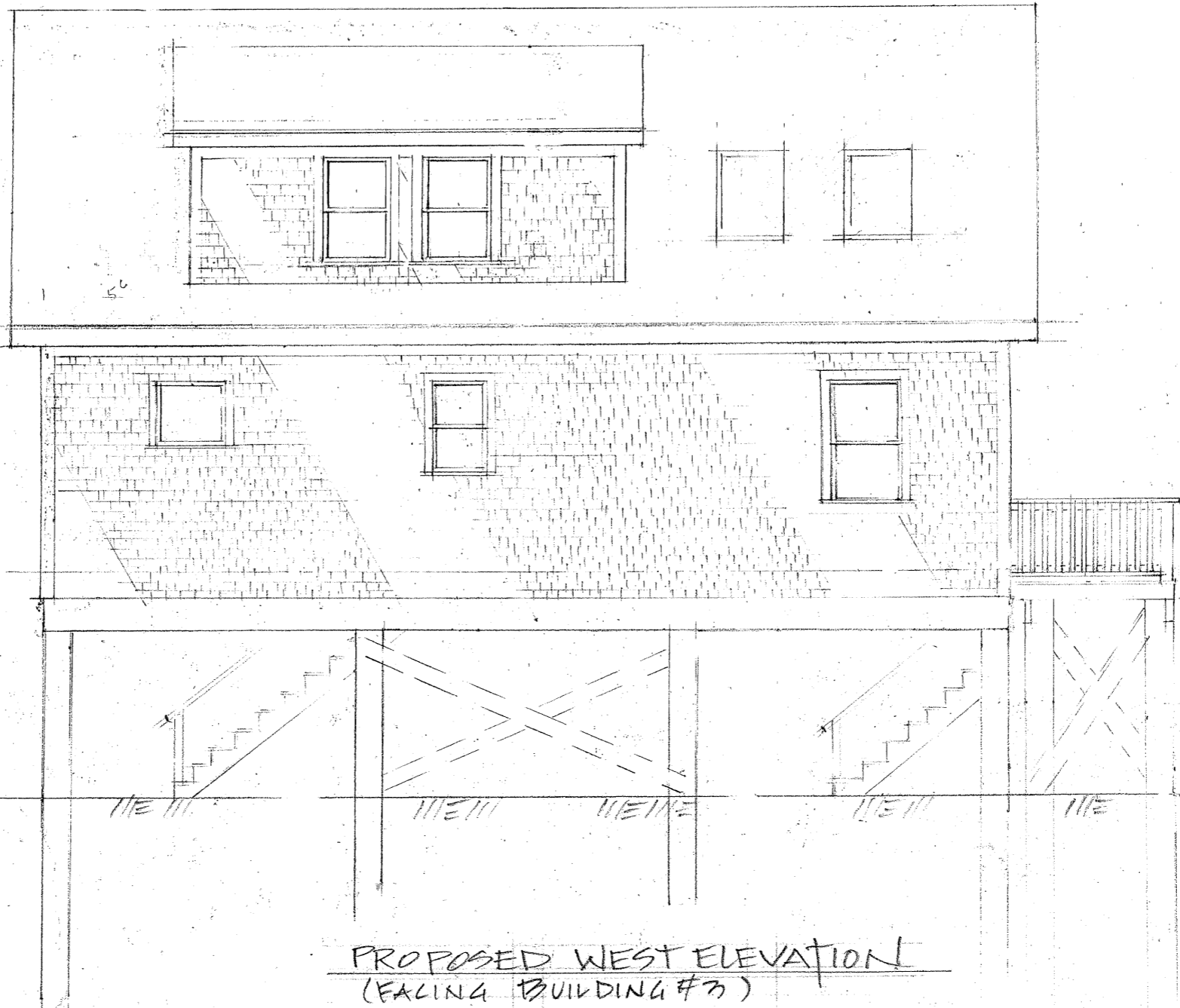
PROPOSED
 EAST
 ELEVATION



SCALE: $\frac{3}{16}'' = 1'-0''$
 DATE: DEC., 2019
 DRAWN: AL
 JOB NO. T-19-0773D
 REVISION:

Z-A-Z

TYPE 3/16"

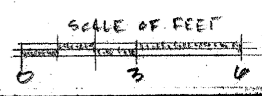


PROPOSED WEST ELEVATION
 (FACING BUILDING #3)
 3/16" = 1'-0"

EBBTIDE ON THE BAY
 CONDOMINIUM
 NO. 538 SHORE ROAD
 NORTH TRURO, MA.
 BUILDING #2
 LOCUS: ASSESSOR'S MAP 7, PARCEL 7

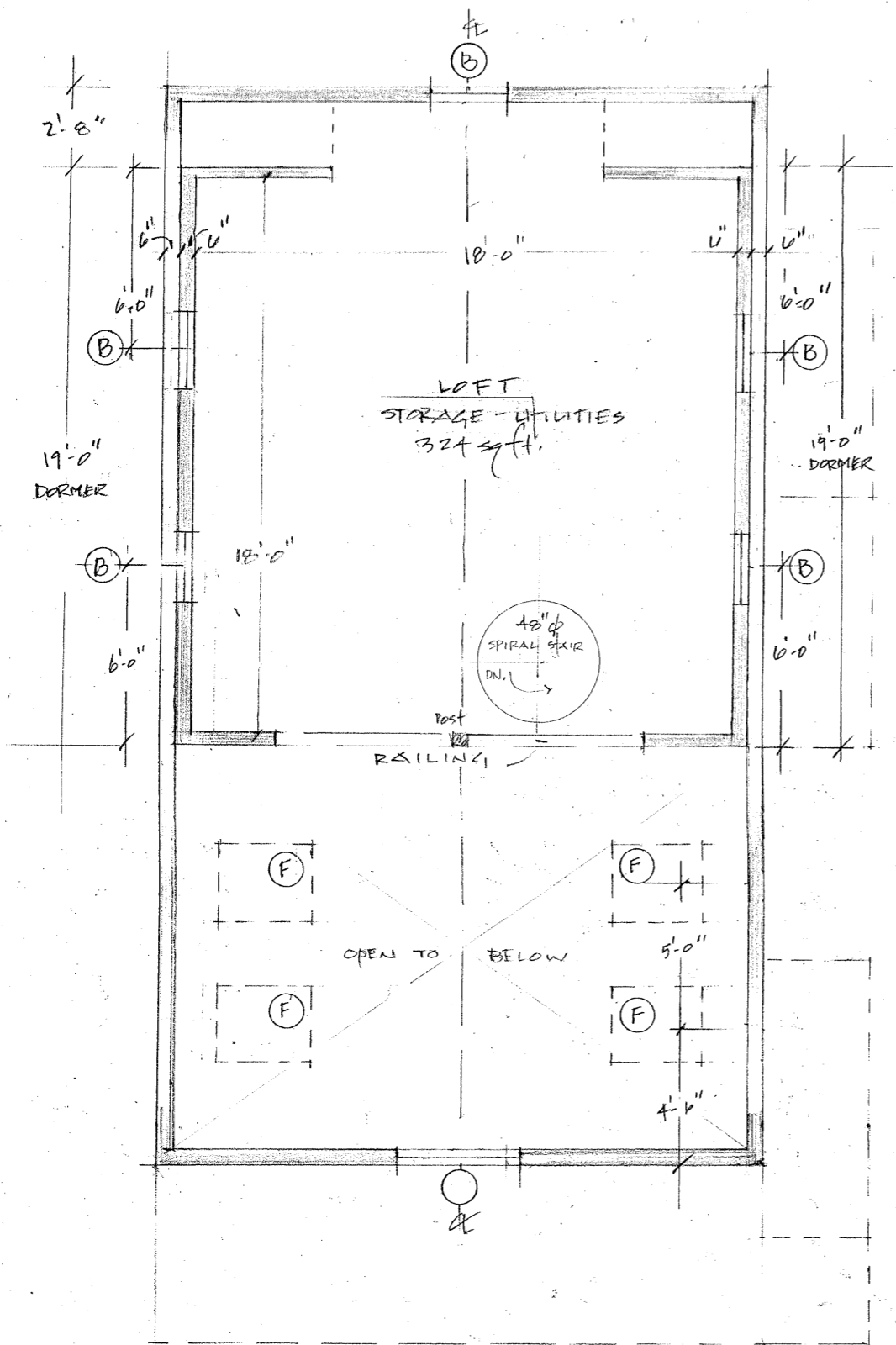
William N. Rogers II
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PROPOSED
 WEST
 ELEVATION

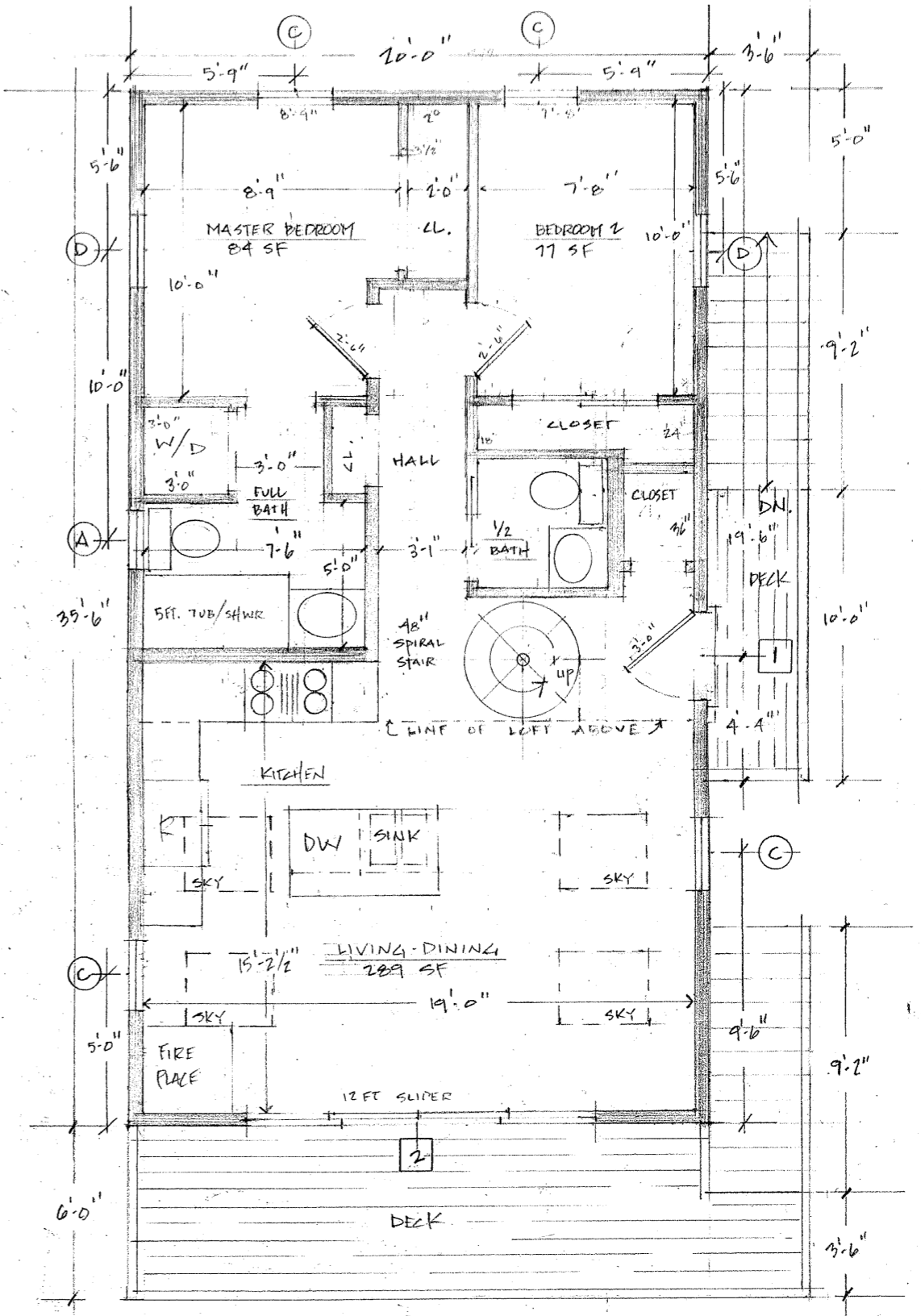


SCALE: 3/16" = 1'-0"
 DATE: DEC. 2019
 DRAWN: 4L
 JOB NO. T-19-073D
 REVISION:

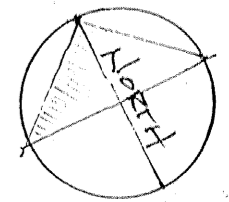
2-A.3



SECOND FLOOR PLAN
SCALE: 3/16" = 1'-0"



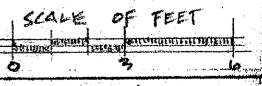
FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"



EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING # 1
LOCAL ASSESSOR'S MAP 7, PARCEL 7

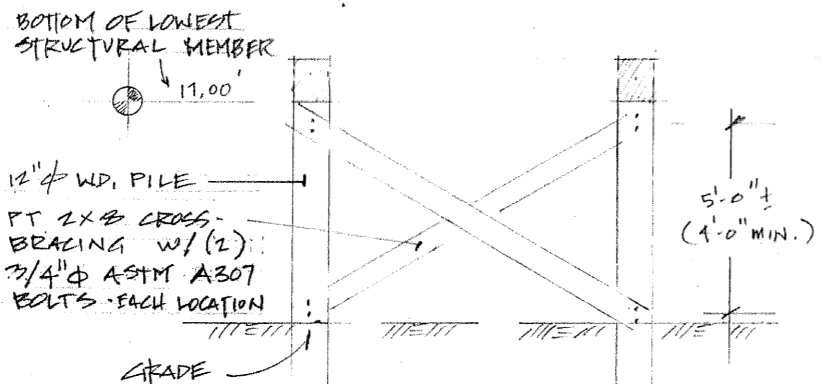
William N. Rogers II
Civil Engineers & Land Surveyors
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Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr0gers2@verizon.net

PROPOSED
1ST & 2ND
FLOOR PLANS

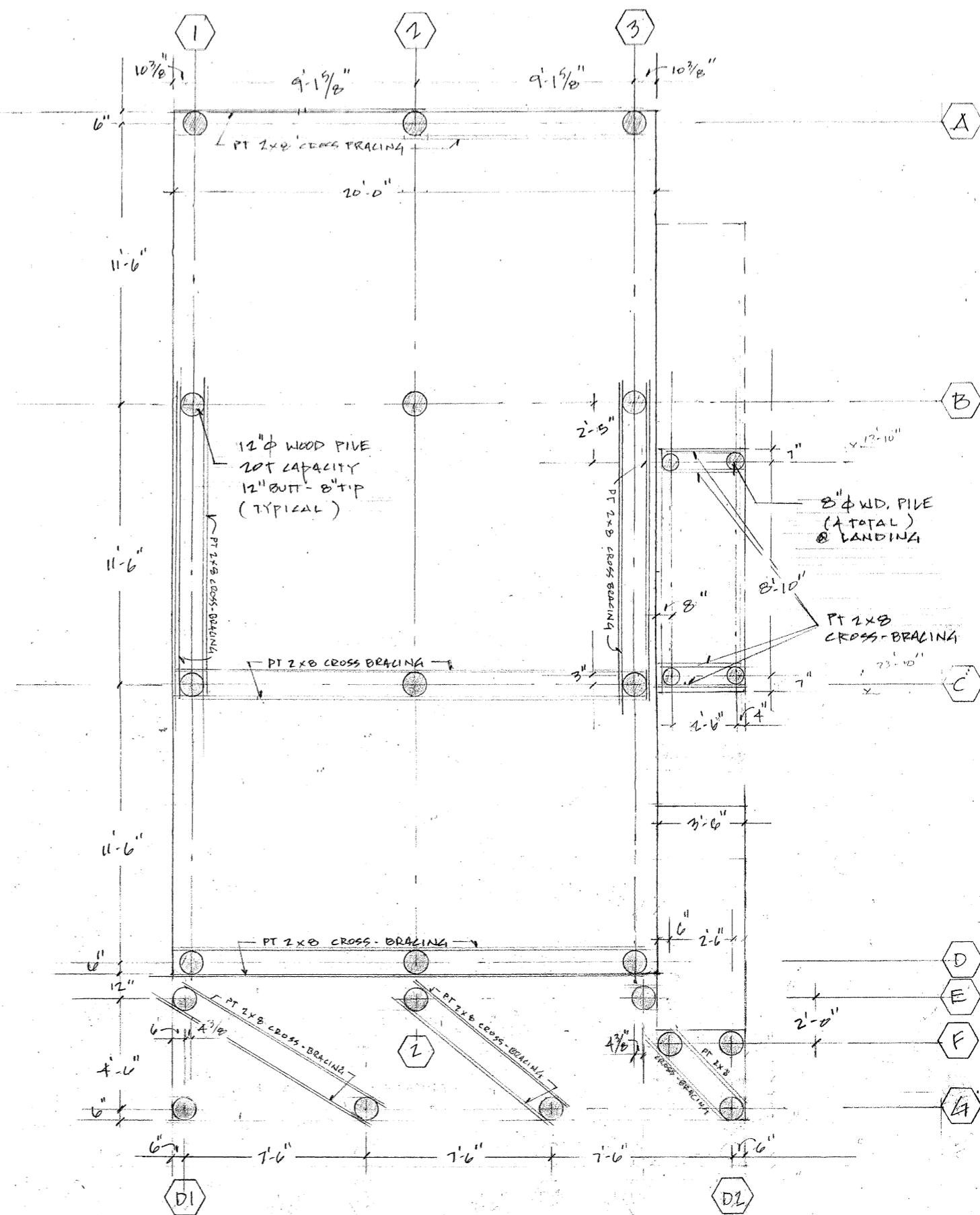


SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: ZL
JOB NO. T-19-0773D
REVISION:

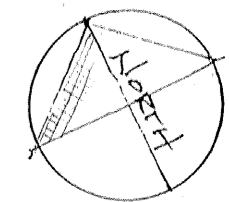
Z-A.4



1 TYPICAL CROSS-BRACING DETAIL
SCALE: 3/16" = 1'-0"



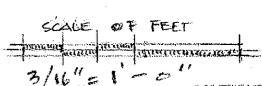
PROPOSED TIMBER PILE FOUNDATION
SCALE: 3/16" = 1'-0"



EBBETIDE ON THE BAY
CONDOMINIUM
NO. 53 B SHORE ROAD
NORTH TRURO, MA.
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

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Building and Structural Design
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

FOUNDATION
PLAN
IN
DETAILS



SCALE: AS NOTED
DATE: DEC. 2019
DRAWN: 44
JOB NO. T-19-0773D
REVISION:

2-A.5



EBBTIDE ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
BUILDING #09
LOCUS: ASSESSOR'S MAP 7, PARCEL 7

William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

PROPOSED
NORTH
ELEVATION

19.17

SCALE OF FEET

0 3 6

SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: GL
JOB NO. T-19-0773D
REVISION:
10.5

B-A.1

PROPOSED NORTH ELEVATION
(FACING SHORE ROAD)
3/16" = 1'-0"

STAIR:
15R @ 6 9/16"
14T @ 11"

2446

4x281

2019



EBBTIDE ON THE BAY
 CONDOMINIUM
 NO. 538 SHORE ROAD
 NORTH TRURO, MA.
 BUILDING #3
 LOCUS: ASSESSORS MAP 7, PARCEL 7

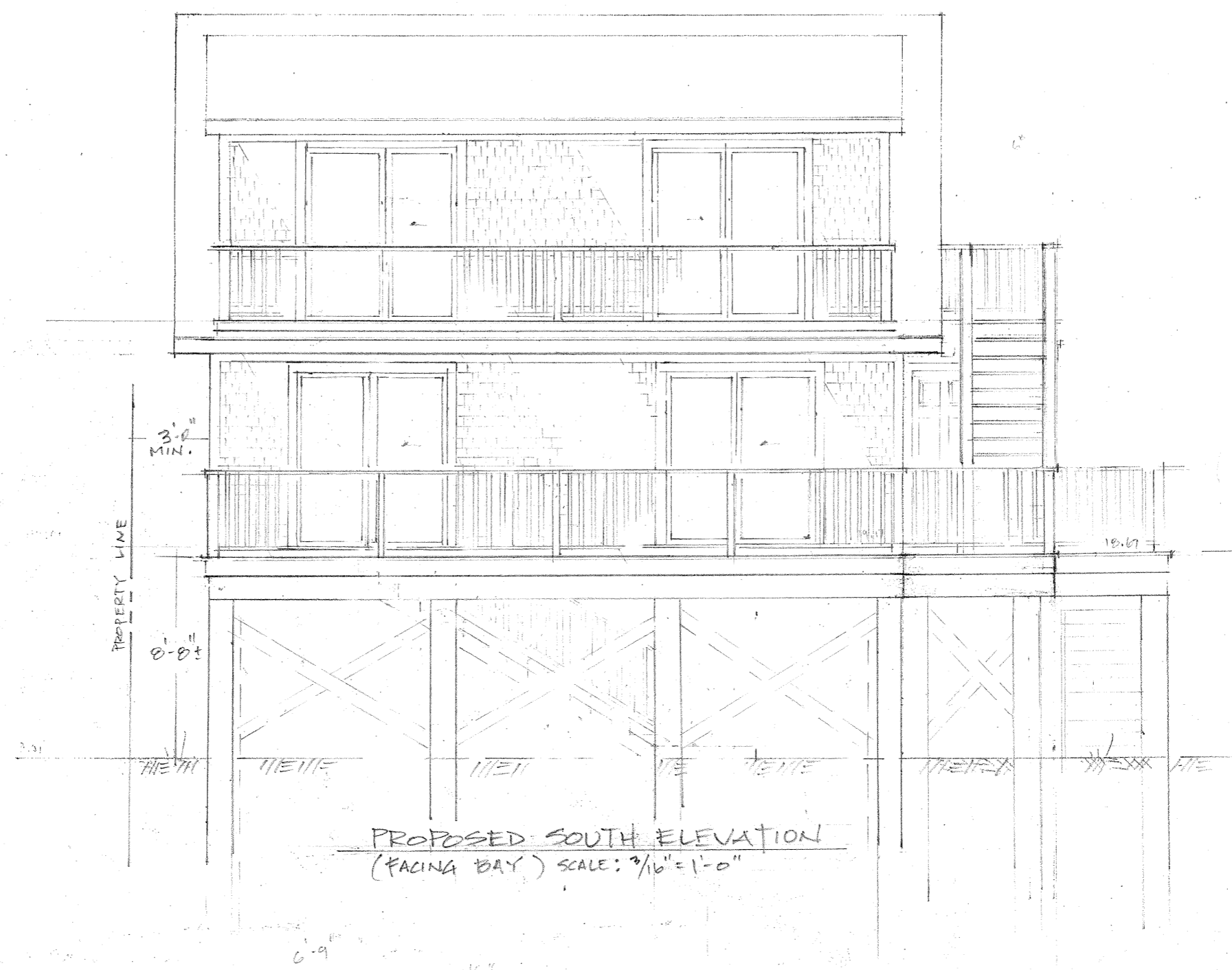
William N. Rogers II
 Civil Engineers & Land Surveyors
 Building and Structural Design
 Planning
 41 Off Cemetery Road
 Provincetown MA 02657
 (508) 487-1565 / (508) 487-5809 fax
 Email: wnr Rogers2@verizon.net

PROPOSED
 EAST
 ELEVATION



SCALE: 3/16" = 1'-0"
 DATE: DEC. 2019
 DRAWN: AL
 JOB NO. T-19-0773D
 REVISION:

3-A.2

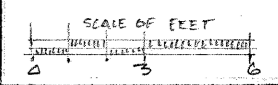


PROPOSED SOUTH ELEVATION
(FACING BAY) SCALE: 3/16" = 1'-0"

EBBTIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING #3
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

PROPOSED
SOUTH
ELEVATION



SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: GL
JOB NO. T-19-0773D
REVISION:

3-A.3



EBBTIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING # 3
TOWN: ASSESSOR'S MAP 7, PARCEL 7

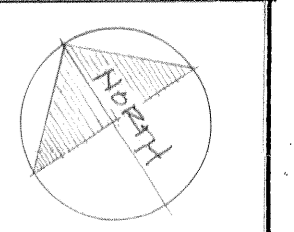
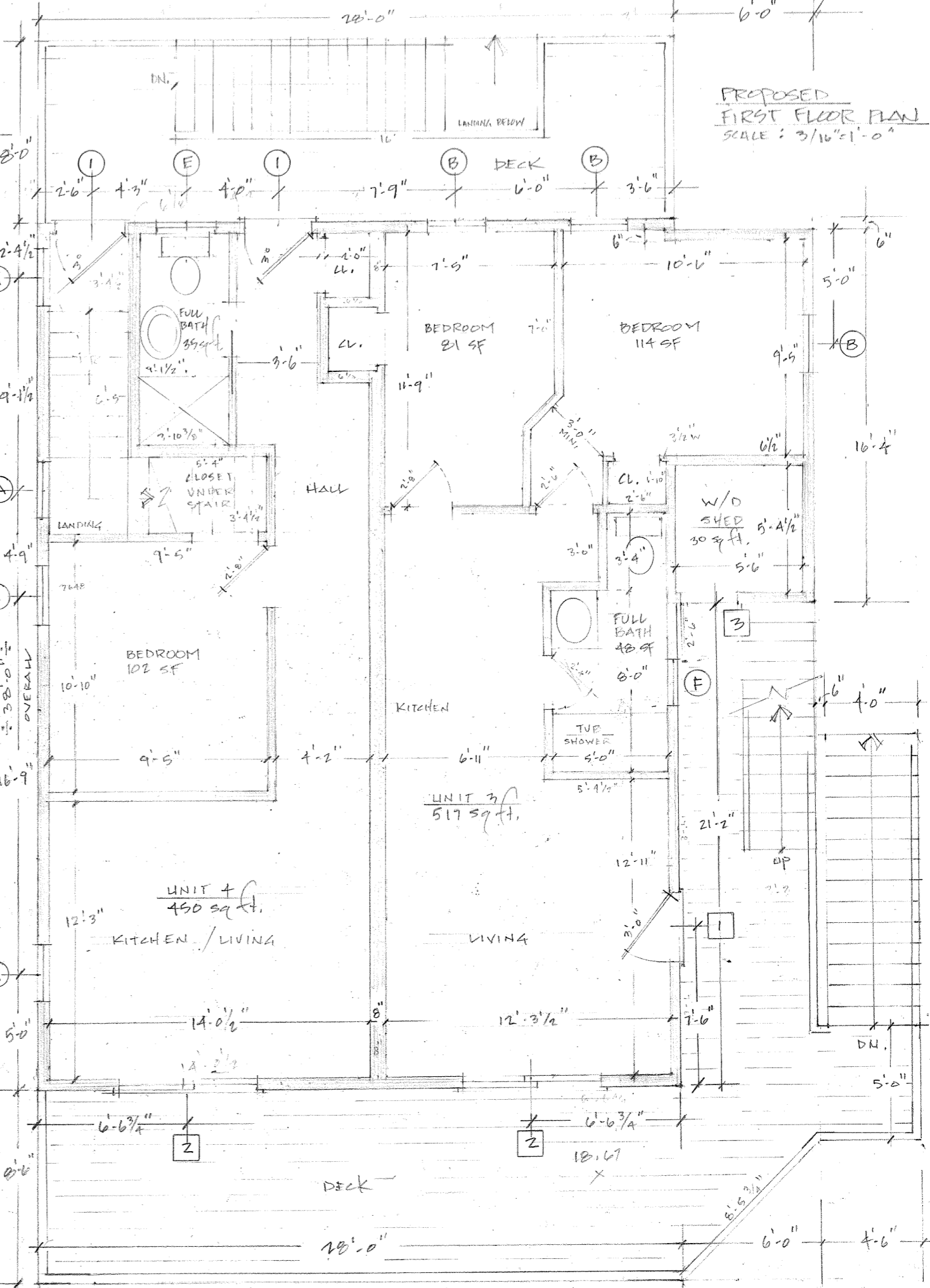
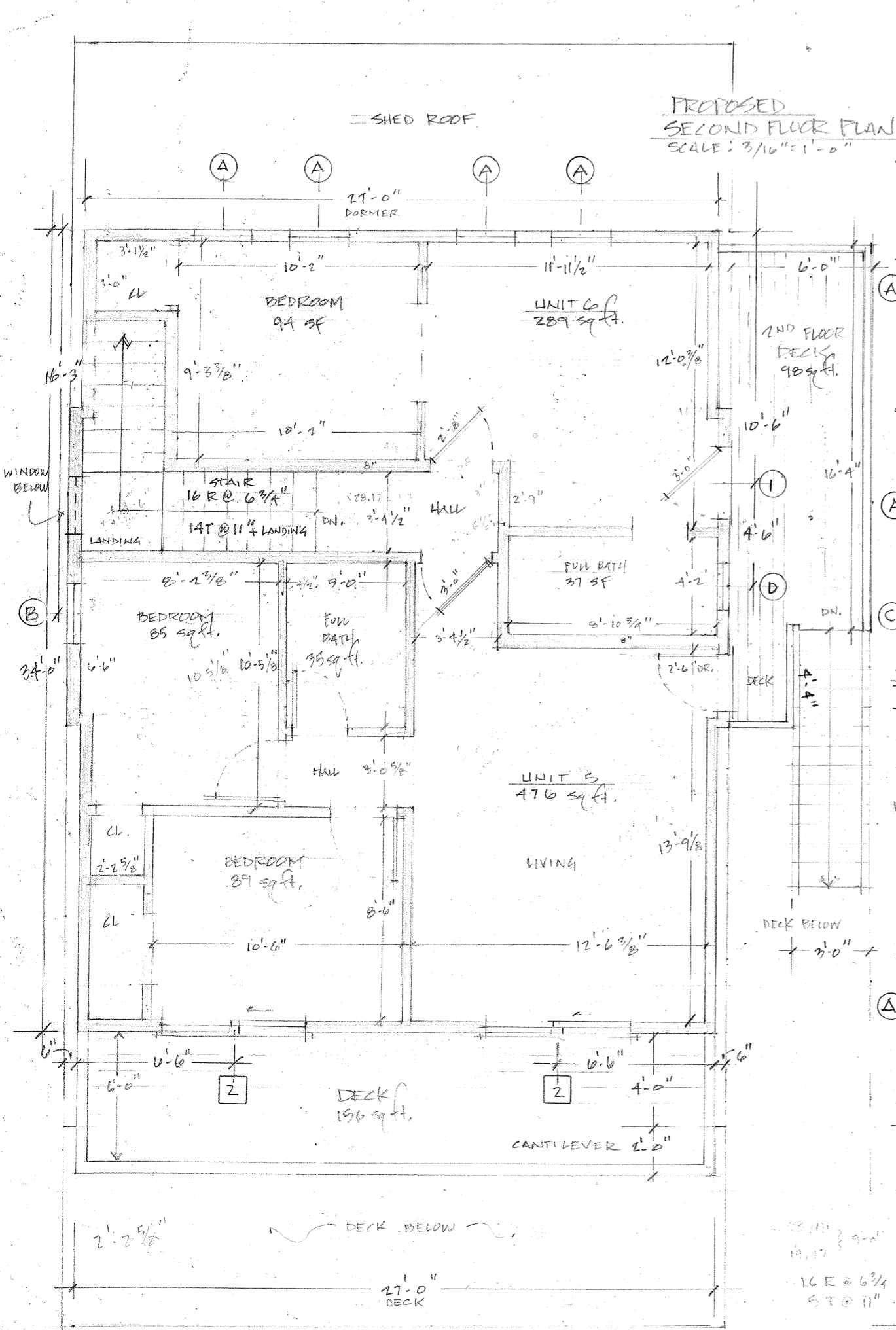
William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wvrogers2@verizon.net

PROPOSED
WEST
ELEVATION



SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: AL
JOB NO. T-19-0773D
REVISION:

3-A.4



EBBETIDE ON THE BAY
CONDOMINIUM
NO. 53 B SHORE ROAD
NORTH TRURO, MA.
BUILDING # 4
LOCALS: ASSESSOR'S MAP 7, PARCEL 1

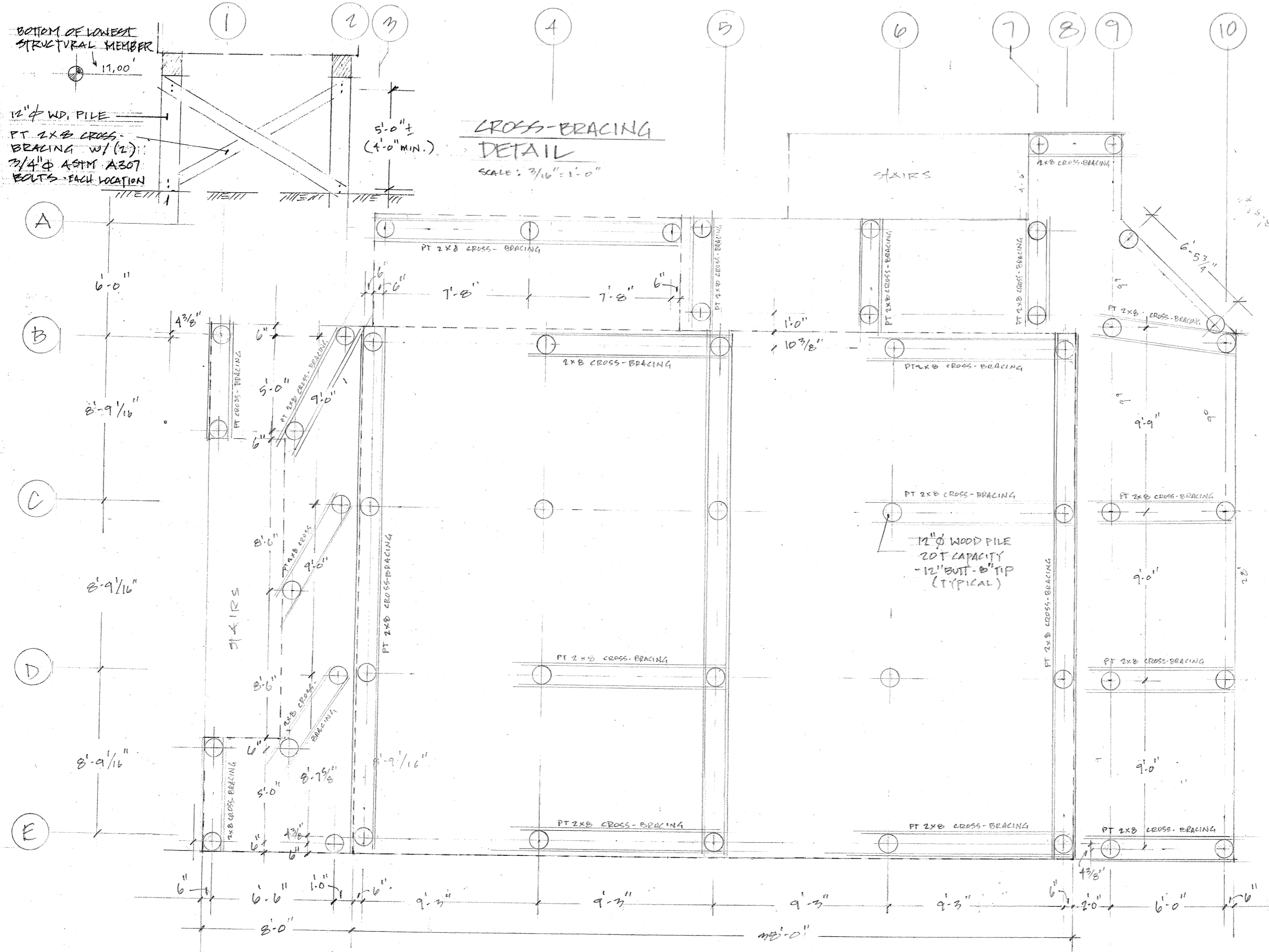
William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wvrogers2@verizon.net

PROPOSED
1ST & 2ND
FLOOR PLANS

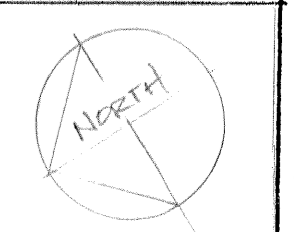
SCALE OF FEET
0 3 6

SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: AL
JOB NO. T-19-0773D
REVISION:

M-A.S



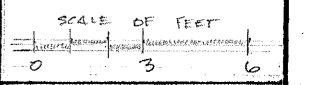
**CROSS-BRACING
DETAIL**
SCALE: 3/16" = 1'-0"



EBBIDE ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
BUILDING #3
LOCALS: ASSESSORS MAP 7, PARCEL 1

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Building and Structural Design
Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

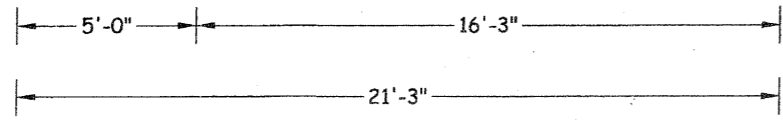
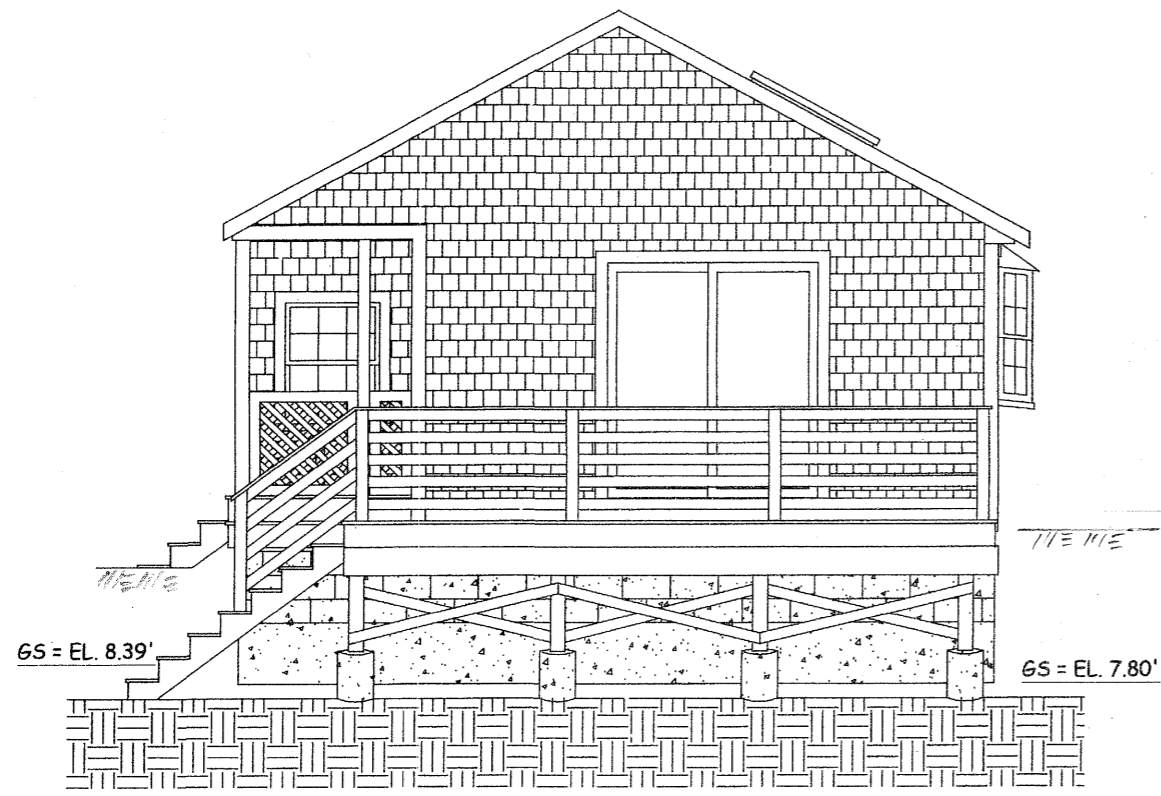
PROPOSED
FOUNDATION
PLAN



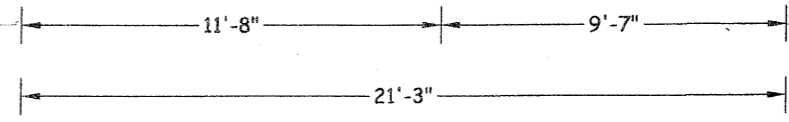
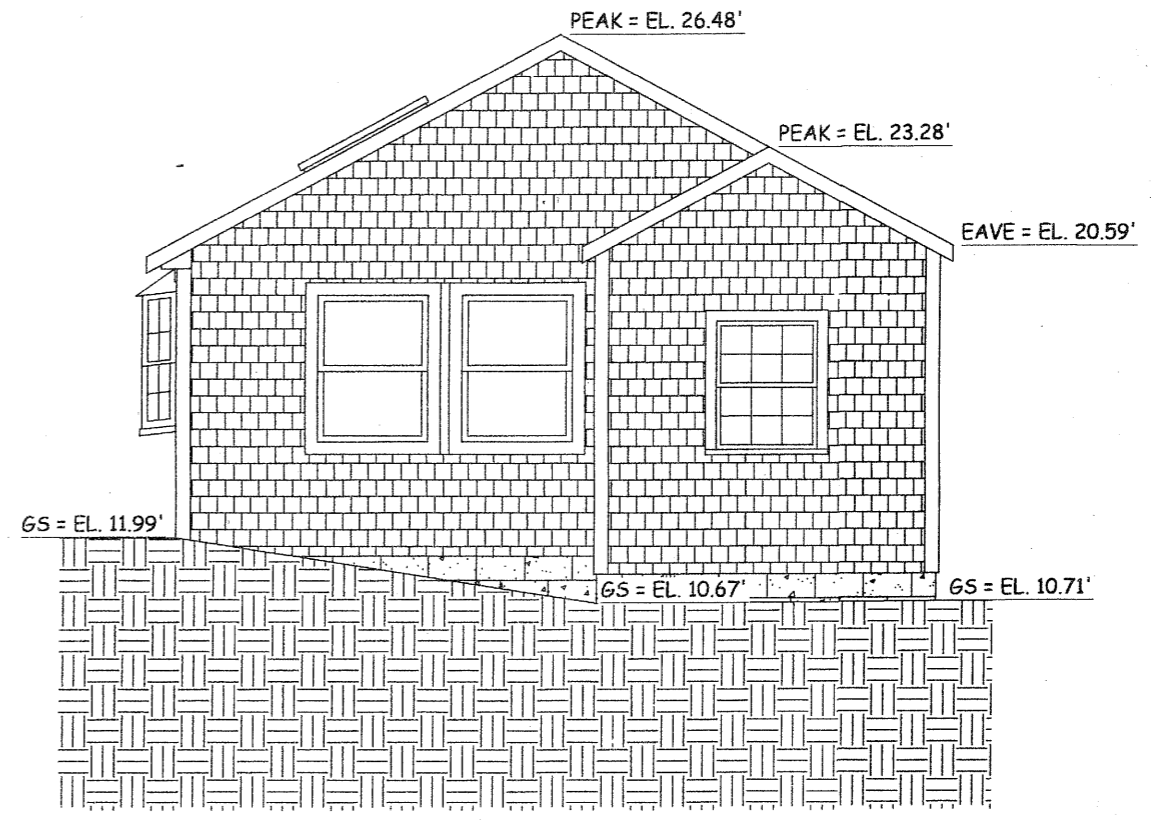
SCALE: 3/16" = 1'-0"
DATE: DEC. 2019
DRAWN: AL
JOB NO. T-19-0773D
REVISION:

PROPOSED TIMBER PILE FOUNDATION
SCALE: 3/16" = 1'-0"

3-A.6



SOUTH ELEVATION
SCALE: 3/16" = 1'-0"



NORTH ELEVATION (FRONT)
SCALE: 3/16" = 1'-0"
DATUM = 1988 NAVD
AVERAGE GRADE = EL. 9.72'

EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

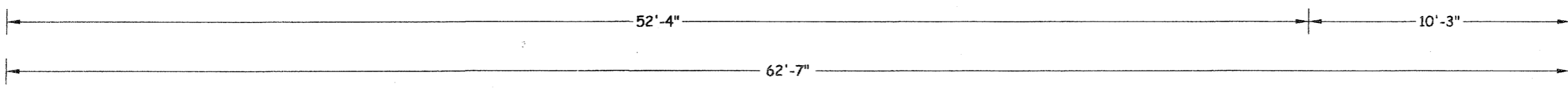
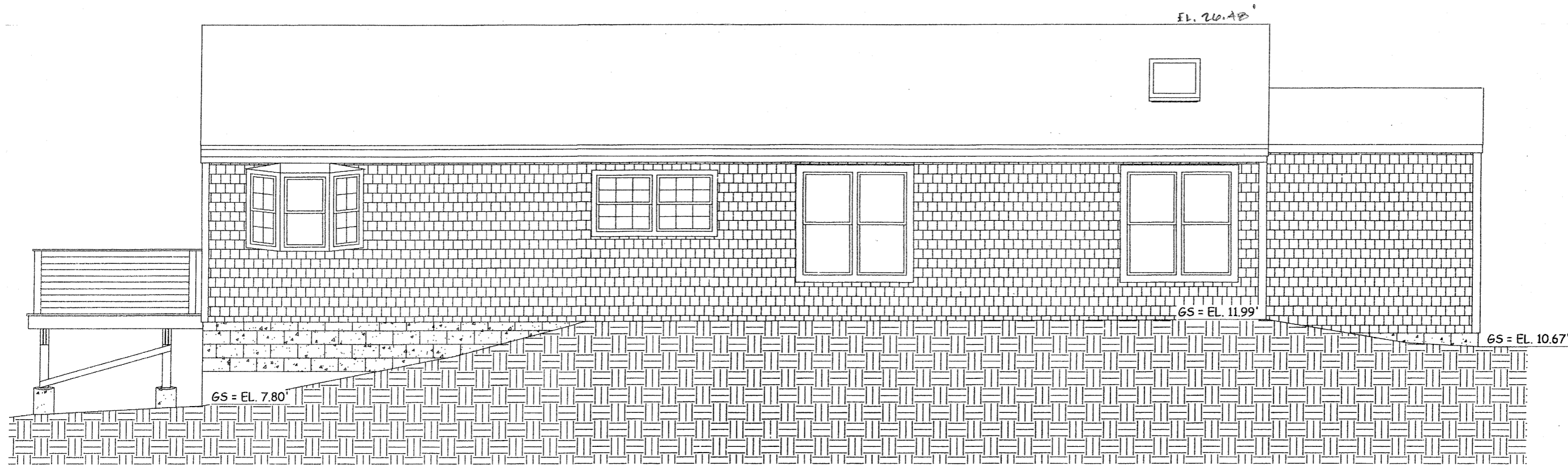
William N. Rogers II
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Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EXISTING
ELEVATIONS
NORTH
SOUTH



SCALE: 3/16" = 1'-0"
DATE: 09-23-2022
DRAWN: AL
JOB NO: T-22-0773D
REVISION:

1-E.1



EAST ELEVATION

SCALE: 3/16" = 1'-0"

EBBTIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

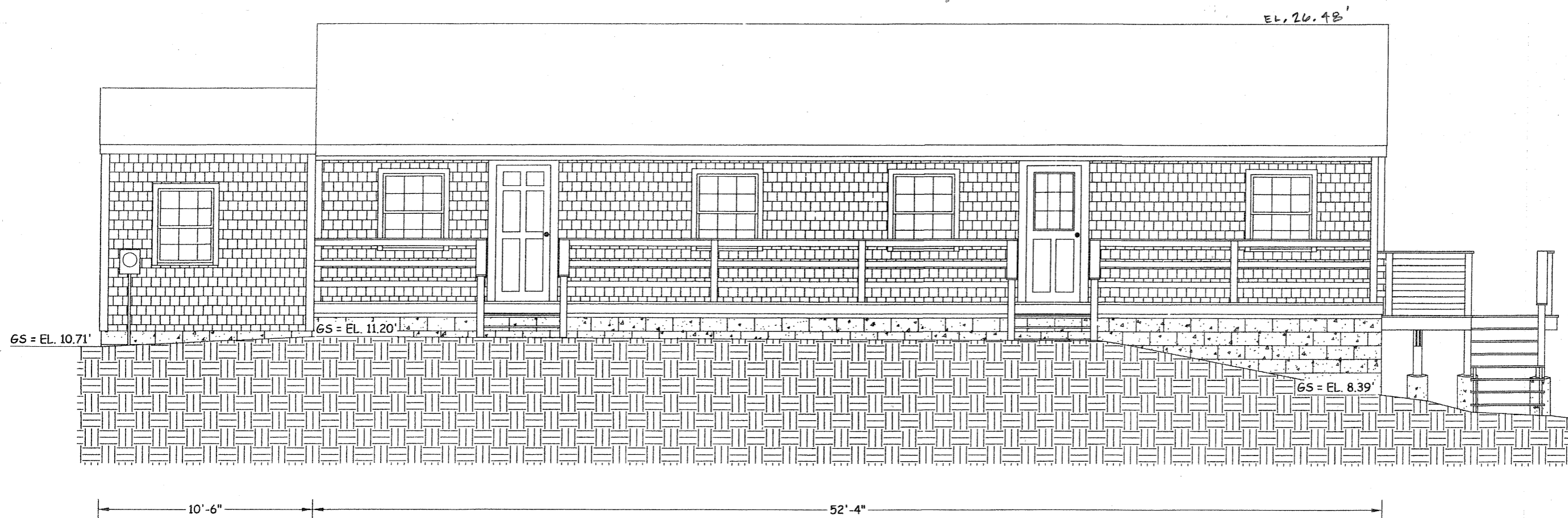
William N. Rogers II
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Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EXISTING
EAST
ELEVATION



SCALE: 3/16" = 1'-0"
DATE: 09-17-2022
DRAWN: AL
JOB NO. T-22-0773D
REVISION:

1-E.2



WEST ELEVATION

SCALE: 3/16" = 1'-0"

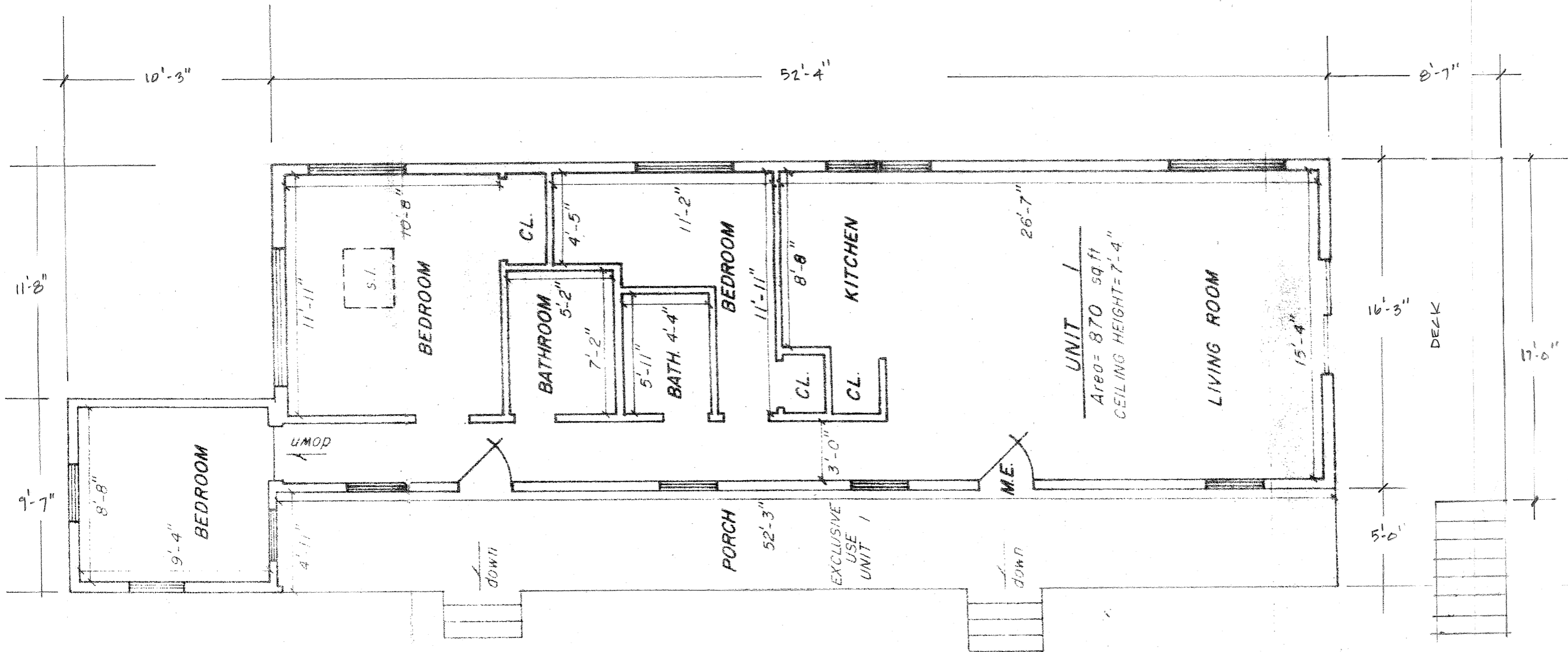
EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

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Building and Structural Design
Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

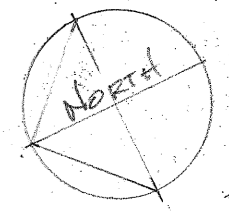
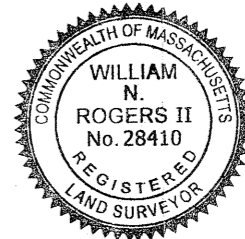
EXISTING
WEST
ELEVATION

SCALE: 3/16" = 1'-0"
DATE: 09-29-2022
DRAWN: AL
JOB NO: T-22-0773D
REVISION:

1-E.3



FIRST FLOOR PLAN
 SCALE: 3/16" = 1'-0"



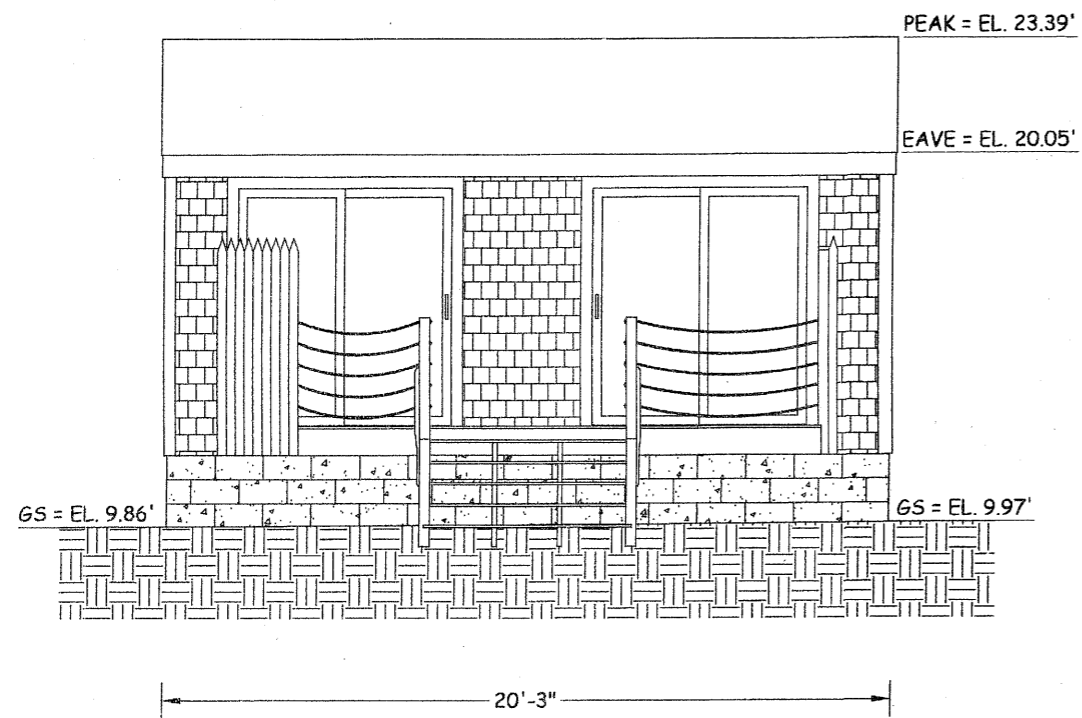
EBBIDE ON THE BAY
 CONDOMINIUM
 NO. 538 SHORE ROAD
 NORTH TRURO, MA.
 BUILDING # 1
 LODS: ASSESSOR'S MAP 7, PARCEL 7

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 Building and Structural Design
 Planning
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 (508) 487-1565 / (508) 487-5809 fax
 Email: wnr Rogers2@verizon.net

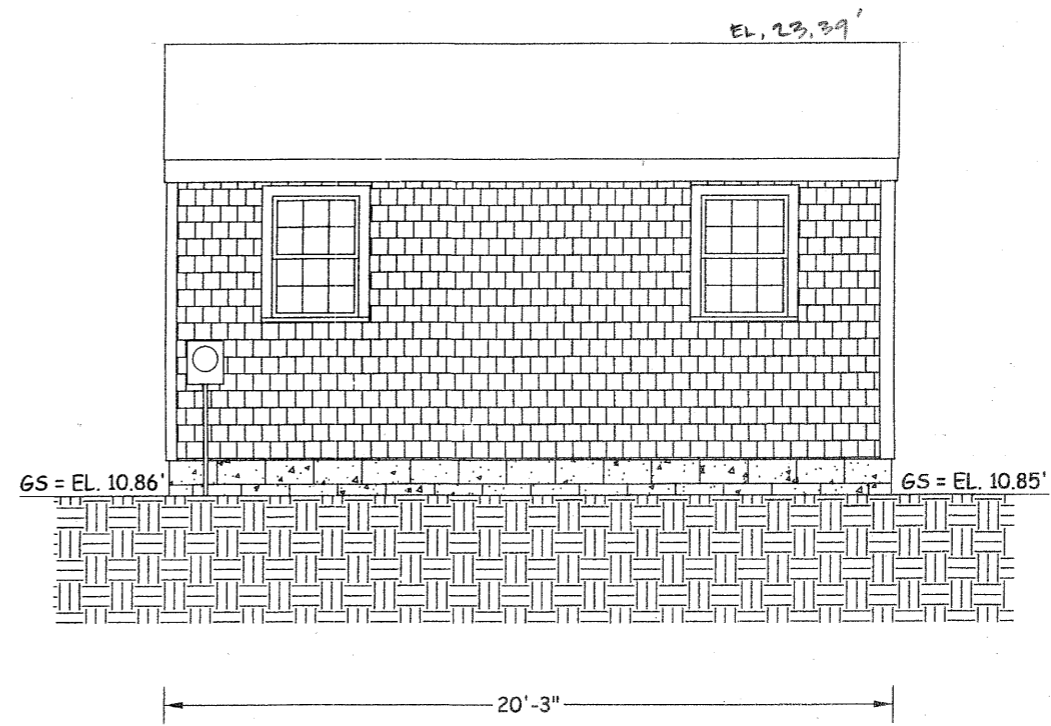
EXISTING
 1ST FLOOR
 PLAN

SCALE: 3/16" = 1'-0"
 DATE: 09-23-2022
 DRAWN: AL
 JOB NO. T-22-073D
 REVISION:

1-E.4



SOUTH ELEVATION



NORTH ELEVATION (FRONT)

SCALE: 3/16" = 1'-0"

DATUM = 1988 NAVD

AVERAGE GRADE = EL. 10.39'

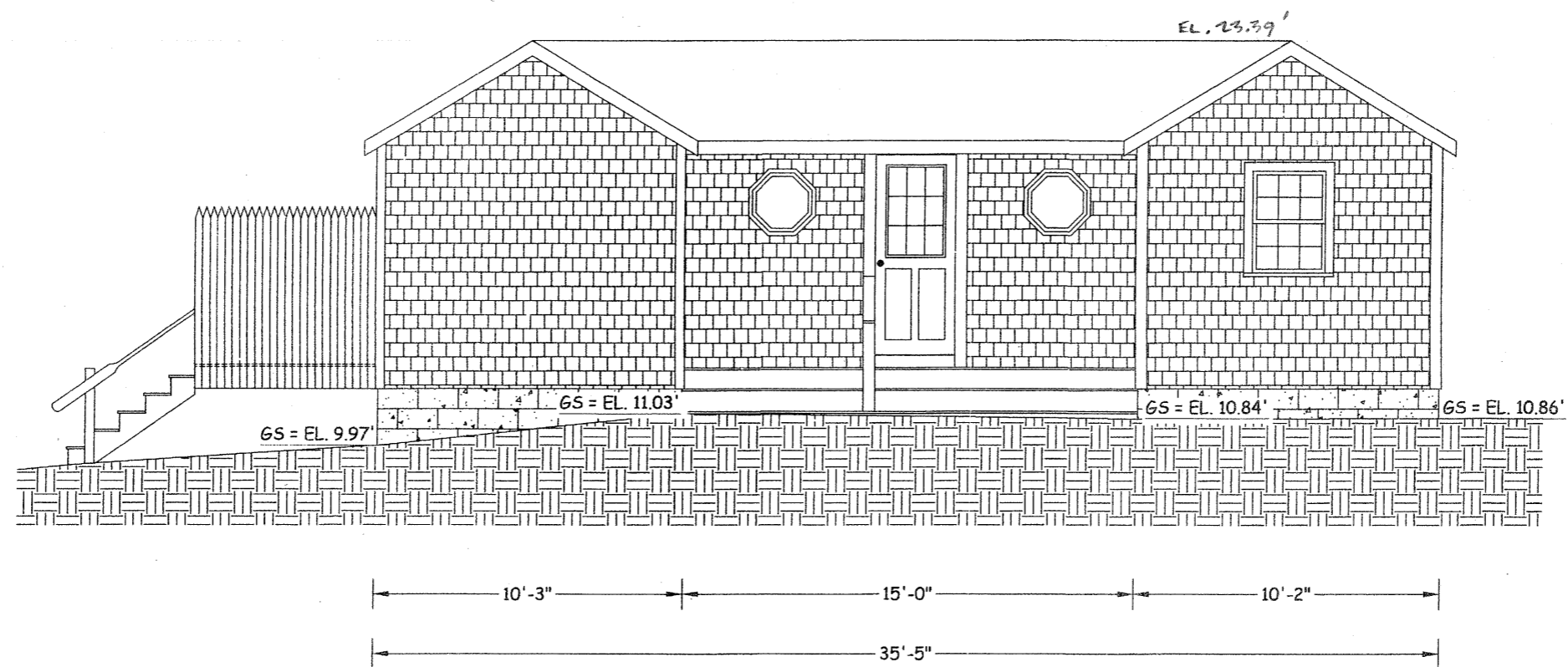
EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING # 1
LOCUS: ASSESSOR'S MAP 7, PARCEL 7

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Email: wnr Rogers2@verizon.net

EXISTING
ELEVATIONS
NORTH &
SOUTH

SCALE: 3/16" = 1'-0"
DATE: 09-23-2022
DRAWN: AL
JOB NO: T-22-0773D
REVISION:

2-E.1



EAST ELEVATION

SCALE: 3/16" = 1'-0"

EBBTIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING #2
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

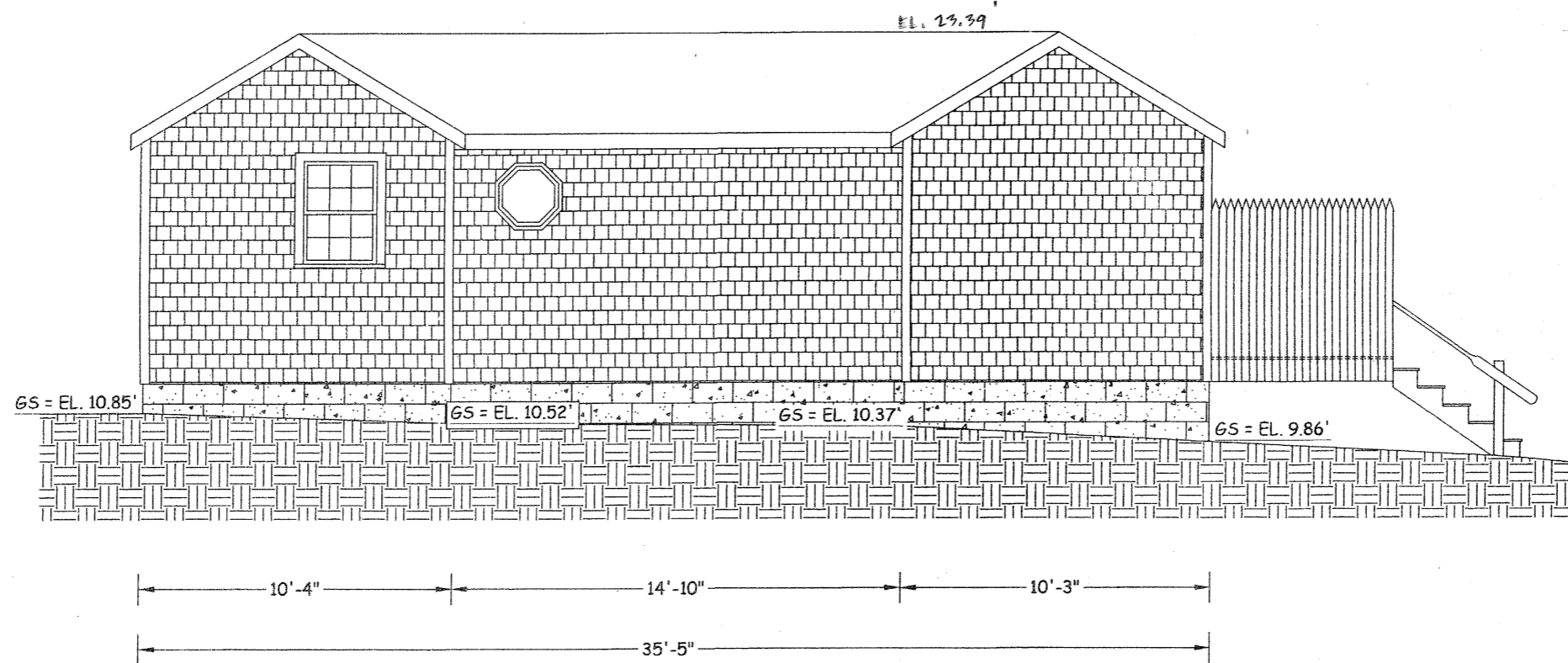
William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
41 Off Cemetery Road
Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EXISTING
EAST
ELEVATION



SCALE: 3/16" = 1'-0"
DATE: 09-29-2022
DRAWN: AL
JOB NO: T-22-0773D
REVISION:

2-E.2



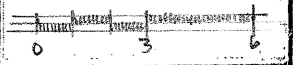
WEST ELEVATION

SCALE: 3/16" = 1'-0"

EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
LOCALS: ASSESSORS MAP 7, PARCEL 7

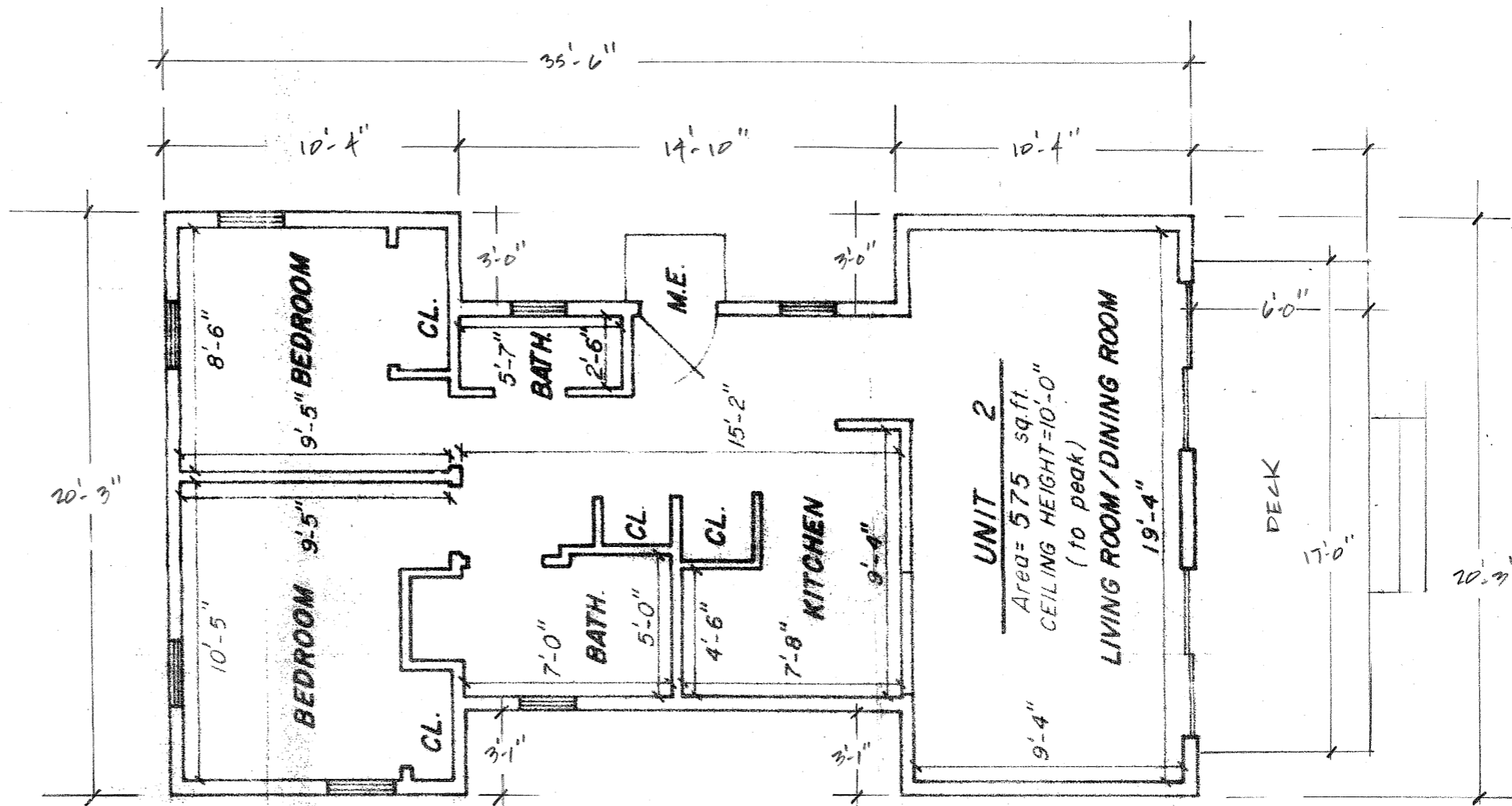
William N. Rogers II
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Building and Structural Design
Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EXISTING
WEST
ELEVATION

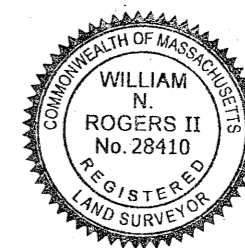


SCALE: 3/16" = 1'-0"
DATE: 09-29-2022
DRAWN: AL
JOB NO: T-11-0773D
REVISION:

2-E.3



FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"



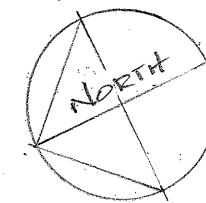
SCALE: 3/16" = 1'-0"
DATE: 09-23-2022
DRAWN: AL
JOB NO. T-22-0773D
REVISION:

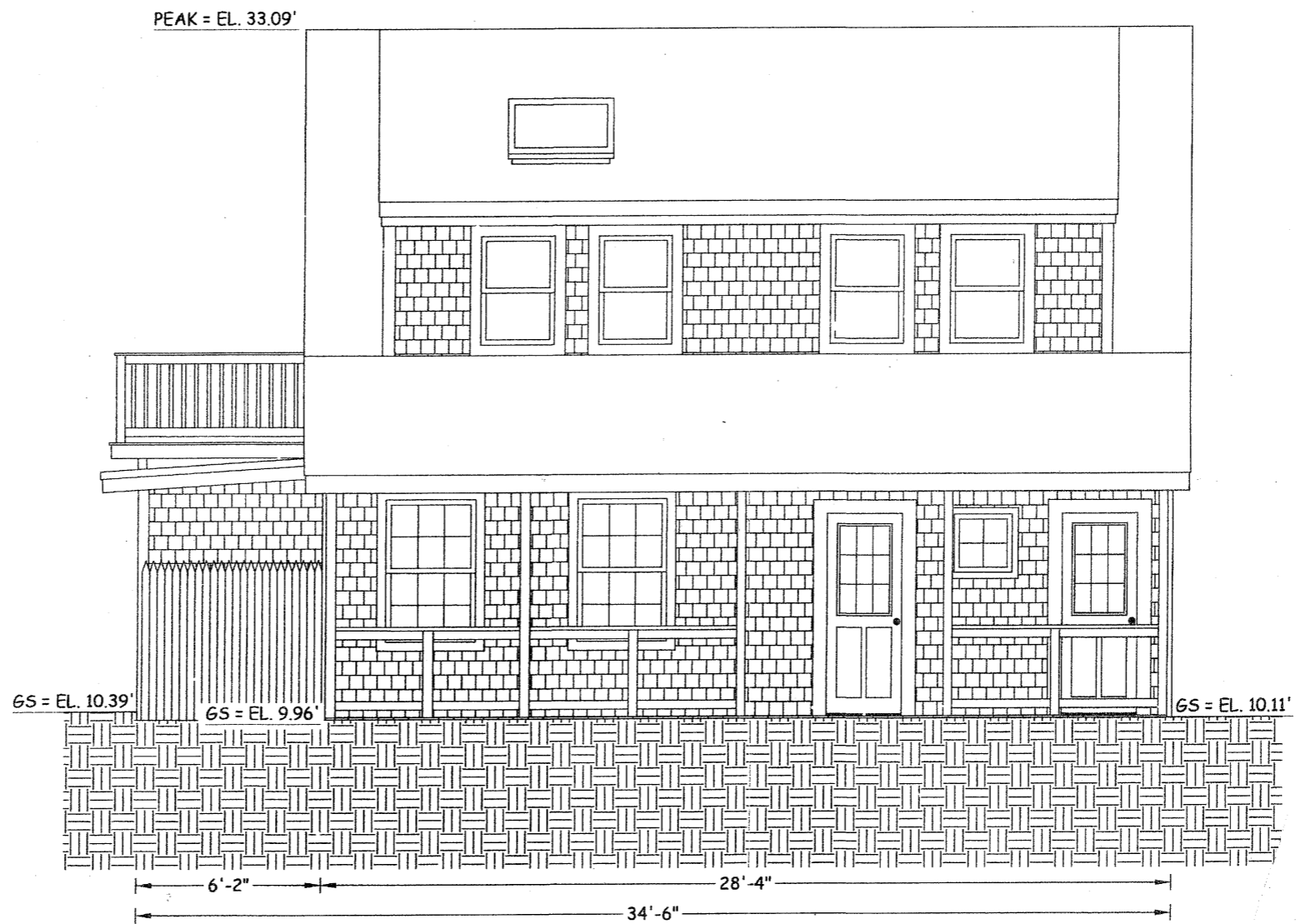
EXISTING
1ST FLOOR
PLAN

William N. Rogers II
Civil Engineers & Land Surveyors
Building and Structural Design
Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING # 2
TOWNS: ASSESSORS MAP 7, PARCEL 7

Z-E.4





NORTH ELEVATION (FRONT)

SCALE: 3/16" = 1'-0"
 DATUM = 1988 NAVD
 AVERAGE GRADE = EL. 9.86'

EBBIDE ON THE BAY
 CONDOMINIUM
 NO. 53B SHORE ROAD
 NORTH TRURO, MA.
 BUILDING #3
 LOCUS: ASSESSOR'S MAP 7, PARCEL 7

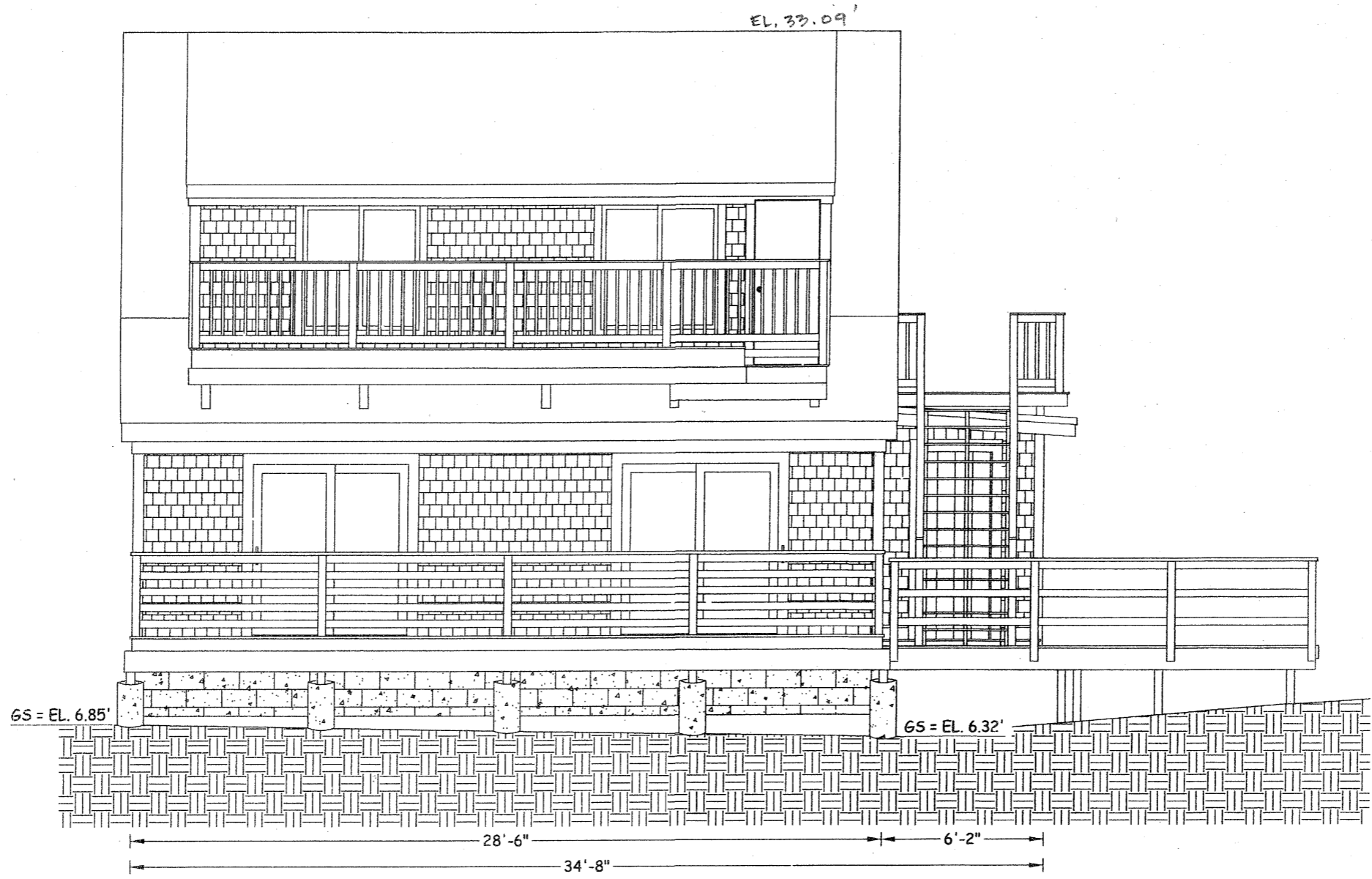
William N. Rogers II
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 Email: wnr Rogers2@verizon.net

EXISTING
 NORTH
 ELEVATION



SCALE: 3/16" = 1'-0"
 DATE: 09-23-2022
 DRAWN: AL
 JOB NO: T-22-0773D
 REVISION:

3-E.1



SOUTH ELEVATION
 SCALE: 3/16" = 1'-0"

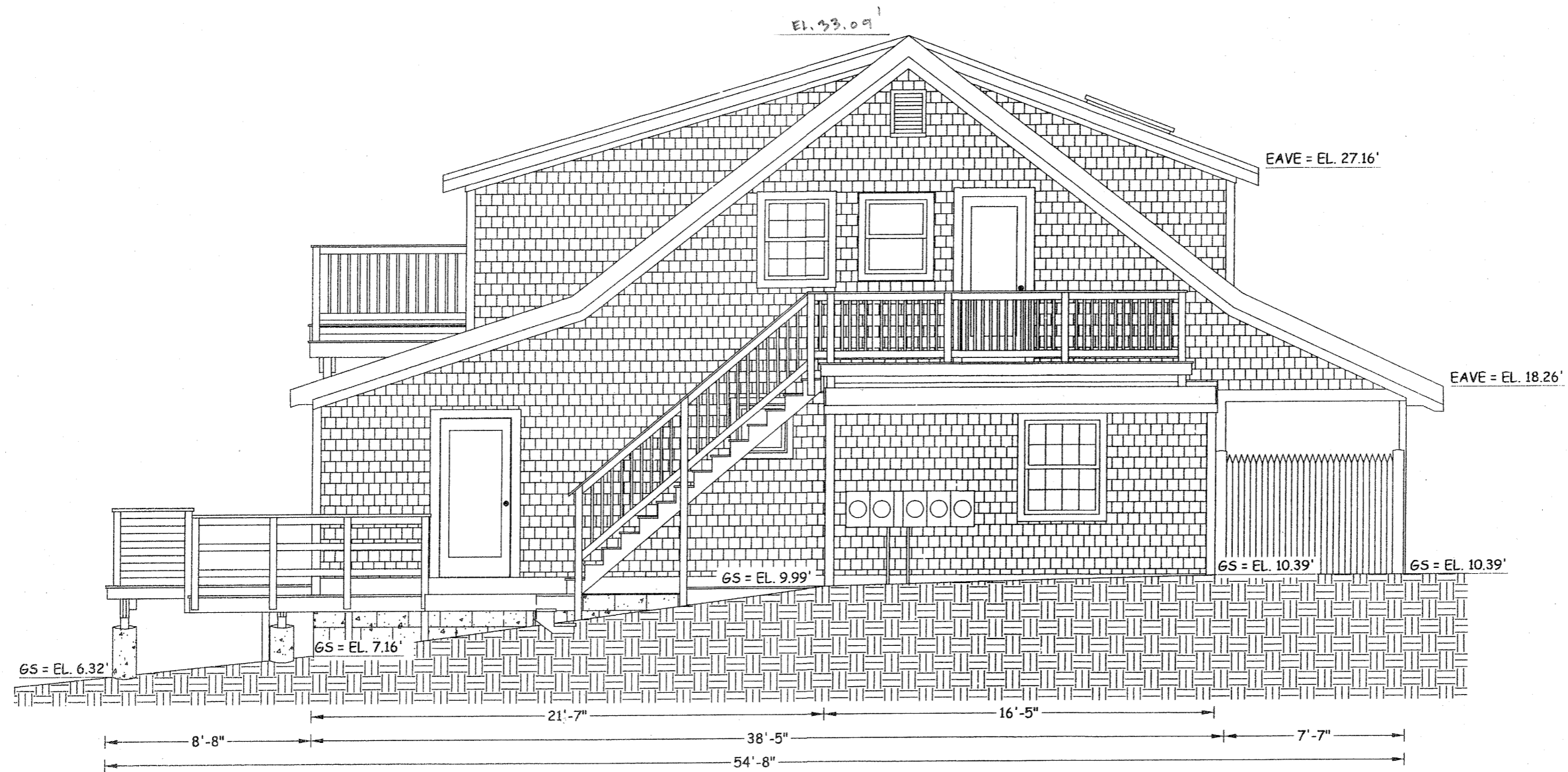
EBBIDE ON THE BAY
 CONDOMINIUM
 NO. 53 B SHORE ROAD
 NORTH TRURO, MA.
 BUILDING #3
 POLYS: ASSESSOR'S MAP 7, PARCEL 7

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 Provincetown MA 02657
 (508) 487-1565 / (508) 487-5809 fax
 Email: wnr Rogers2@verizon.net

EXISTING
 SOUTH
 ELEVATION

SCALE: 3/16" = 1'-0"
 DATE: 09-23-2022
 DRAWN: AL
 JOB NO. T-22-0773D
 REVISION:

3-E.2



EAST ELEVATION

SCALE: 3/16" = 1'-0"

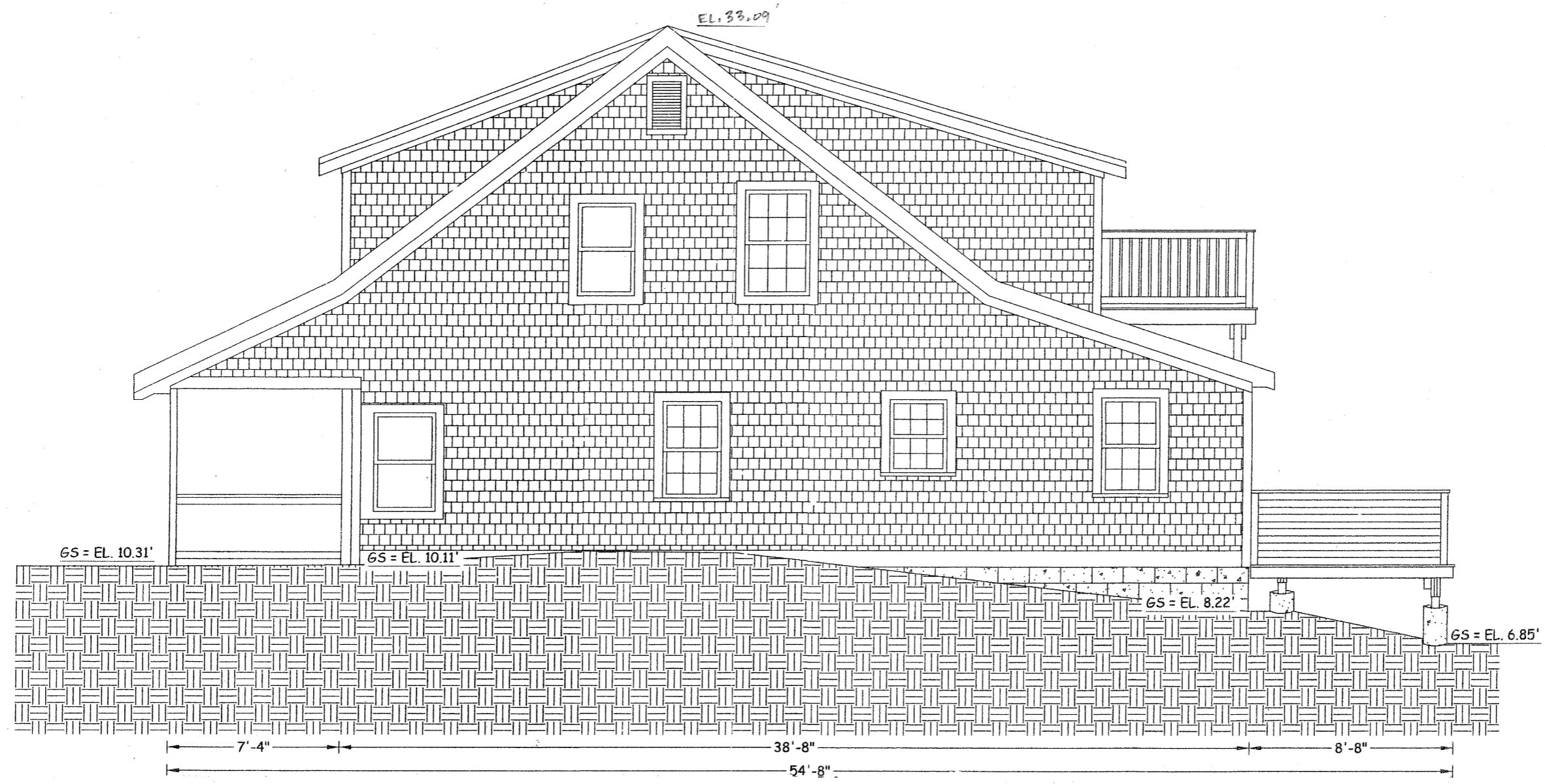
EBBtide ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
BUILDING #3
LOCALS: ASSESSOR'S MAP 7, PARCEL 7

William N. Rogers II
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Building and Structural Design
Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EXISTING
EAST
ELEVATION

SCALE: 3/16" = 1'-0"
DATE: 09-23-2022
DRAWN: AL
JOB NO. T-22-0773D
REVISION:

3 E.3



WEST ELEVATION
 SCALE: 3/16" = 1'-0"

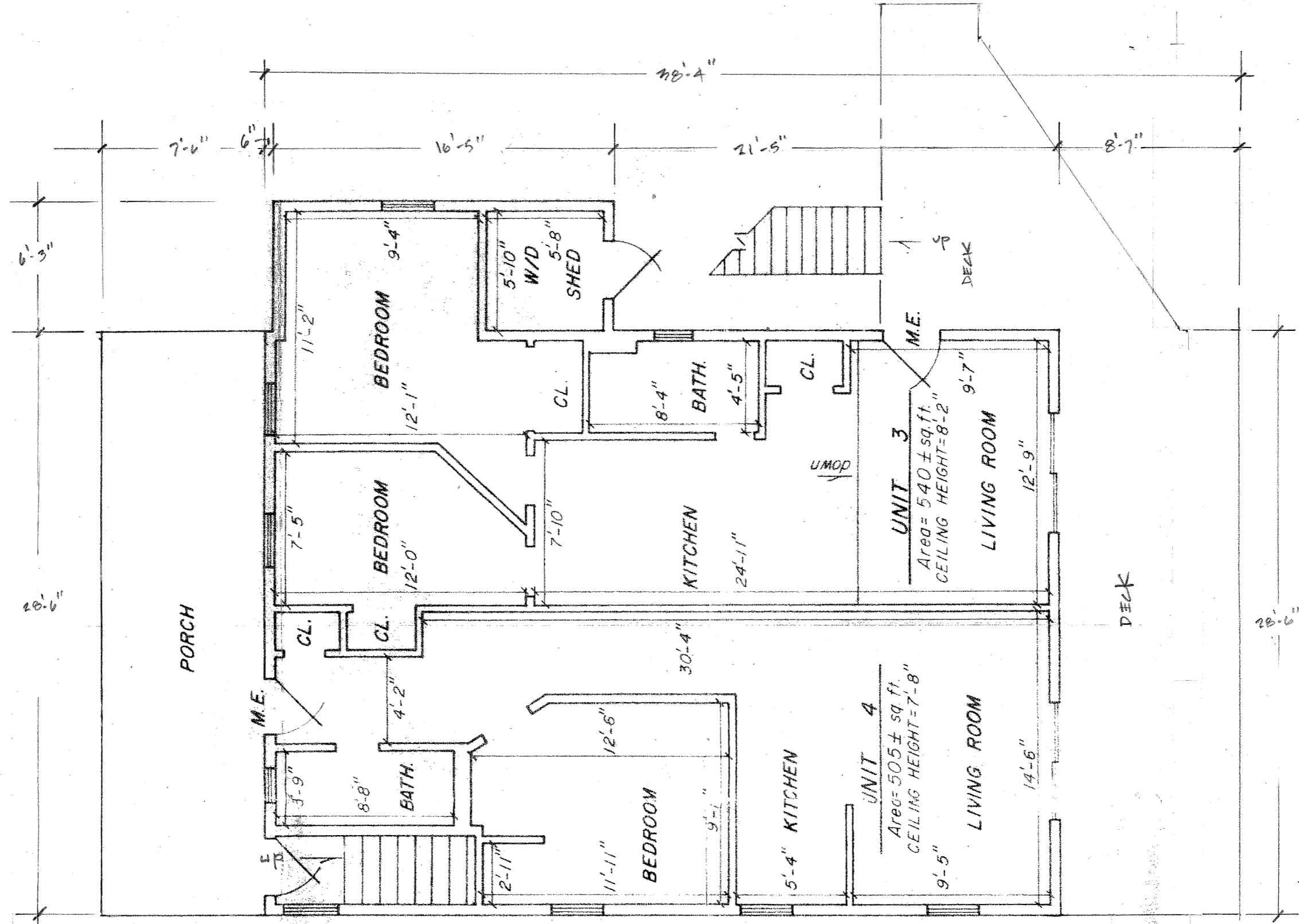
EBBIDE ON THE BAY
 CONDOMINIUM
 NO. 53B SHORE ROAD
 NORTH TRURO, MA.
 BUILDING # 3
 LOCUS: ASSESSOR'S MAP 7, PARCEL 7

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 Building and Structural Design
 Planning
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 Provincetown MA 02657
 (508) 487-1565 / (508) 487-5809 fax
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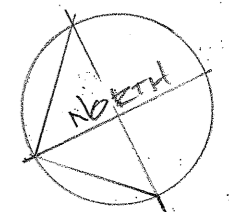
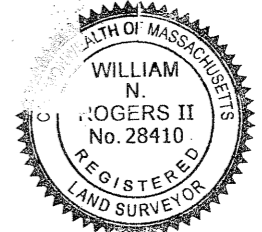
EXISTING
 WEST
 ELEVATION

SCALE: 3/16" = 1'-0"
 DATE: 09-23-2022
 DRAWN: AL
 JOB NO: T-22-0773D
 REVISION:

3-E.4



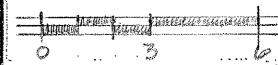
FIRST FLOOR PLAN
SCALE: 3/16" = 1'-0"



EBBIDE ON THE BAY
CONDOMINIUM
NO. 538 SHORE ROAD
NORTH TRURO, MA.
BUILDING #3
TOLUS: ASSESSOR'S MAP 7, PARCEL 7

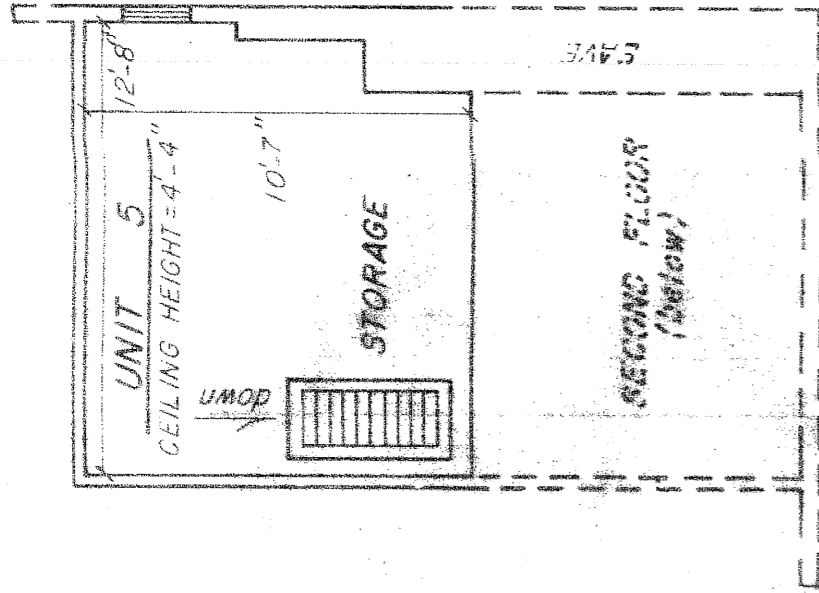
William N. Rogers II
Civil Engineers & Land Surveyors
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Planning
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(508) 487-1565 / (508) 487-5809 fax
Email: wnrrogers2@verizon.net

EXISTING
1ST FLOOR
PLAN

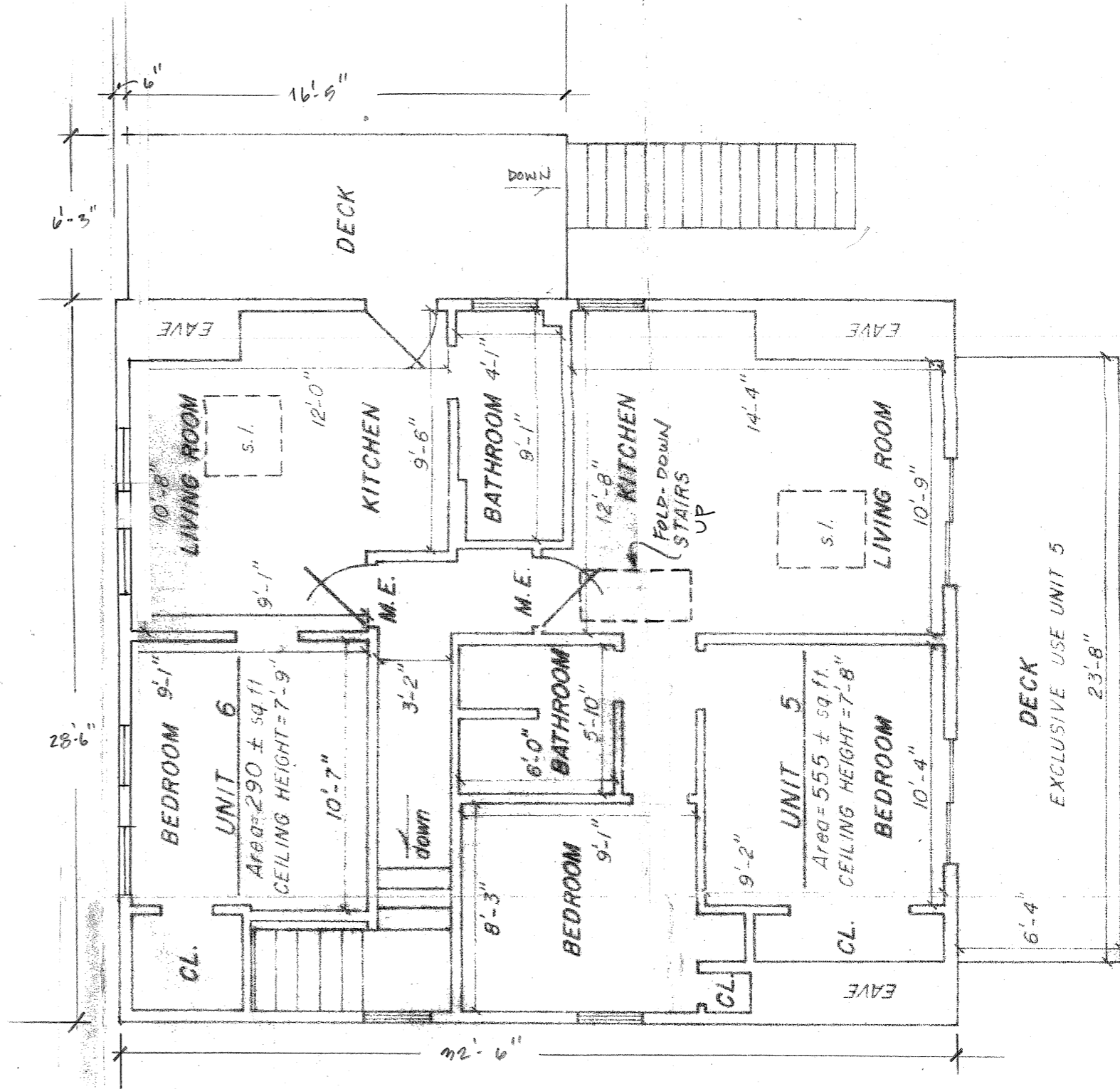


SCALE: 3/16" = 1'-0"
DATE: 09-23-2022
DRAWN: AL
JOB NO. T-22-0773D
REVISION:

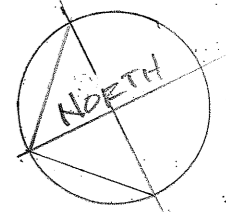
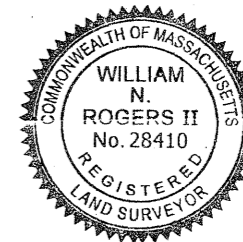
M-E.5



LOFT PLAN
SCALE: 3/16" = 1'-0"



SECOND FLOOR PLAN
SCALE: 3/16" = 1'-0"



EBBIDE ON THE BAY
CONDOMINIUM
NO. 53B SHORE ROAD
NORTH TRURO, MA.
BUILDING #3
TODUS: ASSESSOR'S MAP 7, PARCEL 7

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Civil Engineers & Land Surveyors
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Planning
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Provincetown MA 02657
(508) 487-1565 / (508) 487-5809 fax
Email: wnr Rogers2@verizon.net

EXISTING
2ND FLOOR
PLAN

SCALE: 3/16" = 1'-0"
DATE: 09-23-2022
DRAWN: AL
JOB NO: T-22-0773D
REVISION:

M-E.6

Plan Book 263 Page 56

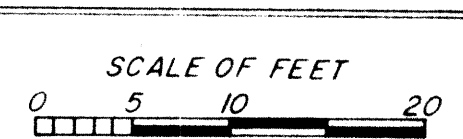


NOTE: A 6-in. WIDE AREA SURROUNDING THE UNITS (INCLUSIVE OF STAIRS) IS RESERVED TO THE UNITS FOR EXPANSION.

NOTE: ALL BUILDING OFFSETS ARE MEASURED PERPENDICULAR TO THE PROPERTY LINES.

REFERENCE: PLAN BOOK 263 PAGE 56
 PLAN BOOK 348 PAGE 97
 DEED BOOK 4386 PAGE 27

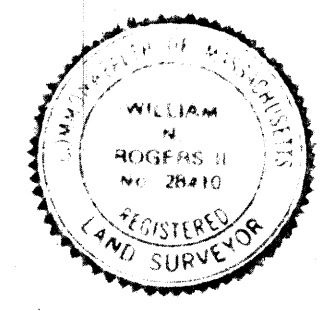
NOTE () DENOTES RECORD INFORMATION



I CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMITY WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS.

I CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES OF THE EXISTING OWNERSHIP AND THE LINES OF RECORD AND WAYS, STREETS, OR WAYS ALREADY ESTABLISHED AND THAT NO NEW LINES FOR DIVISION OF EXISTING OWNERSHIP OR FOR NEW WAYS ARE SHOWN.

I CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE BUILDINGS AS BUILT AND FULLY LISTS THE UNITS CONTAINED THEREIN.



PLAN OF LAND
 IN
 (NORTH) TRURO
 as surveyed for
 EDWARD BRIGMAN ET AL
 depicting the
EBB TIDE ON THE BAY CONDOMINIUM

SCALE: 1 IN. = 10 FT. OCTOBER, 1986

WILLIAM N. ROGERS
 REGISTERED
 CIVIL ENGINEERS & LAND SURVEYORS
 OFF CEMETERY ROAD, PROVINCETOWN, MASS.

Benjamin E. Zehnder LLC

62 Route 6A, Suite B
Orleans, Massachusetts 02653

Benjamin E. Zehnder, Esq.
bzehnder@zehnderllc.com
Tel: (508) 255-7766

September 15, 2023

Planning Department Administrator Liz Sturdy
Truro Town Hall
24 Town Hall Road
Truro, MA 02666

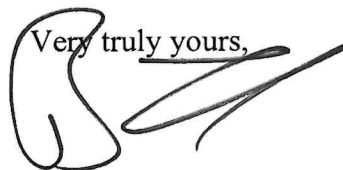
Via hand delivery & email

Re: Zoning Board of Appeals Case No. 2023-004
Truro Atlantic View Realty Trust, Bruce A. Jacobson, Trustee

Dear Ms. Sturdy:

Please find enclosed for filing with Zoning Board of Appeals Case No. 2023-004 ten sets of supplemental materials. These are two stamped sheets of floor plans with floor areas chart, and an 8-½" x 11" enlargement of that chart.

Thank you as always for your assistance. I remain –

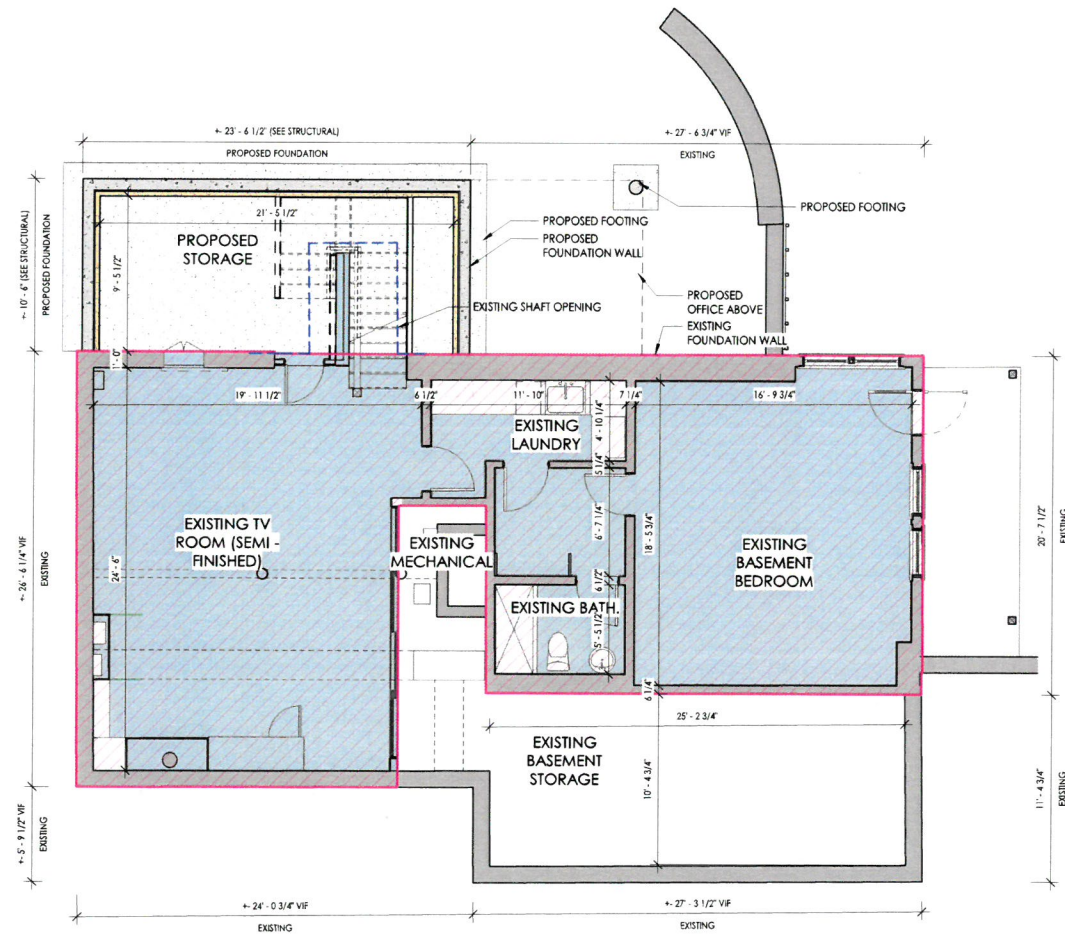
Very truly yours,


Benjamin E. Zehnder

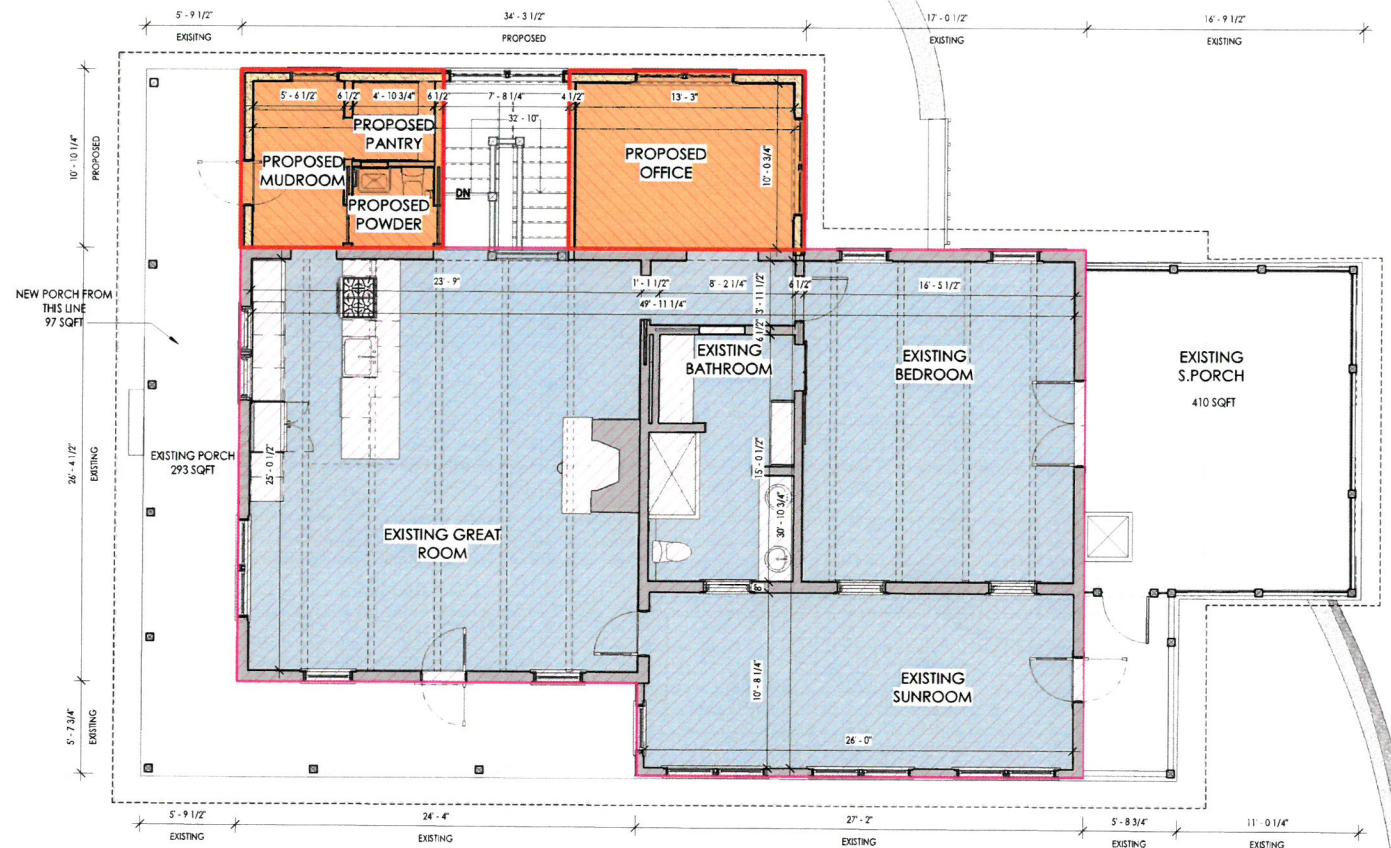
Enc.

cc. via email only:

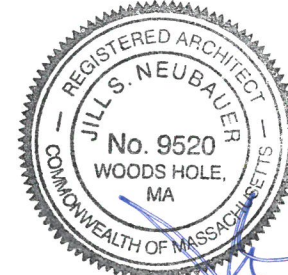
client
Stefan Angelovski
Michael Brooke
Genghis Burdulis
Barbara Carboni
Patrick Coffey
Keith LeBlanc
Jill Neubauer
John O'Reilly
Gregory Sanford



2 MAIN HOUSE AREA STUDY BASEMENT PLAN
3/16" = 1'-0"



1 MAIN HOUSE AREA STUDY FIRST FLOOR
3/16" = 1'-0"



ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	
SUBJECT	SIZE
MAIN HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
BASEMENT	1112 SQFT
FIRST FLOOR	1512 SQFT
MAIN HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
BASEMENT	N/A SQFT
FIRST FLOOR	288 SQFT
GUEST HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
FIRST FLOOR	667 SQFT
GUEST HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
FIRST FLOOR	
SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
	3291 SQFT
SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
	288 SQFT
SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	
	3579 SQFT

ISSUE DATES:

PERMIT SET: 09/07/22
IFC 09/07/22

REVISIONS:

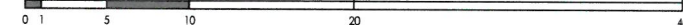
1	09.07.22	Issue for Permitting
2	10.13.22	Issue for Permitting
3	11.29.22	Revision
4	12.21.22	Revision
5	09.13.23	Revision

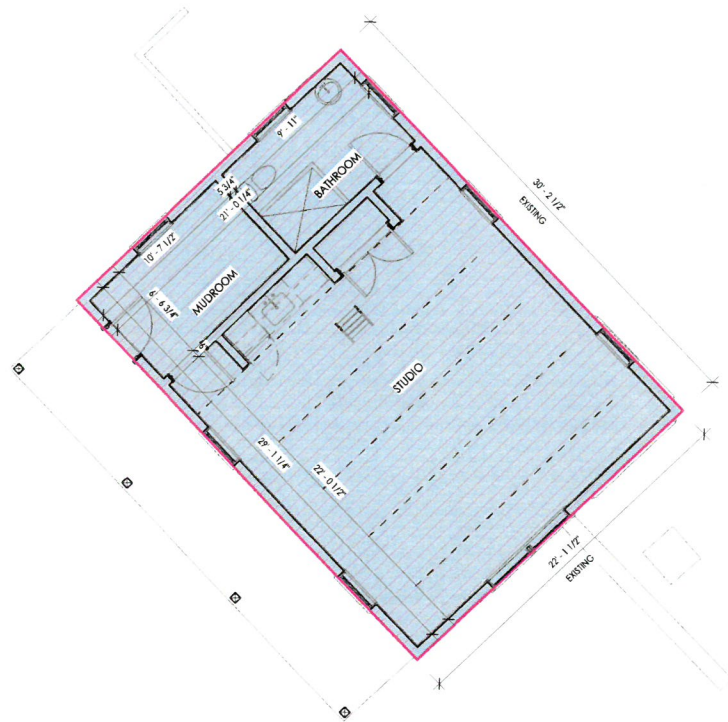
DRAWN BY: SA
CHECKED BY: JN

MAIN HOUSE AREA STUDY

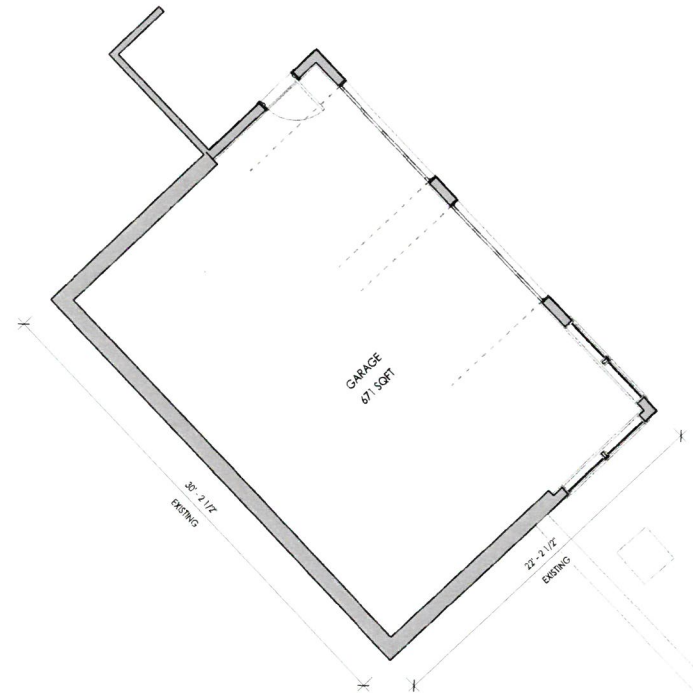
A030

3/16" = 1'-0"

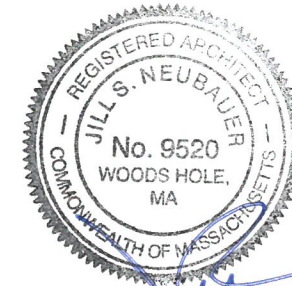




2 GUEST HOUSE AREA STUDY FIRST FLOOR
3/16" = 1'-0"



1 GUEST HOUSE AREA STUDY GARAGE
3/16" = 1'-0"



ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	
SUBJECT	SIZE
MAIN HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	
BASEMENT	1112 SQFT
FIRST FLOOR	1512 SQFT
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BASEMENT	N/A SQFT
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FIRST FLOOR	667 SQFT
GUEST HOUSE SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	
FIRST FLOOR	
SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	3291 SQFT
SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	288 SQFT
SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	3579 SQFT

JILL NEUBAUER ARCHITECTS
1994
15 DEPOT AVENUE
FALMOUTH, MA 02540
508 548-0909
jnr@jnrarchitects.com
jnrarchitects.com

ROWE JACOBSON
12 Ocean Bluff, North Truro MA

ISSUE DATES:

PERMIT SET:	09/07/22
IFC:	09/07/22

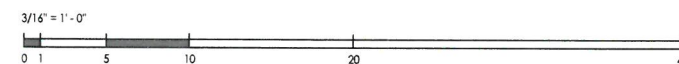
REVISIONS:

2	10.13.22	Issue for Permitting
5	09.13.23	Revision

DRAWN BY: SA
CHECKED BY: JN

GUEST HOUSE AREA STUDY

A031



ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA

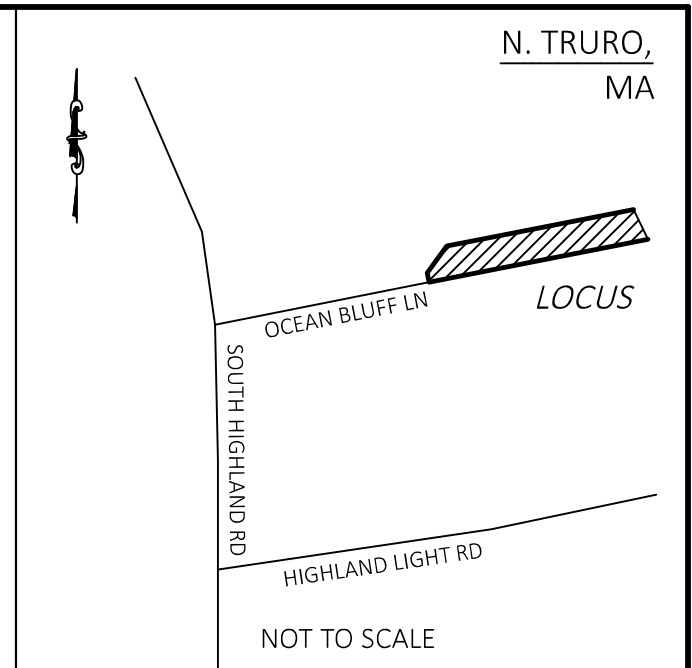
Project: Rowe Jacobson
Document Issued: 2023.09.14
From: JNA



ALL FIGURES SEASHORE DISTRICT TOTAL GROSS FLOOR AREA		
SUBJECT	SIZE	
MAIN HOUSE SEASHORE DISTRICT TOTAL EXISTING GROSS FLOOR AREA	BASEMENT	1112 SQFT
	FIRST FLOOR	1512 SQFT
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SEASHORE DISTRICT TOTAL PROPOSED GROSS FLOOR AREA	288 SQFT	
SEASHORE DISTRICT TOTAL GROSS FLOOR AREA	3579 SQFT	

15 DEPOT AVENUE
 FALMOUTH MA 02540
 508 548-0909

jna@jnarchitects.com
www.jnarchitects.com



PLAN BOOK NA DEED BOOK 34281 ASSESSORS' MAP 37 PAGE NA PAGE 342 PARCEL 6

ZONING TABLE			
ZONE: NSD- SEASHORE			
MINIMUM AREA	60,000 SF		
MINIMUM FRONTAGE	50 FEET		
FRONT & REAR YARD SETBACK	25 FEET		
SIDE YARD SETBACK	15 FEET		
MAXIMUM BUILDING COVERAGE	15%		
MAXIMUM BUILDING HEIGHT	35 FEET		
	PRIOR APPROVALS	EXISTING	PROPOSED
LOT AREA	117,113 SF	NO CHANGE	NO CHANGE
SETBACK - SOUTH	17.04'	17.7±	11.4±
NUMBER OF BUILDINGS	2	2	2
LOT COVERAGE:			
BUILDINGS	1,841 SF	2,194 SF	2,549 SF
DECKS	1,013 SF	1,262 SF	1,425 SF
PARKING/DRIVES	2,824 SF	3,366 SF	3,366 SF
WALKWAYS	1,370 SF	1,210 SF	1,210 SF
TOTAL	7,048 SF (6.0%)	8,032 SF (6.8%)	8,550 SF (7.3%)
SEASHORE DISTRICT T.G.F.A.			
HOUSE (BASEMENT)	0	658 SF	1,116 SF
HOUSE (1ST)	1,182 SF	1,483 SF	1,782 SF
STUDIO / GARAGE (BASEMENT)	0	0	0
STUDIO / GARAGE (1ST)	660 SF	674 SF	674 SF
TOTAL	1,842 SF	2,815 SF	3,573 SF

LEGEND	
— 32	EXISTING CONTOUR
— 32	PROPOSED CONTOUR
X13.34	EXISTING SPOT GRADE
24x5	PROPOSED SPOT GRADE
— W	WATER SERVICE LINE
— OH	OVERHEAD UTILITY SERVICE
— E	ELECTRIC / COMM. SERVICE LINE
— G	GAS SERVICE LINE
TH	TEST HOLE / BORING LOCATION
ST	SEPTIC TANK
DB	DISTRIBUTION BOX
SAS	SOIL ABSORPTION SYSTEM
Reserve	RESERVED FOR FUTURE
UP	UTILITY POLE
CB	CATCH BASIN
FD	FIRE HYDRANT
W	WELL
DM	DRAINAGE MANHOLE
CB	CONCRETE BOUND, FOUND
—	LIMIT OF WORK
—	FENCE
—	EDGE OF CLEARING

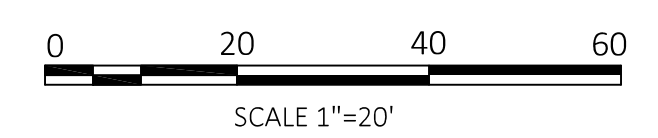
Plan Reference:
 Plan Book 165, Page 87
 Plan Book 105, Page 135
 Deed Book 34281, Page 342
 Deed Book 33750, Page 321

PARCEL 6
 AREA = 2.57 ACRES
 (Per Assessors)

ASSESSORS MAP 40, PARCEL 999-000
 U.S.A. DEPT. OF INTERIOR
 O CAPE COD NATIONAL SEASHORE

PLAN
 SCALE 1"=20'

ASSESSORS MAP 37, PARCEL 022
 U.S.A. DEPT. OF INTERIOR
 10 HIGHLAND LIGHT ROAD



REVISED 9-11-2023; REMOVED THE PROPOSED PORCH AND STEP ON SOUTH SIDE OF DWELLING AND EDITED PLAN TITLE.

Truro Atlantic View Rlty Trust
 C/O: BRUCE JACOBSON TRUSTE

FINAL SITE PLAN
 12 OCEAN BLUFF LANE, N. TRURO, MA

J.M. O'REILLY & ASSOCIATES, INC.
 Professional Engineering & Land Surveying Services

1573 Main Street - Route 6A
 P.O. Box 1773
 Brewster, MA 02631 (508)896-6602 Fax

DATE:	SCALE:	BY:	CHECK:	JOB NUMBER:
9-11-2023	As Noted	JMO/gb	JMO	JMO-9457

BENCHMARK
 TOP OF CONCRETE BOUND
 EL=84.24(NAVD 1988 DATUM)

Isolated Wetlands

OCEAN BLUFF LANE
 30' PRIVATE WAY

50' Buffer Zone

100' Buffer Zone

Existing Deck and Hot Tub Area

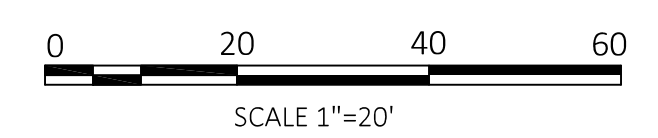
Existing Dwelling
 T.O.F. = 123.7±
 Ridge = 140.7±

Approx. Septic Location Per
 Asbuilt Card 4/17/19

Existing Garage
 T.O.F. = 100.1±
 Ridge = 119.7±

PLAN
 SCALE 1"=20'

ASSESSORS MAP 37, PARCEL 022
 U.S.A. DEPT. OF INTERIOR
 10 HIGHLAND LIGHT ROAD



REVISED 9-11-2023; REMOVED THE PROPOSED PORCH AND STEP ON SOUTH SIDE OF DWELLING AND EDITED PLAN TITLE.

Truro Atlantic View Rlty Trust
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FINAL SITE PLAN
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DATE:	SCALE:	BY:	CHECK:	JOB NUMBER:
9-11-2023	As Noted	JMO/gb	JMO	JMO-9457



TOWN OF TRURO

Building Department

24 Town Hall Road

P.O. Box 2030, Truro MA 02666

Tel: 508-349-7004, Ext. 131 Fax: 508-349-5508

May 3, 2023

Mr. Robert Martin
P.O. Box 891
North Truro, Ma. 02652

RE; 100 Route 6

By: REGULAR MAIL and by CERTIFIED MAIL # 7022 2410 0000 0167 9098

Mr. Martin,

Regrettably,

I am issuing a CEASE and DESIST order for the business that you are currently operating at 100 Route 6 Truro, Ma.. commonly referred to as " Jack's Garage " .

This operation is in violation of the Town of Truro Zoning Bylaws paragraph 30.3 Seashore District item 12 which states, " Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use " . The current use is an alteration and intensification of the prior use and therefore NOT ALLOWED.

This CEASE and DESIST order is effective immediately.

You have the right appeal this decision and if this office can assist you in that endeavor please do not hesitate to contact us.

Regards,

Richard Stevens
Building Commissioner



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date June 1, 2023

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on *(date)* _____.

XX

Applicant is aggrieved by order or decision of the Building Commissioner on *(date)* May 3, 2023, which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____

APPLICATION FOR SPECIAL PERMIT

Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning *(describe)* _____

Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section _____ of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning *(describe)* _____

Property Address 100 Route 6 Truro, MA

Map 055-012-000

Registry of Deeds title reference: Book 34899, Page 326,

Applicant's Name Robert J Martin II and 100 Route 6 LLC are applicants

Applicant's Legal Mailing Address :Robert Martin-- P.O. Box 891, North Truro, MA 02652; 100 Route 6 LLC, c/o Andrew Aiken, 81 North Pamet Road, Truro MA 02666

Applicant's Phone(s), Fax and Email c/o William C. Henchy 165 Rte 6A Orleans MA 02653 508-255-1636 whenchy@henchylaw.com

Applicant is one of the following: *(please check appropriate box)*

*Written Permission of the owner is required for submittal of this application.

Owner Prospective Buyer* Other*

**Robert J. Martin II is the lessee in possession of 100 Route 6
100 Route 6 LLC is the owner of 100 Route 6**

Owner's Name and Address 100 Route 6 LLC c/o Andrew Aiken 81 North Pamet Road Truro, MA 02666

Representative's Name and Address William C. Henchy Esq. 165 Route 6A Orleans MA 02653

Representative's Phone(s), Fax and Email 508-255-1636 / 508-246-6776 (cell) whenchy@henchylaw.com

2. The completed application **shall also** be submitted **electronically** to the Planning Department Administrator at esturdy@truro-ma.gov in its entirety (including all plans and attachments).

i The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

Signature(s)

William C Hendry

100 Wte 6 LLC

Applicant(s)/Representative *Printed* Name(s)

Owner(s) *Printed* Name(s) or written permission

WCH
Applicant(s)/Representative Signature

by [Signature]
Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

From: andrewmaiken@me.com
Subject: 100 Route 6 LLC & Bobby Martin - Appeal
Date: June 1, 2023 at 1:34 PM
To: whenchy@henchylaw.com



To whom it my concern:

I authorize Robert J. Martin II and William C. Henchy, Esq. to appeal the Order of the Truro Building Inspector directed to my lessee, Mr. Martin, dated May 3, 2023.

Andrew Aiken
Manager
100 Route 6 LLC



TOWN OF TRURO

Building Department

24 Town Hall Road
P.O. Box 2030, Truro MA 02666
Tel: 508-349-7004, Ext. 131 Fax: 508-349-5508

May 3, 2023

Mr. Robert Martin
P.O. Box 891
North Truro, Ma. 02652

RE: 100 Route 6

By: REGULAR MAIL and by CERTIFIED MAIL # 7022 2410 0000 0167 9098

Mr. Martin,


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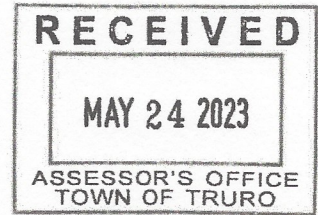
You have the right appeal this decision and if this office can assist you in that endeavor please do not hesitate to contact us.

Regards,


Richard Stevens
Building Commissioner



TOWN OF TRURO
Assessors Office
Certified Abutters List
Request Form



NAME OF APPLICANT: Robert Martin DATE: 5/24/23
 NAME OF AGENT (if any): William C. Henchy (whenchy@henchy.law.com)
 MAILING ADDRESS: 165 Rte 6A Orleans MA 02653
 CONTACT: HOME/CELL 508-255-1636 EMAIL whenchy@henchy.law.com
 PROPERTY LOCATION: 100 Rte 6
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 055 PARCEL 012 EXT. 000
(if condominium)

ABUTTERS LIST NEEDED FOR: **FEE: \$15.00 per checked item**
(please check all applicable) (Fee must accompany the application unless other arrangements are made)

- | | | |
|---|---|---|
| <input type="checkbox"/> Board of Health ⁵ | <input type="checkbox"/> Planning Board (PB) | <input type="checkbox"/> Zoning Board of Appeals (ZBA) |
| <input type="checkbox"/> Cape Cod Commission | <input type="checkbox"/> Special Permit ¹ | <input checked="" type="checkbox"/> Special Permit ¹ |
| <input type="checkbox"/> Conservation Commission ⁴ | <input type="checkbox"/> Site Plan ² | <input checked="" type="checkbox"/> Variance ¹ |
| <input type="checkbox"/> Licensing | <input type="checkbox"/> Preliminary Subdivision ³ | |
| Type: _____ | <input type="checkbox"/> Definitive Subdivision ³ | |
| | <input type="checkbox"/> Accessory Dwelling Unit (ADU) ² | |
| <input checked="" type="checkbox"/> Other <u>ZBA Appeal & Bldg Inspection Order</u> | <small>(Please Specify) (Fee: Inquire with Assessors)</small> | |

Note: Per M.G.L., processing may take up to 10 calendar days. Please plan accordingly.

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 5/24/23 Date completed: 5/24/2023
 List completed by: Laura Geiges Date paid: 5/24/23 Cash/Check 1817

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. **Note:** 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. **Note:** 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. **Note:** 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: May 24, 2023

To: William C. Henchy, Agent for Robert Martin

From: Assessors Department

Certified Abutters List: 100 Route 6 (Map 55 Parcel 12)

ZBA Special Permit

Attached is a combined list of abutters for 100 Route 6 (Map 55 Parcel 12).

The current owner is 100 Route 6 LLC.

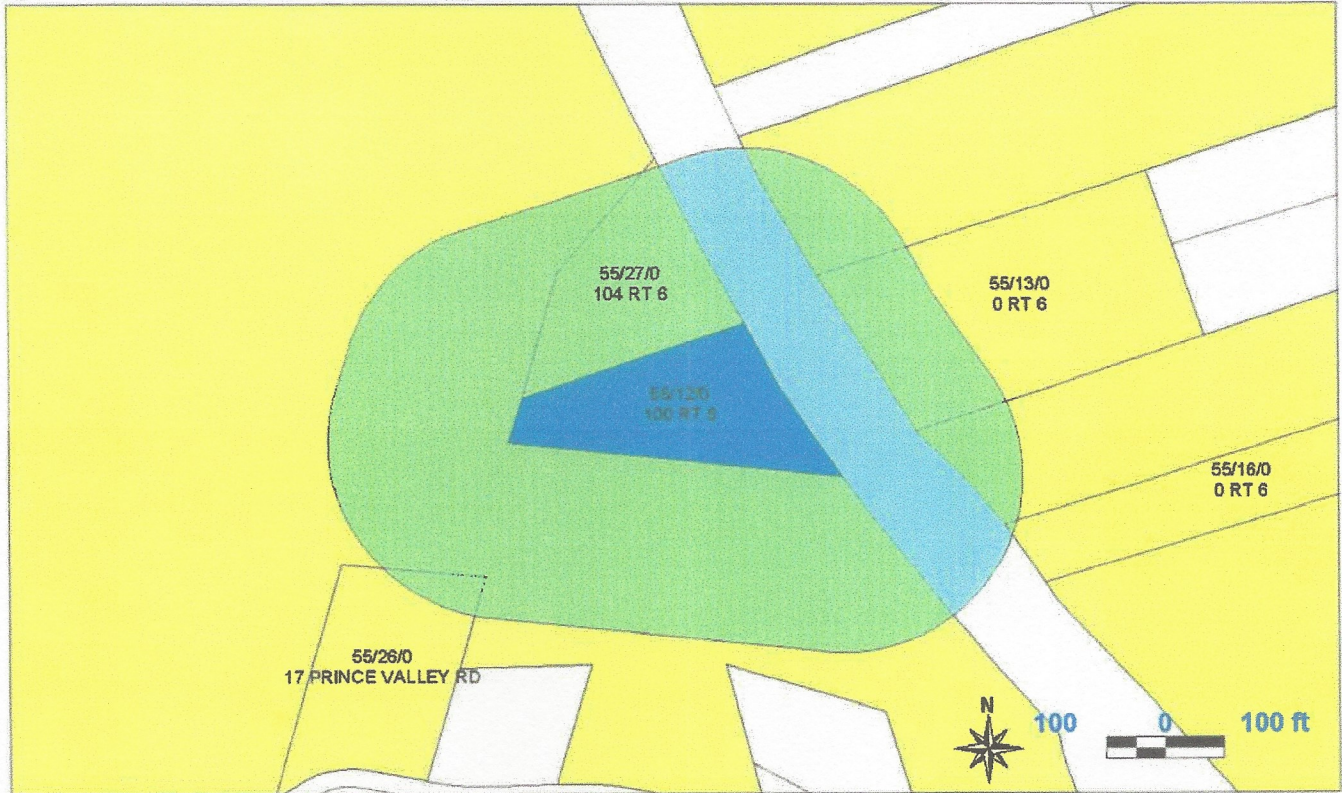
The names and addresses of the abutters are as of May 19, 2023 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: _____

Laura Geiges
Assistant Assessor / Data Collector

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

Abutters List Within 300 feet of Parcel 55/12/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
7292	40-999-0-E	USA-DEPT OF INTERIOR Cape Cod National Seashore	0 CAPE COD NATIONAL SEASHORE	99 Marconi Site Rd	Wellfleet	MA	02667
3351	55-12-0-R	100 ROUTE 6 LLC MGR: ANDREW M AIKEN	100 RT 6	54 FOUR MILE RD	WEST HARTFORD	CT	06107
3352	55-13-0-E	U S A DEPT OF THE INTERIOR	0 RT 6	CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD	WELLFLEET	MA	02667
3355	55-16-0-E	U S A DEPT OF THE INTERIOR	0 RT 6	CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD	WELLFLEET	MA	02667
3365	55-26-0-R	RICHARDSON ALBERT/JUDITH TR & BENNETT FREDERICK & JANE ET AL	17 PRINCE VALLEY RD	C/O CHRISTOPHER WHARFF 10 DEACON RD	YARMOUTH	MA	04096
3366	55-27-0-E	COMMONWEALTH OF MASS EXEC OFFICE OF TRANSPORTATION	104 RT 6	10 PARK PLAZA SUITE 3170	BOSTON	MA	02116

LG 5/24/2023

40-999-0-E

USA-DEPT OF INTERIOR
Cape Cod National Seashore
99 Marconi Site Rd
Wellfleet, MA 02667

55-12-0-R

100 ROUTE 6 LLC
MGR: ANDREW M AIKEN
54 FOUR MILE RD
WEST HARTFORD, CT 06107

55-13-0-E

U S A
DEPT OF THE INTERIOR
CAPE COD NATIONAL SEASHORE
99 MARCONI SITE RD
WELLFLEET, MA 02667

55-16-0-E

U S A
DEPT OF THE INTERIOR
CAPE COD NATIONAL SEASHORE
99 MARCONI SITE RD
WELLFLEET, MA 02667

55-26-0-R

RICHARDSON ALBERT/JUDITH TR &
BENNETT FREDERICK & JANE ET AL
C/O CHRISTOPHER WHARFF
10 DEACON RD
YARMOUTH, MA 04096

55-27-0-E

COMMONWEALTH OF MASS
EXEC OFFICE OF TRANSPORTATION
10 PARK PLAZA
SUITE 3170
BOSTON, MA 02116

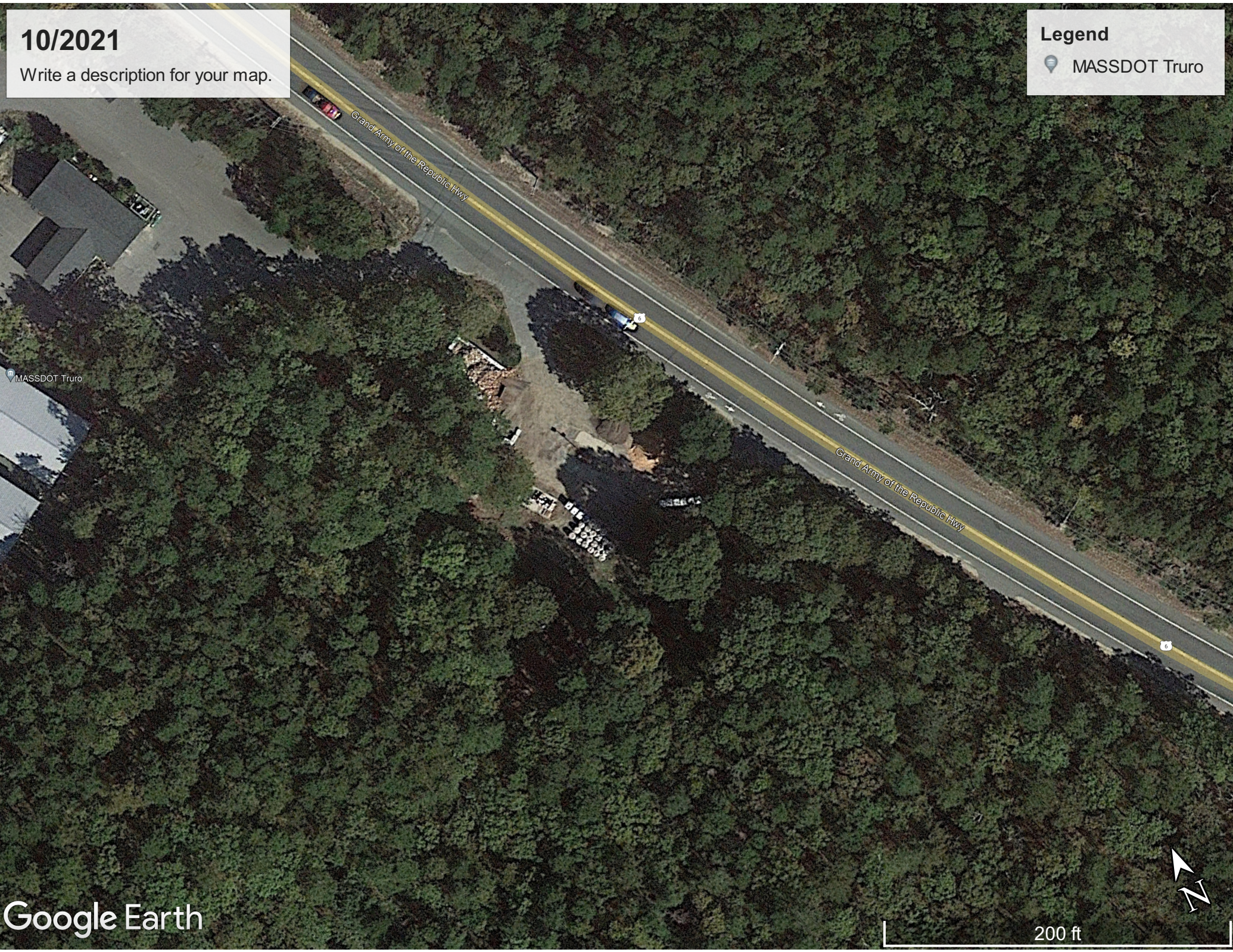
LG 5/24/2023

10/2021

Write a description for your map.

Legend

📍 MASSDOT Truro



📍 MASSDOT Truro

Google Earth



200 ft

4/2023

Write a description for your map.

Legend

📍 MASSDOT Truro



Google Earth

Image © 2023 Airbus



200 ft

From: [Johnson, Cheryl M](#)
To: [Elizabeth Sturdy](#); [Barbara Carboni](#)
Cc: [Darrin Tangeman](#); [Arthur Hultin](#); [Bill Henchy](#); [Bobby Martin](#); andrewmaiken@icloud.com; [Carlstrom, Brian](#); [McKean, Lauren](#); [Reynolds, Leslie M](#)
Subject: 100 Route 6 Truro ZBA hearing - letter from CCNS
Date: Friday, July 21, 2023 9:41:31 AM
Attachments: [Truro Town Counsel findings 1993 and 2000 re commercial uses.pdf](#)
[100 Route 6 former Jacks Gas - CCNS letter to Planning Bd 4-12-23.pdf](#)
[NPS letter re Jack's Gas appeal to ZBA July 2023.pdf](#)

Liz and Barbara,

I am sending correspondence with attachments from the Superintendent concerning the July 24, 2023, Zoning Board of Appeals hearing.

Please forward the materials to the Zoning Board of Appeals members at your earliest convenience.

Sincerely,
Cheryl

Cheryl M. Johnson
Executive Assistant
Cape Cod National Seashore
99 Marconi Site Road
Wellfleet, MA 02667

office: 508-957-0701

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

ZISSON AND VEARA
ATTORNEYS AT LAW

RICHARD L. ZISSON
EDWARD E. VEARA
PAUL V. BENATTI
JILL L. BROFSKY
E. JAMES VEARA

DAVID H. TATELY
OF COUNSEL

AT WELLESLEY OFFICE PARK
45 WILLIAM STREET
WELLESLEY, MASSACHUSETTS 02181
TEL (617) 431-2100
FAX (617) 237-0766

828 MAIN STREET-BOX 2031
OLD KINGS HIGHWAY
DENNIS, MASSACHUSETTS 02632-1530
TEL (508) 385-6C31
FAX (508) 385-6914

August 16, 1993

Victor Verdina, Chairman
Board of Appeals
P. O. Box 2030
Truro, Massachusetts 02666

Re: Noons Gas Station Property.

Dear Mr. Verdina:

In accordance with your request, I am writing once again about the lot located at the juncture of Route 6 and Route 6A. This is the Truro lot owned presently or formerly by Mr. Noons, and it is the lot operated formerly as a gasoline service station.

I apologize for FAXing this opinion letter (a "hard" copy will follow). Unfortunately, I have been involved in several appellate matters, and when I received the latest opinion request, I was unaware that the Board was facing a deadline. To furnish a response in time, I have had to shorten it, but please be assured that considerable research was undertaken before anything was written.

Essentially, the Board of Appeals is confronted with numerous questions concerning whether the lot may be developed as most recently proposed. Among other matters, it must determine if a lawful, preexisting, nonconforming use has been perpetuated and, if so, whether the nonconforming use (gasoline service station) may be supplanted by another use (real estate office) which is not permitted in the lot's residential zoning district. As I indicated previously, it is my opinion that a new use cannot by special permit be created for the lot.

To be certain I am answering appropriately, let me state my understanding of the primary issue raised in Attorney Campbell's letter. It is agreed that enough of a use modification will occur that the change is not something which may proceed without

permission. On the contrary, the need for a special permit being conceded, the question is whether the Board can properly grant it.

I agree that these are two distinct issues, and my research indicates that most of the cases I had in mind relate to the first one. The remaining cases are supportive, but certainly, they could be clearer. In any event, I believe recent appellate opinions require a different approach to the subject, and therefore, I shall allude entirely to them.

Initially, I should remark that the governing law is lodged in the very enigmatic first paragraph of Massachusetts General Laws Chapter 40A, Section 6. That paragraph reads as follows:

Except as hereinafter provided, a zoning ordinance or by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on such ordinance or by-law required by section five, but shall apply [1] to any change or substantial extension of such use, [2] to a building or special permit issued after the first notice of said public hearing, [3] to any reconstruction, extension or structural change of such structure and [4] to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent except where alteration, reconstruction, extension or structural change to a single or two-family residential structure does not increase the nonconforming nature of said structure. Pre-existing nonconforming structures or uses may be extended or altered, provided, that no such extension or alteration shall be permitted unless there is a finding by the permit granting authority or by the special permit granting authority designated by ordinance or by-law that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. This section shall not apply to billboards, signs and other advertising

devices subject to the provisions of sections twenty-nine through thirty-three, inclusive, of chapter ninety-three, and to chapter ninety-three D. [emphasis added; bracketed numbers added]

As you know, until recently, the conventional view of this statute held that, except for trivial changes, preexisting, nonconforming uses could be altered only by special permit but that a special permit would suffice even if the alteration involved an augmented infraction of current zoning proscriptions. That has now changed.

In Rockwood v. Snow Inn Corporation, 409 Mass. 361, 566 N.E.2d 608 (1991), the Supreme Judicial Court was required to interpret the first two sentences in the paragraph quoted above. The Court held as follows:

We conclude, apparently differently from the trial judge, that the first sentence of the quoted portion of §6 requires that, in the absence of a variance, any extension or structural change of a nonconforming structure must comply with the applicable zoning ordinance or by-law. Then, if the proposed extension or change conforms to the by-law, the second quoted statutory sentence requires for project approval a finding that the extension or change will not be substantially more detrimental to the neighborhood than the existing nonconforming structures. If the first and second sentences are read together, the statute permits extensions and changes to nonconforming structures if (1) the extensions or changes themselves comply with the ordinance or by-law, and (2) the structures as extended or changed are found to be not substantially more detrimental to the neighborhood than the preexisting nonconforming structure or structures. [emphasis added] Id. at 566 N.E.2d 610.

In other words, before a nonconforming structure can be changed, the change must comply with current zoning requirements, and the change cannot be substantially more detrimental to the neighborhood. If both conditions are not satisfied, then the change, if it occurs at all, can only be allowed by a variance.

Rockwood, of course, happened to deal with a nonconforming structure, not a nonconforming use. Nevertheless, the Court's rationale applies with equal logic and force to nonconforming structures and nonconforming uses. Moreover, since Willard v. Board of Appeals of Orleans, 25 Mass. App. Ct. 15, 514 N.E.2d 369 (1987), nothing in the text of the statute itself impels a different treatment for nonconforming uses and structures. At least for the issue now before the Board, it is my opinion that alterations of nonconforming structures and nonconforming uses should be treated the same.

Because a real estate office is not permitted in a residential district, Rockwood v. Snow Inn Corp., supra, would not permit a gasoline service station to be converted to a real estate office without a variance. The difficulty there, of course, is that Truro's Zoning Bylaw does not permit use variances. See Section X.B.

The Rockwood opinion briefly mentioned Section X(J) of the Harwich Zoning By-law. Although a local zoning by-law may be more generous than the pertinent statute, the by-law largely tracked the language of the statute, and therefore, it was imbued with the same meaning, not a more generous one.

Truro's Zoning Bylaw contained a comparable provision which would undoubtedly have been interpreted in the same fashion, but this was not the manner in which it had been construed before. Thus, it was necessary to decide whether to leave it with the new restrictive meaning or to replace it with a provision closer to the practice which had previously existed. On the one hand, it seems fair to let matters lie. Why should the owner of a nonconforming property, already in violation of current zoning, be allowed with only a special permit to violate zoning even more when the owner of a conforming property, fully in compliance with zoning, not be allowed to do the same thing without a variance? This seemed unfair, and yet, it did not seem altogether right to abandon years of well accepted practice. Therefore, I was asked to draft a somewhat guarded provision which would accommodate a more generous response than the Rockwood case would allow.

That new provision now appears as Section VIII.B.1. of the Zoning Bylaw, and it reads thus:

B. Continuation of Nonconforming Uses

1. So long as buildings were constructed, uses were begun, and lots were created lawfully, they may continue to be used in the same manner and for the same purposes despite contrary provisions of this bylaw. Lawful, preexisting,

nonconforming structures and uses may, when a variance would otherwise be required, be altered, or extended with a special permit if the Board of Appeals finds that the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use and that the alteration or extension will exist in harmony with the general purpose and intent of the bylaw. [emphasis added]

If the lot involved in this case is to be rescued, assistance must be found in this paragraph.

In my opinion, Section VIII.B.1. is more generous than Rockwood, but I do not believe it extends far enough to save the service station lot. In Blasco v. Board of Appeals of Winchendon, 31 Mass. App. Ct. 32, 574 N.E.2d 424 (1991), review denied, 411 Mass. 1101, 579 N.E.2d 1360 (1991) (decided after Rockwood), the owner of a commercial pit (which had become a nonconforming use) wished to change its use from a gravel pit to a demolition pit. The company sought a special permit from the Board of Appeals, and the Board granted it. The Land Court annulled the special permit, and the annulment was affirmed on appeal. The change in nonconforming uses was considered to be beyond the enabling authority of both Massachusetts General Laws Chapter 40A, Section 6 and the local by-law. The Appeals Court's analysis of the local by-law is informative.

Like Section VIII.B.1. of the Truro Zoning Bylaw, Article 3.43 of the Winchendon Zoning By-law does not utilize the word change. Instead, it restricts itself to alteration and extension - words which the Appeals Court discussed as follows:

A landfill is not on the list of permitted uses, and Article 3.1 of the by-law provides that any use not listed "shall be construed to be prohibited." As a landfill could not be a "conforming use," Article 3.41 provides no authority for the proposed change. The only other relevant provision, Article 3.43, provides that the board may authorize by special permit "alteration" of a nonconforming use of a building or structure. The provision does not mention changes in nonconforming uses of land.... A change of use, however, is not an extension of a nonconforming use. Id. at 574 N.E.2d 426.

ZISSON AND VEARA

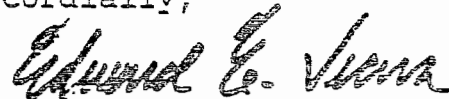
Mr. Verdina
August 16, 1993
Page 6

Although it is not altogether clear that the simple addition of change would have led to a different result (earlier cases required by-laws to indicate certainly that such an expansive meaning was intended), it does seem to be the teaching of the case that, within the context of zoning, the local by-law's use of alteration and extension is not enough to permit a new nonconforming use to be substituted for an older nonconforming use. Perhaps, in part, this result was encouraged by the general philosophy of "minimum tolerance" for nonconforming uses. In any event, the decision appears to control this case because, as I have mentioned, Section VIII.B.1. of the Truro Zoning Bylaw utilizes only alteration and extension, not change.

In view of the foregoing analysis, it is my opinion that neither Massachusetts General Laws Chapter 40A, Section 9 nor Truro Zoning Bylaw, Section VIII.B.1. would allow a special permit to authorize a real estate office to be substituted for a gasoline service station on the lot in question.

I hope I have now responded to your questions. If I have not done so or if you should have other questions, please feel free to contact me.

Cordially,



Edward E. Veara
Town Counsel

FVB/ja
VIA FACSIMILE & 1ST CLASS MAIL

cc: Stephen Williams, Building Commissioner
Board of Selectmen

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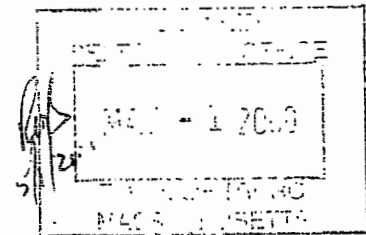
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April 28, 2000

Truro Zoning Board of Appeals
Attn: Susan Kelly
P. O. Box 2030
Truro, MA 02666

Re: Michael Tasha/Ka-Hur Enterprises, Inc.

Dear Ms. Kelly:



I am writing in response to your April 26, 2000 letter concerning your request for an opinion about Ka-Hur Enterprises, Inc.'s most recent request for its property located in the Seashore District and on Route 6 in North Truro.

You referred to my earlier, January 1992 opinion when I addressed a similar request for the extension or alteration of a preexisting, nonconforming structure and use. In the earlier, 1992 request, there was an additional parameter not present at this time; namely, a physical addition to the existing building itself. The present request, as I understand it, eliminates that proposal, and the existing building's size will not be increased. Instead, one element of the preexisting, nonconforming use within the building - namely the repair bays - will be eliminated, and in their place, there will be a new use - namely, a convenience store.

After reviewing the material you provided me, as well as reviewing my research and earlier letter of June 12, 1992, my opinion remains the same. The project needs a use variance, and there is no provision for such a variance in the Truro Zoning Bylaws. This also means that a special permit will not suffice to furnish the requested relief.

For your reference, I have also enclosed a copy of another opinion letter which relates to the same subject matter. This August 16, 1993 opinion was written about the former Noons gas station property which was at that time the subject of a request to change its preexisting, nonconforming building and use from a gasoline station to a real estate office. I rely on the law as set forth in that opinion, for I believe it is extremely germane and controlling. I particularly direct your attention to page 5 and the discussion of the Appeals Court's opinion when it considered a situation arising under

ZISSON AND VEARA

Ms Kelly
April 23, 2000
Page 2

a bylaw of the Town of Winchendon - one which is almost identical to the bylaw in the Town of Truro. The Court's opinion addressed the interpretation and construction of the words "alteration and extension." I have highlighted the Appeals Court's discussion and holding for your reference.

In view of the enclosed, it is my opinion at this time that the proposed project - namely, the change of one preexisting, nonconforming use (an automobile repair bay) to a new, nonpermitted and nonconforming use (namely, a convenience store or market) - is not permissible through the issuance of a special permit. A use variance is required, but it is not authorized by the Truro Zoning Bylaws, as they are presently written. It was my opinion then and is my opinion now that this change may not be undertaken without a change in the Zoning Bylaw of the Town of Truro either to make convenience stores or markets a permitted use in this district or to provide for the granting of use variances.

I trust this answers your inquiry, but should you require anything further, please do not hesitate to contact me.

Cordially,



Edward E. Veara
Town Counsel

EEV/ja
Enclosures

cc(w/enc.): Board of Selectmen



United States Department of the Interior

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

IN REPLY REFER TO:

C3815
Tract No. 14-3516

April 12, 2023

Anne Greenbaum, Chairman
Truro Planning Board
Town of Truro
P.O. Box 2030
Truro, MA 02666

Dear Ms. Greenbaum:

This letter concerns the Truro Planning Board 2023-002 SPR hearing of April 12, 2023 for Commercial Site Plan Review (SPR) approval at the former Jack's Gas site. We oppose authorization of the proposal to sell "firewood and other materials" at 100 Route 6 in Truro, MA, within Cape Cod National Seashore (National Seashore). When providing for establishment of the National Seashore, Congress set forth that commercial and industrial uses were prohibited within its boundaries except and unless permitted by the Secretary. The federal Zoning Standards Regulation for the National Seashore at 36 C.F.R. § 27.1 implements this directive by prohibiting commercial and industrial uses that were not in existence in 1961. The Town Zoning Bylaw incorporated the prohibition in Section 30.2 and 30.3. Notably, Section 30.3.B.12 specifies that "[l]awfully pre-existing non-conforming commercial uses and structures may continue, but **in no case shall the use be altered or converted to another commercial use.**" (emphasis added).

The lawfully pre-existing commercial use at the time of National Seashore establishment was solely as a gasoline station. This use was originally authorized to continue; however, the use was abandoned on or about February 1998. Counsel for the former owner of the property represented to the Zoning Board of Appeals in 2004 that the sale of firewood at the site began in 1981. The National Seashore explained and clarified with both the owner and the Town of Truro in 2004 that the ancillary sale of firewood at the gasoline station is not a lawfully pre-existing, non-conforming commercial use within the Seashore District under the town zoning bylaw, nor under the park's enabling legislation.

The gasoline station commercial use ceased in approximately February 1998, and the tanks and pumps were subsequently removed. The Certificate of Suspension of Condemnation of Commercial and Industrial Property (CSC) for the commercial gasoline operation has not been


renewed since March 2000. Under the Town of Truro's Zoning Bylaw, Section 30.7.C, a use cannot be reestablished that has been abandoned for more than two years, and any future use must be in conformance with the current zoning bylaw. As a condition of the former gasoline station spill settlement, the applicant agreed never to operate a gasoline station in the state. The pre-existing, non-conforming use for a commercial gasoline station has been abandoned and no new commercial use can lawfully be established in the Seashore District.

In 2004, we made clear to Mr. Aiken that although he had been selling firewood from the gas station for a time, because that commercial use was not in existence in 1961, it was not a lawfully pre-existing non-conforming use. Nevertheless, in order to support clean-up of the site, the seashore did not object to temporary firewood sales from the property provided proceeds were used to support the state government's cost of clean-up. It now appears that authorization of continued temporary firewood sales activity to fund the gasoline spill cleanup is no longer needed as the Aiken family is no longer operating the site. Approving a Commercial Site Plan or issuing a variance and/or special permit to allow this non-conforming commercial use (a business selling firewood and other materials) in the absence of National Seashore approval, would be unlawful.

Moreover, the site has been altered and developed for expanded non-conforming commercial use in the absence of authorization or permit, which is in direct contravention of Section 30.1.A. This and any other commercial activity should cease, and the materials be promptly removed. Furthermore, unintentional introduction of invasive non-native insects through firewood and landscaping materials distribution and sales is a significant concern for the National Seashore.

In summary, we are opposed to Site Plan Review approval of commercial uses of this property that were not lawfully pre-existing in 1961 and are therefore unlawful. This "new" commercial use would be substantially detrimental to the Seashore District. We recommend referral of this matter to Town Land Use Counsel.

Sincerely,



Brian Carlstrom
Superintendent

Enclosures

cc:

Truro Town Administrator
Truro Select Board Chair
Truro Town Planner/Land Use Counsel
Cape Cod Commission
Cape Cod County Commissioners



United States Department of the Interior

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

IN REPLY REFER TO:

C3815

Tract No. 14-3516

July 21, 2023

Arthur F. Hultin Jr, Chair
Truro Zoning Board of Appeals
Town of Truro
P.O. Box 2030
Truro, MA 02666

Dear Mr. Hultin,

This letter concerns the Truro Zoning Board of Appeals hearing regarding the former Jack's Gas site at 100 Route 6 in Truro, MA. A Cease-and-Desist order is appropriate in this instance, and we are aware of the order issued by the Building Commissioner on May 3, 2023.

We are opposed to a change in use to commercial sales of landscaping materials within Cape Cod National Seashore (National Seashore). This is not an intensification of use that can be authorized by special permit. The NPS respectfully requests that the Zoning Board of Appeal deny the appeal to be consistent with town zoning bylaws that do not authorize new commercial uses and with prior Town of Truro legal counsel findings for commercial properties within the town's Seashore District of 1993 and 2000 (see enclosure).

The Cape Cod National Seashore is supported by Federal Zoning Standards Regulation 36 CFR Part 27.1 (b) which states "The standards hereby established for approval of zoning bylaws or amendments of zoning bylaws—are intended: (1) To contribute to the effect of prohibiting the commercial and industrial use, other than existing commercial or industrial use not inconsistent with the purposes of the Act of August 7, 1961 (75 Stat. 284, 291), of all property within the boundaries of the Cape Cod National Seashore...." The Truro zoning provisions at issue are intended to fulfill this obligation by prohibiting all commercial and industrial uses in the Seashore District, except those lawfully pre-existing non-conforming uses. *See* Bylaw §30.3.

In spring 2023, we previously commented on commercial site plan deliberations and provide that letter for additional context (see enclosure).

The ongoing site modifications and proposed changes in use are not "lawfully pre-existing non-conforming commercial uses." Moreover, Massachusetts General Laws Chapter 40A, Section 10 provides that "no variance may authorize a use or activity not otherwise permitted in the district

in which the land or structure is located” unless expressly allowed under local ordinance or by-law. We are unaware of any provisions in the Town of Truro Bylaw that expressly authorizes a use variance. In fact, Section 30.3.B.12 specifies that “[l]awfully pre-existing non-conforming commercial uses and structures may continue, but **in no case shall the use be altered or converted to another commercial use.**” Accordingly, the NPS is seeking consistency with town zoning and denial of this appeal.

Sincerely,

Brian T. Carlstrom
Superintendent

Enclosures

cc: Barbara Carboni
Darrin Tangeman
Bill Henchy
Bobby Martin
Andrew Aiken

ZBA HEARING re: 100 Route 6
Au-21-23

RCUD 2023SEP22 09:11:41
 ADMINISTRATIVE OFFICE
 TOWN OF TRURO

Stephen Williams – from mid-June 1985 to mid-2001 – employed by ToFT as the Bldg Comm/Agent to the BofH/Zoning Enforcement Officer/Secretarial back-up to all 3... And in all those years... I have never seen a Zoning case more screwed up by more people than this one!

In mid-January of this year, the site of 100 Route 6 (aka Jack's Gas) which is identified as sheet 55, parcel 12 in the Assessor's Atlas w/ NPS Tract #14-3515 @ 1.7 acre and owned by the Aiken Family Realty Trust began to be used again.

I haven't presented a case to the ZBA for 20 years ± so I hope you will bear with me if I'm a little bit rusty here.

The first mistake: was the lease itself by Andrew Aiken to Robert Martin which according to an 'Independent' * article (My-18-23 attached below) could "only be used for the processing of firewood and stockpiling of landscaping materials... and shall be subject to rules and regulations of both the Town of Truro and the National Seashore." This is false! The problem was/is that the stated premise of the lease DOES NOT CONFORM to either Truro zoning or NPS regulations... And 'the stockpiling of landscaping materials' will never have any plausible claim to being a 'pre-existing non-conforming use'

The second mistake: was that the Truro Zoning Officer Richard Stevens, and subsequently, the Land Use Officer Barbara Carboni both declared to Martin (as also noted in the newspaper * article cited above) that: "it is presumed that the sale of firewood continues to be protected as a pre-existing non-conforming use." This is false! The two Town 'experts' on Zoning 'presumed' and gave false opinions to Mr. Martin... upon which he, in part, relied. The only pre-existing non-conforming use on this site was that of a gas-station (see NPS letter of Ap-12-23 to Anne Greenbaum * attached below)

The third mistake: was that Mr. Martin began to expand his "use" of the site in further violation of Truro zoning and NPS guidelines and that over the next several weeks there appeared a series of large piles of DIRT, LOAM, SHELLS, and GRAVEL, as well as a LARGE RACK of 'FOR-

SALE-TO-TRANSIENTS' FIREWOOD which also functions as a **STRUCTURE** and a **SIGN** (see Truro zoning definitions), and which is *actually located off-site and within the layout of Route 6.* (see map * below)

(~ As the non-conforming uses at this site increased I found myself more frequently asked whether this was lawful... to which I would respond "No" but urging people to speak to the Zoning Enforcement Officer, *Stevens* ~)

The fourth mistake: was that on Ap-12-23 the Truro Planning Board held a hearing for a "Commercial Site-Plan Review". I don't know how this came to pass but the anomaly of having such a *hearing for a commercial venture that was patently illegal* (~ under both Town and NPS regulations ~) remained unstated and unexplained. The PB Chair, *Anne Greenbaum*, clearly wanted to help Mr. Martin... even volunteering to meet him on-site to 'make a map' although it should be noted that a map is readily available in the Assessors Atlas (S-55/P-12). I enlarged *that map* * (attached below) and noted that "structures", such as the firewood rack, which appears to be located off-site and in the Route 6 layout, would also be subject to the 50' frontline setback requirement in the Seashore District. Toward the end of that meeting it was also acknowledged that the NPS had sent a letter * (dated Ap-12-23 attached * below) to the Planning Board but the contents were not discussed and it took days to obtain a copy of it and understand why...

The fifth mistake: Was mine. On Ap-21-23 after reading the NPS letter which confirmed what I already knew about pre-existing non-conforming land-use... (and which repudiated the positions of *Stevens & Carboni & Greenbaum*) and still seeing such a complete lack of enforcement for nearly five months, I solicited a meeting with *Darrin Tangeman* (Truro Town Manager) and, after being rebuffed and canceled twice, I conveyed a message to him that he was facing both a scandal and a lawsuit and that he might want to talk to me before it hit the local newspapers. During a 45 minute meeting I conveyed to Tangeman that his two resident experts on zoning were either incompetent or too lazy to stick their heads up out of their 'silo's' to actually do their jobs. I told him I asked to meet him as a courtesy since it seemed that HIS JOB was to make sure *they did their jobs*.

I noted that under normal condition he might get his Zoning Enforcement Officer (*Stevens*) to write "a cease and desist' order to Mr. Martin but that the situation had developed beyond 'normal'. The problem now was that a

“cease & desist letter of enforcement” would be interpreted as an ‘opinion’ which could be challenged before the Zoning Board of Appeals... a process likely to be repeatedly delayed as Mr. Martin was quoted in the papers: “Until a judge stamps a document that says I can’t be there, I’m going to be there....” (Independent * My-18-23). What should happen, I suggested to Tangemen, was that Town Counsel (Koppleman & Paige) should be instructed to take Mr. Martin to court and get a ‘restraining order’ enjoining him from all commercial activity at that site and noting that fines for zoning violations are set at \$300 per-violation-per-day... so, as an example, the four signs that had recently appeared on site (~ without permits, I presume! ~) would cumulatively be subject to fines of \$1,200 per day or \$36,000 per month!

But given the complicity of town officials enabling this situation to have developed thus far, I further suggested that Mr. Martin should be offered the courtesy of a ‘schedule-for-compliance’... such as: WEEK #1: Remove all signage from this site or face the commencement of fines as noted above. WEEK #2: Remove all firewood from the standing-firewood-rack back into the piles (beside the piles of gravel & seashells) and remove the rack from this site or face the commencement of fines as noted above. WITHIN the following 2-3 MONTHS: Mr. Martin can use, or sell off to other contractors, the miscellaneous piles of loam, gravel, shells and firewood but: *UNDER THE STRICT PROVISIO THAT HE IS NOT TO REPLENISH ANY OF THESE ITEMS AT ANY TIME FOR ANY REASON... at the end of which time he will be solely responsible for site-cleanup and the removal of any-and-all such remaining commercial products. (My two page summary * of that meeting with/for Tangemen is attached below.)*

As a closing note I further suggested to Tangemen that Town Counsel should initiate an identical suit against Andrew Aiken (the land-owner) noting that, as the land-lord of said site he is complicit by the terms of the lease and is equally responsible for bringing this case to an end.

ELEVEN DAYS LATER on May 3rd 2023 Mr. Stevens sent a ‘cease-and-desist’ letter * (attached below) to Mr. Martin which indicated to me that Mr. Tangeman had directed him to choose the slowest possible method of resolving this case rather than getting town counsel to pursue this matter more expeditiously.

So... so far we have the following cast of characters: *Andrew Aiken* (as the landlord of record); *Robert Martin* (as the violating tenant of record) *Richard Stevens* (as the zoning enforcement officer of record) *Barbara Carboni* (as the land-use expert of record) *Anne Greenbaum* (as the chair of the Planning Board) *Darrin Tangeman* (as the Town Manager of record) and myself, *Stephen Williams* (as ex-Zoning Officer, Ret.) All of these people have opined in this farce... *and, yes, so far, all of us have accomplished absolutely nothing!* Have I left anyone out? Oh... yeah! **Brian Carlstrom (the NPS Superintendent) who, I feel compelled to note, seems more interested in seizing the P-Town 'dune shacks' than acting as a *responsible partner* to resolve this minor if illegal and messy 'eye-sore' situation in Truro.**

So I suggest that what the Park should do is withdraw the "freedom from condemnation certificate" last renewed in March 2000 (see NPS letter of Ap-12-23 previously cited) for its violations of Truro & NPS regulations at this site and then "take it by eminent domain". At 1.7 acres the site's only plausibly lawful use would be for ONE single-family residence (SFR) and that given the unknown extent of the gas-spill which effectively terminated the only pre-existing non-conforming gas-station-use at the site the assessed value of the land (with or without potable water?) is never likely to rise above the \$159,500 of it's 'assessed valuation' today.

Today, Au-21-23, the ZBA will consider "The Martin Case." There is only one possible decision. And, given the number of relevant and concurring opinions from previous Town Counsels and letters from the National Seashore, that is: "TO UPHOLD THE-CEASE-AND-DESIST // STOP-WORK ORDER FROM THE TRURO ZONING ENFORCEMENT OFFICER AND DIRECT MR. MARTIN TO VACATE THE PREMISES."

Stephen Williams

- **Note Assessors Map #52... and 'Independent' article (May 18, 23)... and NPS letter (Ap-12-23)... and my post-meeting notes to Tangeman... and Stevens 'cease-and-desist' letter of My-3-23 all attached below along with Postscripts #1 & #2.**

POSTSCRIPT #1 – Au-31-23

But on Au-21-23... and for the SECOND time... the ZBA hearing regarding an obviously non-permitted use of 100 Route 6 was POSTPONED... (seems the dog ate Att. Henschy's briefs). This is, as I explained to Mr. Tangeman, the way it works when a litigant is stalling for time... First file for a hearing just AFTER the original filing deadline (which buys you the first month) and then get a POSTPONEMENT at the first ZBA hearing (which gets you a second month) and then claim the dog ate my homework at the third ZBA hearing to get a second POSTPONEMENT (which gets you a third month). And then at the fourth ZBA hearing claim something else and ask for yet another postponement which gets you a fourth month... and so on...

Obviously, this cannot go on forever but the ZBA might seek legal guidance if they feel their patience is being deliberately stressed since holding a hearing after being asked for yet another postponement and then possibly finding against the appellant sets up the next delaying tactic of the appellant... suing the Town *and asking for an injunction, or a stay of enforcement, until that case can be resolved in court... and then (lest we omit) asking for postponements in court.*

All this leaves two questions unanswered:

- #1: When and what decision will the ZBA reach at its next hearing?**
- #2: What and when will the Town Manager manage to do then in terms of managing this increasingly ridiculous and embarrassing farce?**

POSTSCRIPT #2 -- S-14-23

It seems to me that another means-to-resolution of this impacted-issue might be to explore the purchase of this site by a neutral town entity... such as the Truro Conservation Trust.

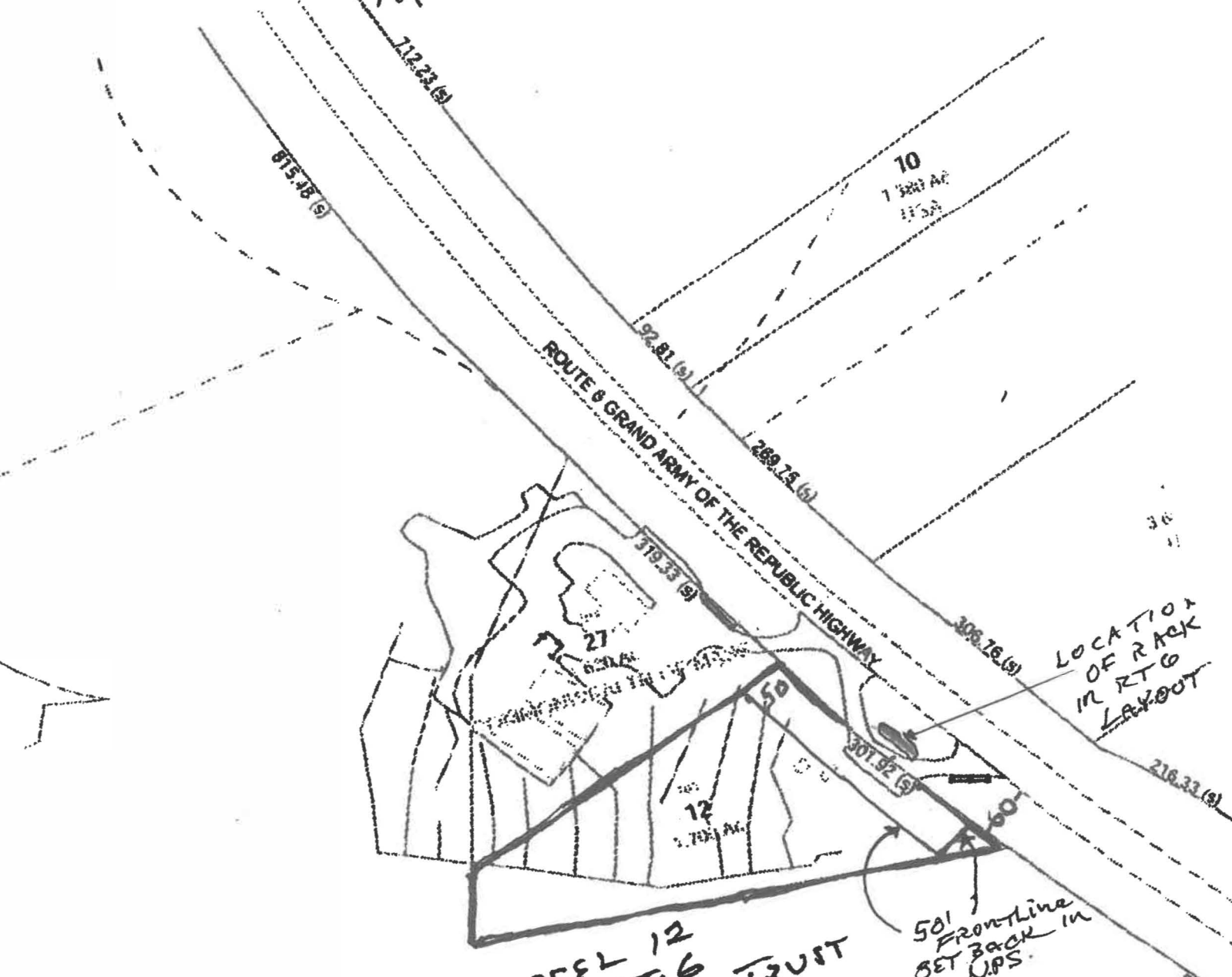
I remember helping Ancil Chaplin arrange a meeting to negotiate "The Trust" purchase of the triangular lot (between Route 6 and 6A just south of South Pamet Rd in the center of Truro) from Byron Darling and how he managed to include a provision that would allow The Trust to lease this parcel out for the specific and singular purpose of relocating the Truro Post Office... if it ever needed to be removed from the overflowing bank of the Pamet estuary to somewhat higher ground, and still remain in the 'center' of town.

In this instance, and I think it would be in keeping with the intent of their general purposes, The Trust might consider offering to buy the site @ 100 Route 6 (aka: Jacks Gas) from the Aiken family. With its assessed valuation of \$159,500... and with all the restrictions on this 1.7 acre parcel not to mention the environmental encumbrance of an unresolved gas-spill (all of which detract from the value of this lot), the Aikens might be very grateful to be 'relieved' of this lot. It would be a fabulous fund-raising issue for The Trust not to mention great publicity for their cause. The lot could be held by The Trust or given to the National Seashore for whatever tax credits might be available for gifts from such environmental trusts.

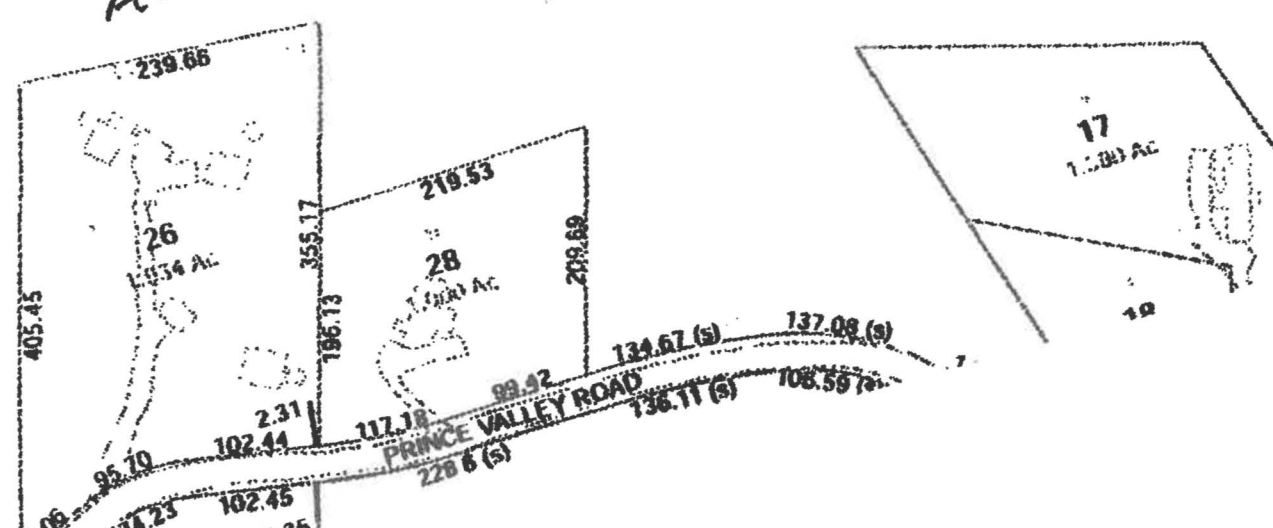
In any event, the present situation is desperately in need of resolution or, to put it more bluntly, *better management!* Meanwhile the site continues to be re-stocked with misc piles of materials and trees continue to disappear from the back of the lot. And the only response by the Town seems to be:

"I-hope-this-will-all-go-away-before-I-actually-have-to-do-my-job!"

AP - 21-23



SHEET 55 PARCEL 12
 1.7 AC. 100 RT. 6
 Aiken Family Realty TRUST



MAY 18 2023
INDEPENDENT

Cease Business on Route 6

Commercial use of the former Jack's Gas site is prohibited, say Seashore officials

By Sam Pollak

TRURO — Robert Martin has been selling firewood from a roadside lot at 100 Route 6 since he began renting it on Jan. 15. This spring, the business's footprint seemed to grow larger and flatter, as concrete bays of landscaping material went in. Then piles of gravel arrived, along with signs for RJM Enterprises.

Martin didn't ask for permission to expand the operation in these ways. "I assumed I could," he said, "since that is what has been done on the property for 60 years."

On May 3, Martin received a cease-and-desist letter from Truro Building Commissioner Richard Stevens after the town was advised in a letter from Cape Cod National Seashore Supt. Brian Carlstrom that Martin's activities on the site were unlawful.

Martin said this week he plans to appeal the order to cease operations and that he considers it a case of "selective enforcement."

The 1.7-acre property, formerly the site of Jack's Gas, is in National Seashore. Both federal regulations and the town's zoning bylaws stipulate that commercial use of a property that was active before 1961, when the

Seashore was created, may continue, but "in no case shall the use be altered or converted to another commercial use," according to the Truro bylaw.

According to Carlstrom, the sale of gasoline is the only commercial use that predated the establishment of the Seashore. Other commercial uses, including the sale of firewood and landscaping materials like loam and wood chips, are not allowed, he said. Carlstrom cited a 2004 Truro Zoning Board of Appeals meeting at which a lawyer representing the Aiken family, the owners of the property, stated that the sale of firewood began at the site in 1981.

"At that hearing, the Seashore explained the ancillary sale of firewood at the station is not a lawfully pre-existing, nonconforming use within the Seashore District under the town zoning bylaw, nor under the park's enabling legislation," Carlstrom's letter says.

At an April 12 planning board meeting to review Martin's site plan, Seashore Planner Lauren McKean said that, after a gas spill in 1998, the Seashore allowed the Aikens to sell firewood as a "stopgap measure because



RJM Enterprises is Robert Martin's business selling firewood and landscaping material at the former Jack's Gas site in Truro. (Photo by Nancy Bloom)

of the hardship on the Aiken family."

McKean added that "the hardship is not there anymore. There is no commercial use that can occur on this property."

But Town Planner Barbara Carboni said in a memorandum to the planning board that "it is presumed that the sale of firewood continues to be protected as a pre-existing nonconforming use." What prompted Stevens's cease-and-desist letter, said Carboni, "is the additional material on the property, and the fact that the site itself was being modified."

Martin told the *Independent* that "there were a few trees cut down" at the site

and that he was "expanding marginally. I did take five or ten feet backwards. I'm not going to deny any of those facts, but I was under the assumption that I could do that."

Truro's bylaws prohibit the filling of land, dumping or removal of soil, and cutting of timber in the Seashore for any reason other than controlling brush and clearing rights-of-way.

According to Martin's lease, the property can "only be used for the processing of firewood and stockpiling of landscaping materials," but the tenant "shall be subject to rules and regulations of both the town of Truro and the National Seashore."

At the April 12 meet-

ing, planning board member Paul Kiernan said that "the firewood sales area is within the layout of Route 6. The topsoil has been stripped off and covered with wood chips. All of that seems to fly in face of our bylaw."

The board unanimously voted to continue the hearing to May 24.

Martin said that he has agreed to stop importing landscaping material onto the property, but his sale of the material and of firewood will continue as he appeals the order.

"Until a judge stamps a document that says I can't be there, I'm going to be there," he said. "They want to render the land useless, and I'm not going to do that."



United States Department of the Interior

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

IN REPLY REFER TO:

C3815
Tract No. 14-3516

April 12, 2023

Anne Greenbaum, Chairman
Truro Planning Board
Town of Truro
P.O. Box 2030
Truro, MA 02666

Dear Ms. Greenbaum:

This letter concerns the Truro Planning Board 2023-002 SPR hearing of April 12, 2023 for Commercial Site Plan Review (SPR) approval at the former Jack's Gas site. We oppose authorization of the proposal to sell "firewood and other materials" at 100 Route 6 in Truro, MA, within Cape Cod National Seashore (National Seashore). When providing for establishment of the National Seashore, Congress set forth that commercial and industrial uses were prohibited within its boundaries except and unless permitted by the Secretary. The federal Zoning Standards Regulation for the National Seashore at 36 C.F.R. § 27.1 implements this directive by prohibiting commercial and industrial uses that were not in existence in 1961. The Town Zoning Bylaw incorporated the prohibition in Section 30.2 and 30.3. Notably, Section 30.3.B.12 specifies that "[l]awfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use." (emphasis added).

The lawfully pre-existing commercial use at the time of National Seashore establishment was solely as a gasoline station. This use was originally authorized to continue; however, the use was abandoned on or about February 1998. Counsel for the former owner of the property represented to the Zoning Board of Appeals in 2004 that the sale of firewood at the site began in 1981. The National Seashore explained and clarified with both the owner and the Town of Truro in 2004 that the ancillary sale of firewood at the gasoline station is not a lawfully pre-existing, non-conforming commercial use within the Seashore District under the town zoning bylaw, nor under the park's enabling legislation.

The gasoline station commercial use ceased in approximately February 1998, and the tanks and pumps were subsequently removed. The Certificate of Suspension of Condemnation of Commercial and Industrial Property (CSC) for the commercial gasoline operation has not been

renewed since March 2000. Under the Town of Truro's Zoning Bylaw, Section 30.7.C, a use cannot be reestablished that has been abandoned for more than two years, and any future use must be in conformance with the current zoning bylaw. As a condition of the former gasoline station spill settlement, the applicant agreed never to operate a gasoline station in the state. The pre-existing, non-conforming use for a commercial gasoline station has been abandoned and no new commercial use can lawfully be established in the Seashore District.

In 2004, we made clear to Mr. Aiken that although he had been selling firewood from the gas station for a time, because that commercial use was not in existence in 1961, it was not a lawfully pre-existing non-conforming use. Nevertheless, in order to support clean-up of the site, the seashore did not object to temporary firewood sales from the property provided proceeds were used to support the state government's cost of clean-up. It now appears that authorization of continued temporary firewood sales activity to fund the gasoline spill cleanup is no longer needed as the Aiken family is no longer operating the site. Approving a Commercial Site Plan or issuing a variance and/or special permit to allow this non-conforming commercial use (a business selling firewood and other materials) in the absence of National Seashore approval, would be unlawful.

Moreover, the site has been altered and developed for expanded non-conforming commercial use in the absence of authorization or permit, which is in direct contravention of Section 30.1.A. This and any other commercial activity should cease, and the materials be promptly removed. Furthermore, unintentional introduction of invasive non-native insects through firewood and landscaping materials distribution and sales is a significant concern for the National Seashore.

In summary, we are opposed to Site Plan Review approval of commercial uses of this property that were not lawfully pre-existing in 1961 and are therefore unlawful. This "new" commercial use would be substantially detrimental to the Seashore District. We recommend referral of this matter to Town Land Use Counsel.

Sincerely,



Brian Carlstrom
Superintendent

Enclosures

cc:

Truro Town Administrator
Truro Select Board Chair
Truro Town Planner/Land Use Counsel
Cape Cod Commission
Cape Cod County Commissioners

#1

Considerations for Tangeman after our 10:00 to 10:45 minute meeting on April 21, 2023... as an 'up-date' emailed to him that evening:

1. Another reason Richard Stevens should not write a letter of enforcement vis-a-vis Robert Martin II is that it would likely be assumed to be a zoning 'interpretation' which Martin could take to the ZBA for a secondary review... seeking *their* approval via a judgment. It should be noted that a Use-Variance would be required but Truro has a restrictive bylaw which means that uses which are not expressly permitted are expressly NOT permitted... to which, in addition, ***Truro specifically prohibits "use-variances"***. It would be a waste of time but it might complicate proceedings and result in undesirable delays!

2. On the afternoon (4:00 pm ±) of our meeting on Friday, Martin was seen accepting a delivery of a long-bed dump truck containing approximately 34 tons of new top soil... now located to the north of ***more*** clamshells... which seems to indicate that he is forging ahead with his 'unlawful use' and which is likely to be the basis of "claims of hardship" (*all self generated*) after he has to give up using this site. I went by the site this afternoon to confirm this and also noted a very large NEW SIGN on the northwest hill behind his piles of dirt/gravel etc. which he is clearly intending to expand and to sell. Has Martin applied for a sign permit or is this just another indication of his contempt for Town Bylaws? Sign permits are the purview of the Building Commissioner who administers the Sign Code... has Stevens issued a sign permit? EVERYDAY YOU DELAY IN THE COMMENCEMENT OF AN ENFORCEMENT ACTION IS LIKELY TO SEE HIM EXPANDING HIS USE AND THE COMPLEXITIES OF ENFORCEMENT WILL BECOME INCREASINGLY EXPENSIVE! For everyone!

3. My last note is that you should consider having the POLICE department begin to photograph this lot on a daily basis... from the north and from the south so that any further transgressions can be identified and documented. If they are "caught" doing this by Martin it will send a signal that he is on thinner and thinner ice but again I urge you to get Town Counsel to write a "Cease and Desist" directive ASAP with the step by step reduction as I noted to you in our meeting. Emphasizing ***there is to be no "replenishment"*** of any of these piles: dirt/shells/gravel etc under any circumstances.

If you want or need any further assistance from this old retiree... please feel free to contact me. I can clarify the terms I laid out to you for Town Counsel if that would help.

All the best;

Stephen Williams

Considerations for Tangeman page 2: April 22, 2023:

1: Pondering what I saw at "the site" yesterday it seems more and more likely that this is going to be an increasingly messy and protracted legal-battle. Take the issue of 'signage' and note that I forgot to mention that he has put up **two** very large signs in the past few days... *the first* attached atop the wood rack *which is illegal*, because the rack itself is located in the Route 6 layout and thus constitutes an 'off-premise' advertisement which are not allowed by the Sign Code... and *the second* on the hillside to the northwest which appears to be much larger than what the sign code allows any legitimate businesses. Both of these signs should be measured and photographed and may provide additional evidence that the present tenant is proceeding in a scoff-law manner and may not have even bothered to apply for sign permits.

2. I have spoken with Mr. Tangeman about the form that a cease and desist letter from Koppleman and Paige *might* take... specifically, that ALL advertising signs and flags must be removed from this site within 48 hours of receipt... that all the wood in the rack must be put back into the storage pile behind and the wood rack removed from the site within one week thereafter... and that all the 'commodities' such as gravel/shells/loam/firewood/etc must be removed in the two months thereafter from the site on or before July 1st 2023. He can sell it off or use it on various job-sites or sell it to other contractors but he is specifically directed that *he is not allowed under any circumstance to replenish any of those commodity piles.*

3. This Cease and Desist Order should note that violations of the Zoning by-law are punishable by fines of \$300 per-day per-violation so that refusing to remove the two signs (for instance) would accrue fines of \$4,200 per week and that further fines for not removing the wood rack would be the same so that in two weeks the fines would increase to \$6,300 and that by July 1st, 2023 that amount will have swelled again to \$50,400 ±. This Cease and Desist Order should also include a caveat that should the offending tenant prove obdurate the Town intends to prosecute this case in court to the full extent of the law and the tenant would be ill advised to think this matter will simply go away.

4. As a final note I am wary that this matter may become uglier than even I anticipate. Accordingly, I would like to suggest that a corresponding Cease and Desist Order be served on the Aiken Family Realty Trust who, as landlords, have leased the site in question to Robert Martin II. I would suggest that *if they are held equally responsible for the violations noted above on their land* and (as confirmed in the National Park evaluation of April 12, 2023 opposing the Planning Board's "Commercial Site-Review" of the same date), the Aiken children (Andrew of Connecticut and Allison of Truro) might well chose to terminate the lease and sue Martin for putting them in expensive legal jeopardy! Sowing dissension in their camp at this point will sap their resolve and unanticipated legal costs may well work to drive their purposes and self-interests apart.

All the best;

Stephen Williams

May - 3 - 23



TOWN OF TRURO

Building Department

24 Town Hall Road

P.O. Box 2030, Truro MA 02666

Tel: 508-349-7004, Ext. 131 Fax: 508-349-5508

May 3, 2023

Mr. Robert Martin
P.O. Box 891
North Truro, Ma. 02652

RE; 100 Route 6

By: REGULAR MAIL and by CERTIFIED MAIL # 7022 2410 0000 0167 9098

Mr. Martin,

Regrettably,

I am issuing a CEASE-and-DESIST order for the business that you are currently operating at 100 Route 6 Truro, MA., commonly referred to as "Jack's Garage".

This operation is in violation of the Town of Truro Zoning Bylaws paragraph 30.3 Seashore District item 12 which states, "Lawfully pre-existing non-conforming commercial uses and structures may continue, but in no case shall the use be altered or converted to another commercial use". The current use is an alteration and intensification of the prior use and therefore NOT ALLOWED.

This CEASE-and-DESIST order is effective immediately.

You have the right appeal this decision and if this office can assist you in that endeavor please do not hesitate to contact us.

Regards,

Richard Stevens
Building Commissioner

Oct 11, 2023

Dear Bob

Thank you for your input
on 100 rte 6, Truro.

As I shared at the August
21st Meeting, there was a letter
from Dick's son stating we
(Yukon Firwood) sold along
with wood ... ~~landscape~~
material...

That never happened!
all the years (2 decades plus)
I was & worked with Dick
we never sold anything
remotely described as
landscape material.

(over)

Dick as you know was a
man of integrity

I am upset his family (son)
is using his good name
to stretch what his son
would like as the truth. so
he can continue to lose 100k &
in the National Seashore to Martin
Business. Dick would not
approve or ever consider the
Partnership.

Thank you Bob
If I can assist in any
way please let me
know, with gratitude
Shirley

October 20, 2023

Truro Zoning Board of Appeals
Truro, MA

RE: 2023-009/ZBA

Dear Board,

Please forgive the tardiness of this letter as I had emergency surgery and was hospitalized for 10 days.

As an abutter, I am contacting the Board to give my full support to Kimberly Peters, 4 Harrier Way (Atlas Map 50, Parcel 263) who seeks a special permit for an ADU. I have known Kimberly Peters and her family for decades. She is an environmentally conscious individual with a deep commitment to the land and Truro. I cannot imagine a better use of this land.

Respectfully submitted,

Andrea J. Gainey
2 Harrier Way
Truro, MA



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date 8/9/2023

The undersigned hereby files with specific grounds for this application: *(check all that apply)*

1. GENERAL INFORMATION

NOTICE OF APPEAL

- Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on (date) _____.
- Applicant is aggrieved by order or decision of the Building Commissioner on (date) _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section _____ of the Truro Zoning Bylaw concerning (describe) _____

APPLICATION FOR SPECIAL PERMIT

- Applicant seeks approval and authorization of uses under Section 50.2 of the Truro Zoning Bylaw concerning (describe) ADD 900 SF ADU TO ±84,095 SF LOT W/ EXISTING ±3,833 SF HOUSE.
- Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section _____ of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning (describe) _____

Property Address 4 HARRIER WAY TRURO MA Map(s) and Parcel(s) 50-263

Registry of Deeds title reference: Book 509, Page 37, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name KIMBERLY PETERS

Applicant's Legal Mailing Address PO BOX 398 TRURO MA 02666

Applicant's Phone(s), Fax and Email KIPET@OKSTED.COM

Applicant is one of the following: *(please check appropriate box)*

*Written Permission of the owner is required for submittal of this application.

- Owner Prospective Buyer* Other*

Owner's Name and Address KIMBERLY PETERS, 4 HARRIER TRURO MA

Representative's Name and Address ALISON ALESSI, A3 ARCHIT, 831 MAINT DENNIS MA 02641

Representative's Phone(s), Fax and Email (508) 694-7887 alison@a3architectsinc.com

2. The completed application shall also be submitted electronically to the Planning Department Administrator at esturdv@truro-ma.gov in its entirety (including all plans and attachments).

- The applicant is **advised** to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

Signature(s)

ALISON ALESSI
Applicant(s)/Representative Printed Name(s)

[Signature]
Applicant(s)/Representative Signature

SEE ATTACHED
Owner(s) Printed Name(s) or written permission

Owner(s) Signature or written permission

Your signature on this application authorizes the Members of the Zoning Board of Appeals and town staff to visit and enter upon the subject property

Town of Truro
24 Town Hall Way
Truro MA 02652

RE 4 Harrier Way, Truro MA - Special Permit

To Whom it May Concern,

I, Kimberly Peters, owner of 4 Harrier Way give permission to Alison Alessi of A3 Architects Inc. to sign/act on my behalf with respect to the Zoning Board application.

Sincerely,

A handwritten signature in black ink, appearing to read "Kimberly Peters", written in a cursive style.

Kimberly Peters



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form

DATE: 07/18/2023

NAME OF APPLICANT: Kimberly Peters

NAME OF AGENT (if any): Alison Alessi - A3 Architects Inc

MAILING ADDRESS: 831 Main Street Dennis MA 02638

CONTACT: HOME/CELL 774.487.0547 EMAIL alison@a3architectsinc.com

PROPERTY LOCATION: 4 Harrier Way, Truro MA
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 50 PARCEL 263 EXT. _____
(if condominium)

ABUTTERS LIST NEEDED FOR: **FEE: \$15.00 per checked item**
(please check all applicable) (Fee must accompany the application unless other arrangements are made)

- | | | |
|---|---|---|
| <input type="checkbox"/> Board of Health ⁵ | <input type="checkbox"/> Planning Board (PB) | <input type="checkbox"/> Zoning Board of Appeals (ZBA) |
| <input type="checkbox"/> Cape Cod Commission | <input type="checkbox"/> Special Permit ¹ | <input checked="" type="checkbox"/> Special Permit ¹ |
| <input type="checkbox"/> Conservation Commission ⁴ | <input type="checkbox"/> Site Plan ² | <input type="checkbox"/> Variance ¹ |
| <input type="checkbox"/> Licensing | <input type="checkbox"/> Preliminary Subdivision ³ | |
| Type: _____ | <input type="checkbox"/> Definitive Subdivision ³ | |
| | <input type="checkbox"/> Accessory Dwelling Unit (ADU) ² | |

Other _____ (Fee: Inquire with Assessors)
(Please Specify)

Note: Per M.G.L., processing may take up to 10 calendar days. Please plan accordingly.

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: July 18, 2023 Date completed: July 18, 2023
List completed by: Laura Geiges Date paid: _____ Cash/Check _____

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. **Note:** 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. **Note:** 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. **Note:** 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: July 18, 2023

To: Alison Alessi – A3 Architects Inc.

From: Assessors Department

Certified Abutters List: 4 Harrier Way (Map 50 Parcel 263)

Zoning Board of Appeals, Special Permit

Attached is a combined list of abutters for 4 Harrier Way (Map 50 Parcel 263).
The current owners are Michael Peters, Debbie Peters and Kimberly Peters.

The names and addresses of the abutters are as of July 14, 2023 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: _____

Laura Geiges
Assistant Assessor / Data Collector

4 Harrier Way
Mao 50 Parcel 263
ZBA Special Permit

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

Abutters List Within 300 feet of Parcel 50/263/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	Zip Cd/Country
2823	50-36-0-R	PAMET REALTY TRUST THE TRS: JOSEPH ROBBAT JR.	50 DEPOT RD	151 OLD CONCORD ROAD	LINCOLN	MA	01773
2831	50-46-0-E	TOWN OF TRURO	21-A MILL POND RD	PO BOX 2030	TRURO	MA	02666-2030
2832	50-47-0-R	FENICHEL PAUL & NANCY	2 MARIAN LN	PO BOX 459	TRURO	MA	02666-0459
2885	50-104-0-R	KERR JENETTE S C/O JENETTE S KERR REV TRST 20	18 OLD COUNTY RD	PO BOX 741	TRURO	MA	02666
2886	50-105-0-R	ST ONGE JANET L	12 OLD COUNTY RD	PO BOX 31	TRURO	MA	02666-0031
2887	50-106-0-R	KRASH JESSICA ANNE & KRASH CARLA BETH	10 OLD COUNTY RD	4824 LANGDRUM LN	CHEVY CHASE	MD	20815
2943	50-164-0-R	KRASH JESSICA ANNE & KRASH CARLA BETH	14 OLD COUNTY RD	4824 LANGDRUM LN	CHEVY CHASE	MD	20815
3004	50-237-0-R	PAMET ASSET TRUST TRS: BINGHAM ERIC & CATHERINE	11 OLD COUNTY RD	PO BOX 755	TRURO	MA	02666
3005	50-238-0-R	NEEDHAM DONNA L & ST ONGE JANET L	13 OLD COUNTY RD	PO BOX 31	TRURO	MA	02666-0031
3008	50-241-0-E	TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL	0 DEPOT RD	PO BOX 327	NO TRURO	MA	02652-0327
3009	50-242-0-E	TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL	7 OLD COUNTY RD	PO BOX 327	NO TRURO	MA	02652-0327
3020	50-256-0-R	MANDELBAUM DAVID G & KATHY C	1 MARIAN LN	71 MERBROOK BEND	MERION STATION	PA	19066
3025	50-261-0-R	OWNER UNKNOWN	17 OLD COUNTY RD	17 OLD COUNTY RD	TRURO	MA	02666
3026	50-262-0-R	GAINEY ANDREA J	2 HARRIER WAY	12 GREAT OAK LAND	UNIONVILLE	CT	06085
3027	50-263-0-R	PETERS MICHAEL P & DEBBIE D & PETERS KIMBERLY A	4 HARRIER WAY	PO BOX 398	TRURO	MA	02666

LG 7/18/23

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
6430	50-292-0-R	SLESINGER/BRADBURY FAMILY TRST TRS: PAUL AVERY SLESINGER ETAL	1 MARIA ROSE PATH	54 MAPLEWOOD ST	LARCHMONT	NY	10538

LG 7/18/23

<p>50-36-0-R</p> <p>PAMET REALTY TRUST THE TRS: JOSEPH ROBBAT JR. 151 OLD CONCORD ROAD LINCOLN, MA 01773</p>	<p>50-46-0-E</p> <p>TOWN OF TRURO PO BOX 2030 TRURO, MA 02666-2030</p>	<p>50-47-0-R</p> <p>FENICHEL PAUL & NANCY PO BOX 459 TRURO, MA 02666-0459</p>
<p>50-104-0-R</p> <p>KERR JENETTE S C/O JENETTE S KERR REV TRST 20 PO BOX 741 TRURO, MA 02666</p>	<p>50-105-0-R</p> <p>ST ONGE JANET L PO BOX 31 TRURO, MA 02666-0031</p>	<p>50-106-0-R</p> <p>KRASH JESSICA ANNE & KRASH CARLA BETH 4824 LANGDRUM LN CHEVY CHASE, MD 20815</p>
<p>50-164-0-R</p> <p>KRASH JESSICA ANNE & KRASH CARLA BETH 4824 LANGDRUM LN CHEVY CHASE, MD 20815</p>	<p>50-237-0-R</p> <p>PAMET ASSET TRUST TRS: BINGHAM ERIC & CATHERINE PO BOX 755 TRURO, MA 02666</p>	<p>50-238-0-R</p> <p>NEEDHAM DONNA L & ST ONGE JANET L PO BOX 31 TRURO, MA 02666-0031</p>
<p>50-241-0-E</p> <p>TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL PO BOX 327 NO TRURO, MA 02652-0327</p>	<p>50-242-0-E</p> <p>TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL PO BOX 327 NO TRURO, MA 02652-0327</p>	<p>50-256-0-R</p> <p>MANDELBAUM DAVID G & KATHY C 71 MERBROOK BEND MERION STATION, PA 19066</p>
<p>50-261-0-R</p> <p>OWNER UNKNOWN 17 OLD COUNTY RD TRURO, MA 02666</p>	<p>50-262-0-R</p> <p>GAINNEY ANDREA J 12 GREAT OAK LAND UNIONVILLE, CT 06085</p>	<p>50-263-0-R</p> <p>PETERS MICHAEL P & DEBBIE D & PETERS KIMBERLY A PO BOX 398 TRURO, MA 02666</p>
<p>50-292-0-R</p> <p>SLESINGER/BRADBURY FAMILY TRST TRS: PAUL AVERY SLESINGER ETAL 54 MAPLEWOOD ST LARCHMONT, NY 10538</p>		

SITE PLAN

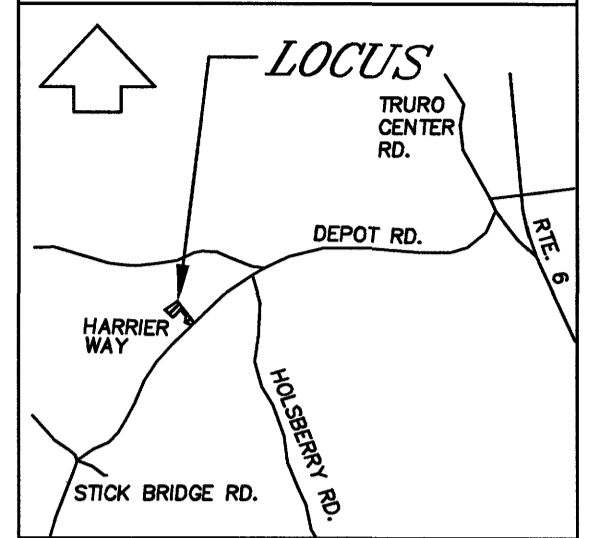
1" = 30'

DATUM

NAVD 88

LOCATION MAP

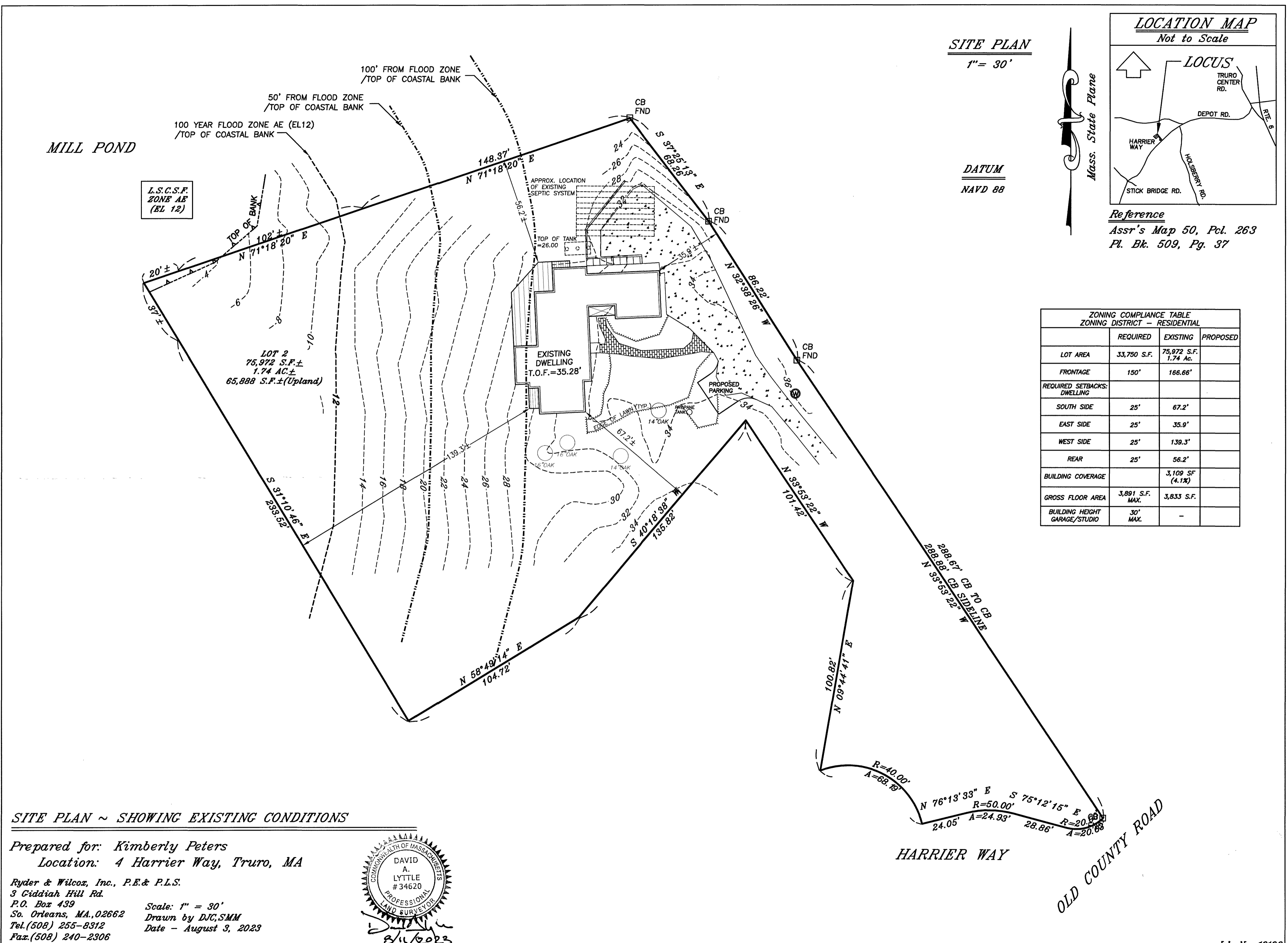
Not to Scale



Reference

Assr's Map 50, Pcl. 263
Pl. Bk. 509, Pg. 37

ZONING COMPLIANCE TABLE			
ZONING DISTRICT - RESIDENTIAL			
	REQUIRED	EXISTING	PROPOSED
LOT AREA	33,750 S.F.	75,972 S.F. 1.74 Ac.	
FRONTAGE	150'	166.66'	
REQUIRED SETBACKS: DWELLING			
SOUTH SIDE	25'	67.2'	
EAST SIDE	25'	35.9'	
WEST SIDE	25'	139.3'	
REAR	25'	56.2'	
BUILDING COVERAGE		3,109 SF (4.1%)	
GROSS FLOOR AREA	3,891 S.F. MAX.	3,833 S.F.	
BUILDING HEIGHT GARAGE/STUDIO	30' MAX.	-	



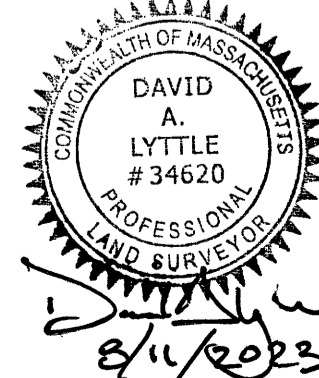
SITE PLAN ~ SHOWING EXISTING CONDITIONS

Prepared for: Kimberly Peters
Location: 4 Harrier Way, Truro, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Ciddiah Hill Rd.

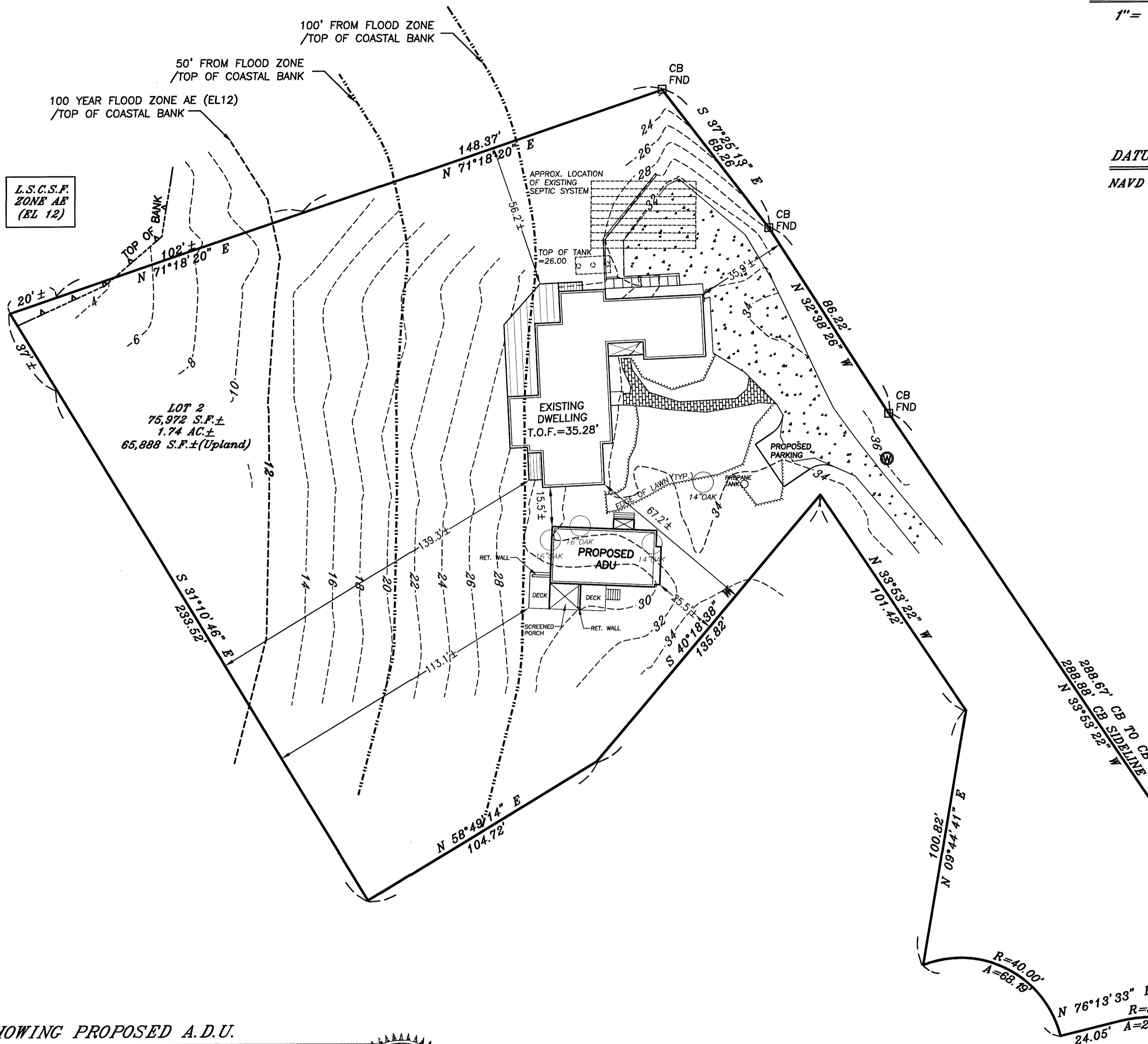
P.O. Box 439
So. Orleans, MA, 02662
Tel. (508) 255-8312
Fax. (508) 240-2306

Scale: 1" = 30'
Drawn by DJC, SMM
Date - August 3, 2023



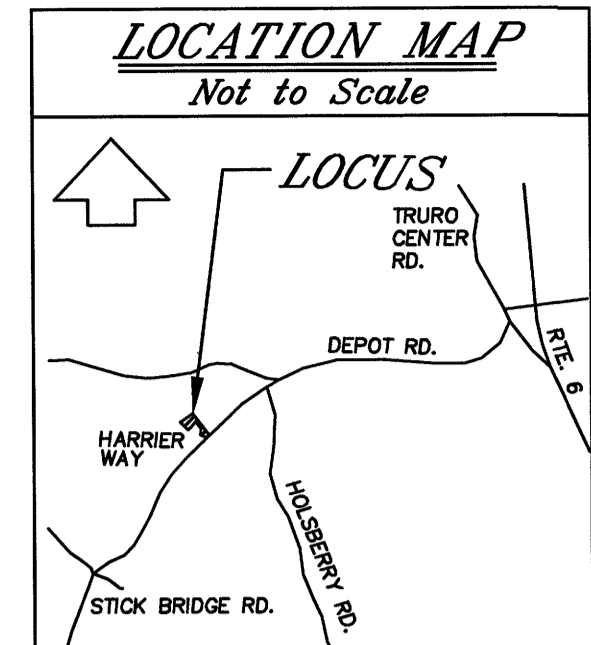
MILL POND

L.S.C.S.F.
ZONE AE
(EL 12)



SITE PLAN
1" = 30'

DATUM
NAVD 88



Reference
Assr's Map 50, Pcl. 263
Pl. Bk. 509, Pg. 37

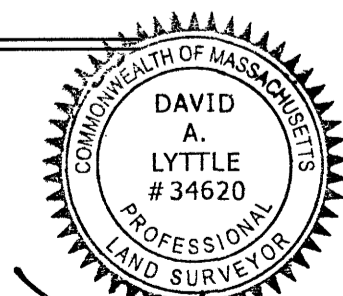
ZONING COMPLIANCE TABLE ZONING DISTRICT - RESIDENTIAL			
	REQUIRED	EXISTING	PROPOSED
LOT AREA	33,750 S.F.	75,972 S.F. 1.74 Ac.	75,972 S.F. 1.74 Ac.
FRONTAGE	150'	166.66'	166.66'
REQUIRED SETBACKS: DWELLING			
SOUTH SIDE	25'	67.2'	25.5'
EAST SIDE	25'	35.9'	35.9'
WEST SIDE	25'	139.3'	113.1'
REAR	25'	56.2'	56.2'
BUILDING COVERAGE		3,109 SF (4.1%)	4,191 SF (5.5%)
GROSS FLOOR AREA	3,891 S.F. MAX.	3,833 S.F.	4,733 S.F.
BUILDING HEIGHT GARAGE/STUDIO	30' MAX.	-	26.17'

SITE PLAN ~ SHOWING PROPOSED A.D.U.

Prepared for: Kimberly Peters
Location: 4 Harrier Way, Truro, MA

Ryder & Wilcox, Inc., P.E. & P.L.S.
3 Giddiah Hill Rd.
P.O. Box 439
So. Orleans, MA, 02662
Tel. (508) 255-8312
Fax. (508) 240-2306

Scale: 1" = 30'
Drawn by DJC, SMM
Date - August 3, 2023



2/11/2023

HARRIER WAY

OLD COUNTY ROAD

LIST OF ARCH. DRAWINGS

A1.0 FND PLAN
 A1.1 FIRST FLR PLAN

A2.0 EAST ELEVATION
 A2.1 NORTH ELEVATION
 A2.2 WEST ELEVATION
 A2.3 SOUTH ELEVATION

AREA CALCULATIONS:

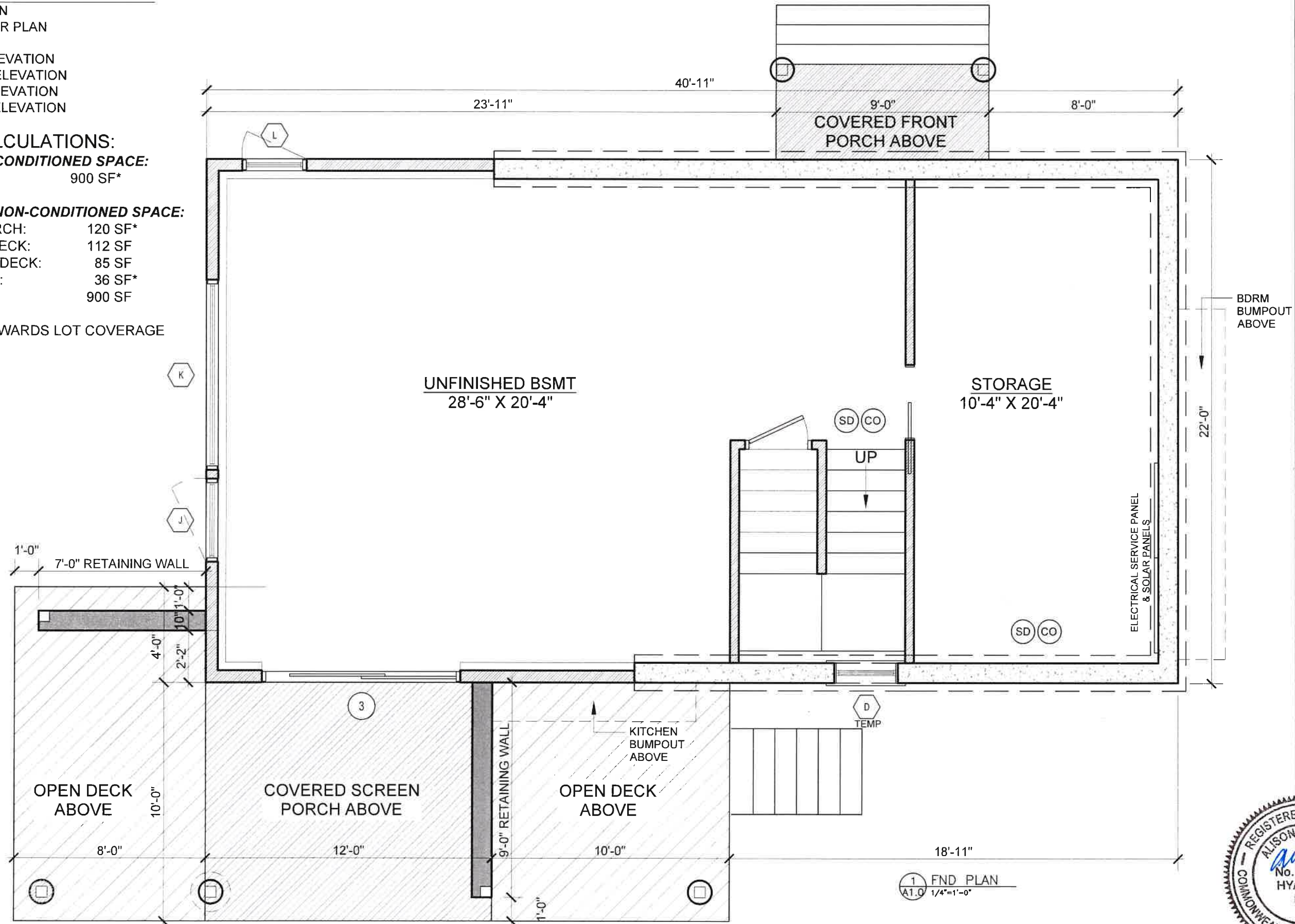
PROPOSED CONDITIONED SPACE:

1ST FLOOR: 900 SF*

PROPOSED NON-CONDITIONED SPACE:

SCREEN PORCH: 120 SF*
 WEST SUN DECK: 112 SF
 SOUTH SIDE DECK: 85 SF
 ENTRY DECK: 36 SF*
 BASEMENT: 900 SF

*COUNTS TOWARDS LOT COVERAGE



NEW CONSTRUCTION FOR:

KIM PETERS
 4 HARRIER WAY
 TRURO MA

TITLE:

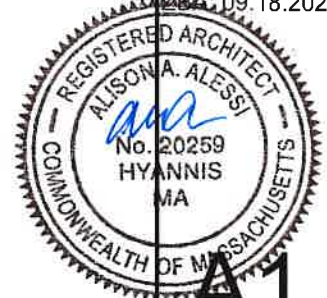
PLANS

831 Main Street
 Dennis, MA 02638
 508.694.7887 phone
 www.a3architectsinc.com

A3 architects, inc
 Residential Commercial Net Zero

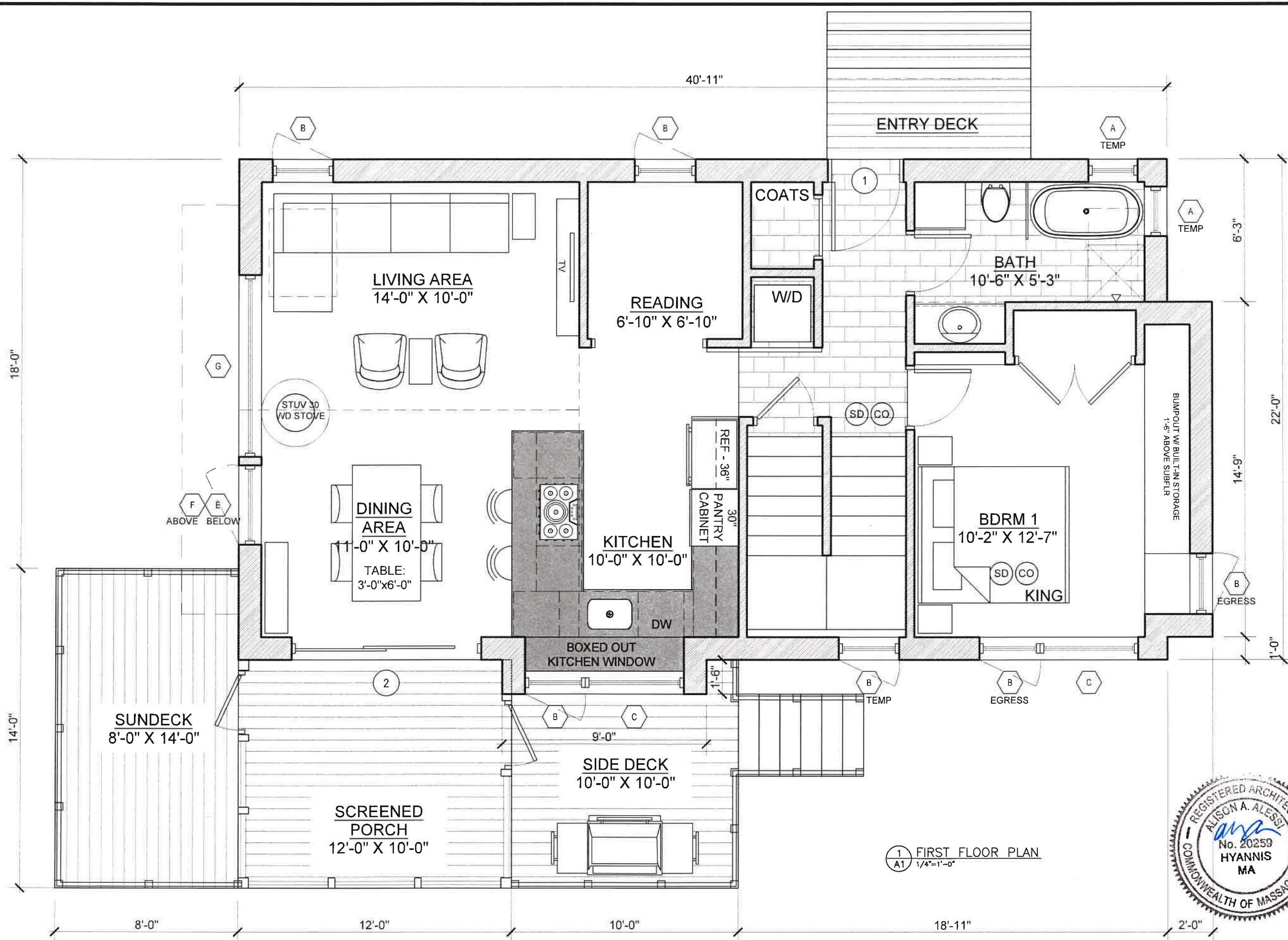
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Date:
 09.18.2023

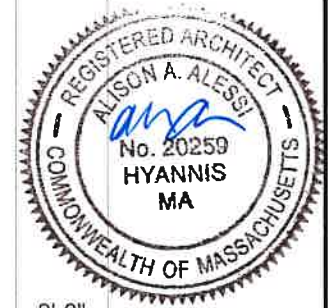


1 FND PLAN
 A1.0 1/4"=1'-0"

A1.0



1 FIRST FLOOR PLAN
A1 1/4"=1'-0"



NEW CONSTRUCTION FOR:

KIM PETERS
4 HARRIER WAY
TRURO MA

TITLE:

PLANS

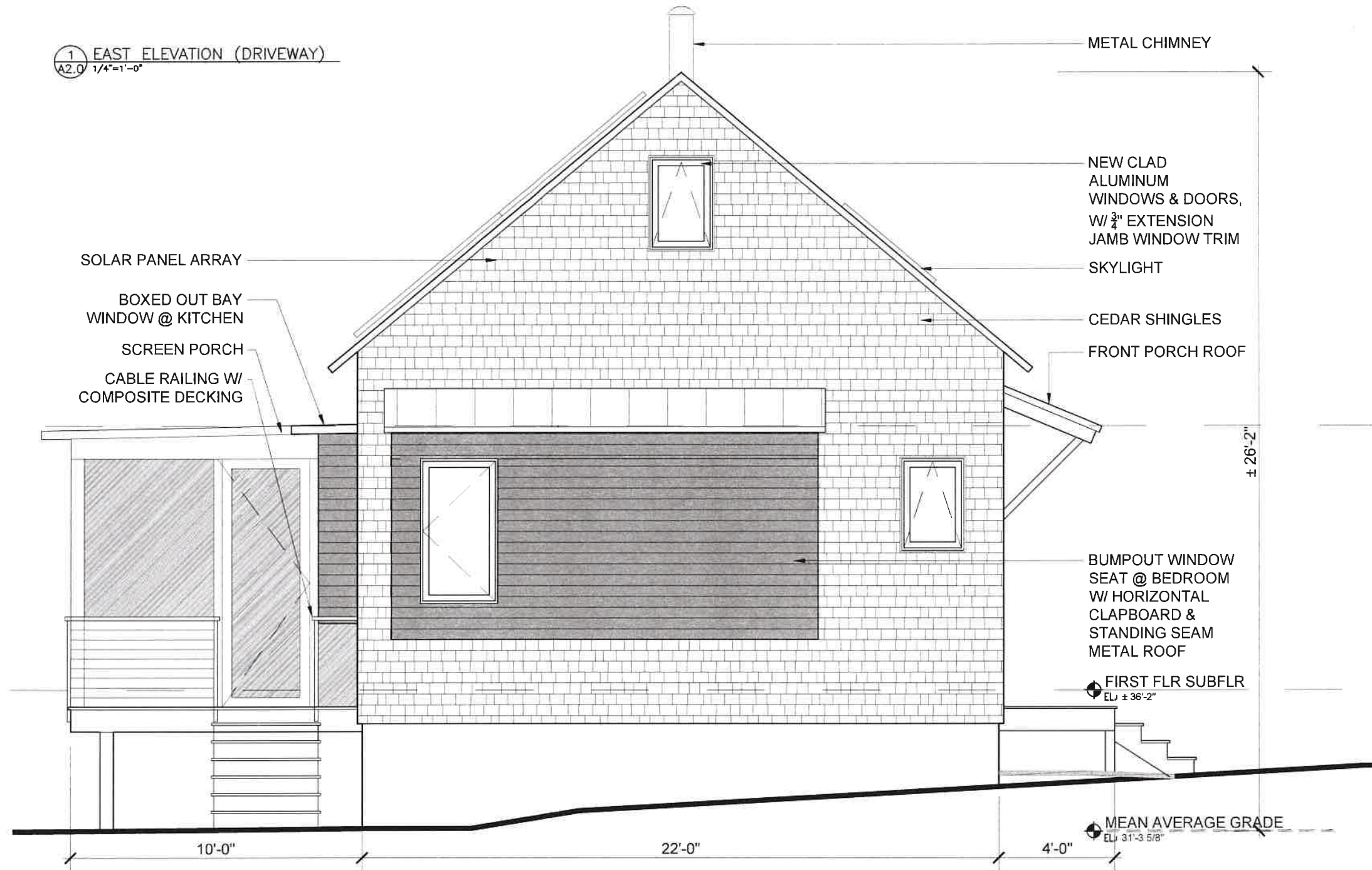
831 Main Street
Dennis, MA 02638
508.694.7887 phone
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A3 architects, inc
Residential Commercial Net Zero

Date:
ZBA: 06.26.2023

A1.1

1 EAST ELEVATION (DRIVEWAY)
A2.0 1/4"=1'-0"



NEW CONSTRUCTION FOR:

KIM PETERS
4 HARRIER WAY
TRURO MA

TITLE:

ELEVATION

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Date:
ZBA: 09.18.2023



A2.0



METAL CHIMNEY
 STANDING SEAM METAL ROOF
 SKYLIGHT

FRONT PORCH ROOF
 HORIZONTAL SIDING @FRONT ENTRY
 CEDAR SHINGLES

BUMPOUT WINDOW SEAT @ BEDROOM
 W/ HORIZONTAL CLAPBOARD & STANDING SEAM METAL ROOF

PERGOLA/SUNSCREEN @ WEST FACING WINDOWS
 CABLE RAILING W/ WD HANDRAIL & COMPOSITE DECKING

FIRST FLR SUBFLR
 EL ± 36'-2"

MEAN AVERAGE GRADE
 EL ± 31'-3 5/8"

NEW CLAD ALUMINUM WINDOWS & DOORS,
 W/ 3/4" EXTENSION JAMB WINDOW TRIM

TOP OF SLAB
 EL ± 25'-8"

1 NORTH ELEVATION (SIDE)
 A2.1 1/4"=1'-0"



NEW CONSTRUCTION FOR:
 KIM PETERS
 4 HARRIER WAY
 TRURO MA

TITLE:
 ELEVATION

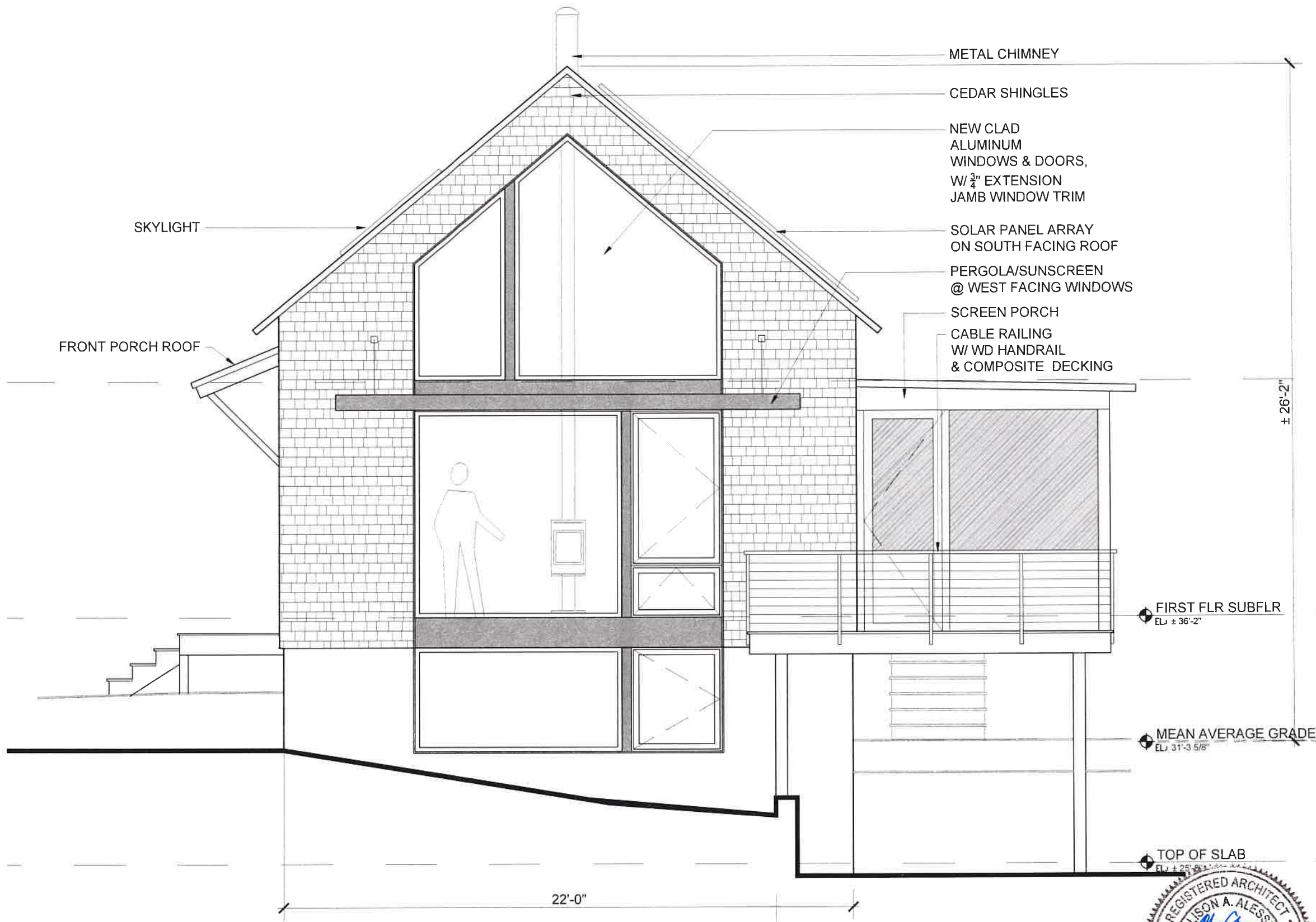
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 Dennis, MA 02638
 508.694.7887 phone
 www.a3architectinc.com

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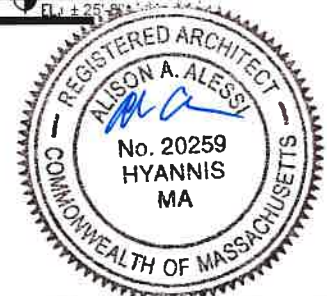
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Date:
 ZBA: 09.18.2023

A2.1



1 WEST ELEVATION (MARSH)
A2.2 1/4"=1'-0"



NEW CONSTRUCTION FOR:
KIM PETERS
4 HARRIER WAY
TRURO MA

TITLE:
ELEVATION

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Dennis, MA 02638
508.694.7887 phone
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Date:
ZBA: 09.18.2023

A2.2



METAL CHIMNEY

STANDING SEAM METAL ROOF

SOLAR PANEL ARRAY

BOXED OUT BAY WINDOW @ KITCHEN

CEDAR SHINGLES

PERGOLA/SUNSCREEN @ WEST FACING WINDOWS

SCREEN PORCH CABLE RAILING W/ COMPOSITE DECKING

BUMP OUT WINDOW SEAT @ BEDROOM

NEW CLAD ALUMINUM WINDOWS & DOORS, W/ 3/4" EXTENSION JAMB WINDOW TRIM

FIRST FLR SUBFLR EL. ± 36'-2"

HORIZONTAL CLAPBOARD

MEAN AVERAGE GRADE EL. 31'-3 5/8"

PROPOSED RETAINING WALL

TOP OF SLAB EL. 35'-2 1/2"

± 26'-2"

8'-0"

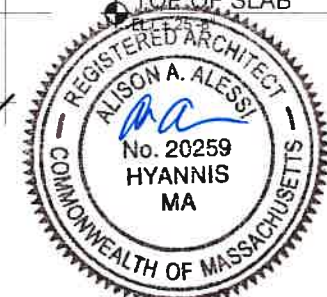
12'-0"

10'-0"

18'-11"

10"

1 SOUTH ELEVATION (SIDE)
A2.3 1/4"=1'-0"



NEW CONSTRUCTION FOR:

KIM PETERS
4 HARRIER WAY
TRURO MA

TITLE:

ELEVATION

831 Main Street
Dennis, MA 02638
508.694.7887 phone
www.a3architectsinc.com

A3 architects, inc
Residential Commercial Net Zero

Date:
ZBA: 09.18.2023

A2.3

Zoning Board of Appeals

I am writing this letter to ask that you vote to reopen my hearing regarding 379b Shore rd before the denial is filed with town clerk. I was not able to finish explaining or justifying the height of the building as an uncalled on person not representing my project interrupted and negatively affected my presentation I believe. Also I was never given a chance to withdraw my application or ask for a continuance, which is allowed under zoning bylaw, before a vote was taken. I am only asking to please vote to reopen hearing , at a later date after abutters have been re-notified only then I would finish presenting my project to the boards satisfaction, or withdraw. I was in shock as to last meetings outbursts and disrespect to the board which had nothing to do with myself, or the merits of project, however tainted the perspective of the project. The vote happened before I could withdraw, as previously stated is a right to the applicant. Thank you for your consideration on this matter as I feel this is the best path to move forward and work together.

Sincerely, Chuck Silva

CS 8/28/23



Town of Truro Zoning Board of Appeals

P.O. Box 2030, Truro, MA 02666

APPLICATION FOR HEARING

To the Town Clerk of the Town of Truro, MA

Date July 18/2023

The undersigned hereby files with specific grounds for this application: (check all that apply)

1. GENERAL INFORMATION

NOTICE OF APPEAL

Applicant is aggrieved by his/her inability to obtain a permit or enforcement action from the Building Commissioner on (date) _____.

Applicant is aggrieved by order or decision of the Building Commissioner on (date) _____ which he/she believes to be a violation of the Truro Zoning Bylaw or the *Massachusetts Zoning Act*.

PETITION FOR VARIANCE – Applicant requests a variance from the terms Section _____ of the Truro Zoning Bylaw concerning (describe) _____

APPLICATION FOR SPECIAL PERMIT

Applicant seeks approval and authorization of uses under Section _____ of the Truro Zoning Bylaw concerning (describe) _____

Applicant seeks approval for a continuation, change, or extension of a nonconforming structure or use under Section 30.7 of the Truro Zoning Bylaw and M.G.L. Ch. 40A, §6 concerning (describe) Pre-existing nonconforming two buildings on one lot, Sidelines

Property Address 379 B Shore Rd N. Truro Map(s) and Parcel(s) 10 10

Registry of Deeds title reference: Book 2351, Page 316, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name Charles Silva

Applicant's Legal Mailing Address 39 Shipls way rd. Ptarm MA 02657

Applicant's Phone(s), Fax and Email 774 722 1467 CTSFrames@hotmail.com

Applicant is one of the following: (please check appropriate box) Owner Prospective Buyer* Other* *Written Permission of the owner is required for submittal of this application.

Owner's Name and Address Charles Silva 39 Shipls way rd. Ptarm MA 02657

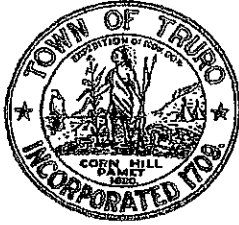
Representative's Name and Address _____

Representative's Phone(s), Fax and Email _____

2. The completed application shall also be submitted electronically to the Planning Department Administrator at esturdy@truro-ma.gov in its entirety (including all plans and attachments).

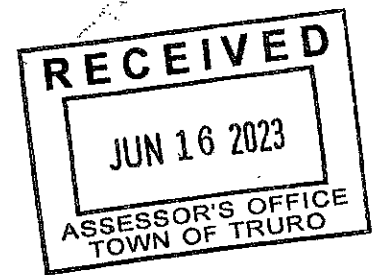
- The applicant is advised to consult with the Building Commissioner, Planning Department, Conservation Department, Health Department, and/or Historic Commission, as applicable, prior to submitting this application.

Signature(s)
Charles Silva Applicant(s)/Representative Printed Name(s)
Charles Silva Owner(s) Printed Name(s) or written permission
Charles Silva Applicant(s)/Representative Signature
Charles Silva Owner(s) Signature or written permission



TOWN OF TRURO

COPY Assessors Office Certified Abutters List Request Form



DATE: 6/16/

NAME OF APPLICANT: Charles Silen

NAME OF AGENT (if any):

MAILING ADDRESS: 39 Ships Way Rd. Ptarm MA 02657

CONTACT: HOME/CELL 774 722 1467 EMAIL ctsframer@Hotmail.com

PROPERTY LOCATION: 379 Shore Rd. N. Truro (street address)

PROPERTY IDENTIFICATION NUMBER: MAP 10 PARCEL 10 EXT. (if condominium)

ABUTTERS LIST NEEDED FOR: (please check all applicable)

FEE: \$15.00 per checked item

(Fee must accompany the application unless other arrangements are made)

- Board of Health5, Cape Cod Commission, Conservation Commission4, Licensing, Type: Other, Planning Board (PB), Special Permit1, Site Plan2, Preliminary Subdivision3, Definitive Subdivision3, Accessory Dwelling Unit (ADU)2, Zoning Board of Appeals (ZBA), Special Permit1, Variance1

(Fee: Inquire with Assessors)

(Please Specify)

Note: Per M.G.L., processing may take up to 10 calendar days. Please plan accordingly.

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 6/16/2023

Date completed: 6/16/2023

List completed by: OFennell

Date paid: 6/16/2023 Cash/Check #486

1 Abutters, 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. 2 Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property. 3 Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. Note: For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required. 4 All 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. Note: Responsibility of applicant to notify abutters and produce evidence as required. 5 Abutters sharing any boundary or corner in any direction - including land across a street, river or stream. Note: 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: June 16, 2023

To: Charles Silva

From: Assessors Department

Certified Abutters List: 379 Shore Road (Map 10, Parcel 10)

ZBA/ Special Permit

Attached is a combined list of abutters for the property located at 379 Shore Road.

The current owner is Charles T. Silva.

The names and addresses of the abutters are as of June 9, 2023 according to the most recent documents received from the Barnstable County Registry of Deeds.

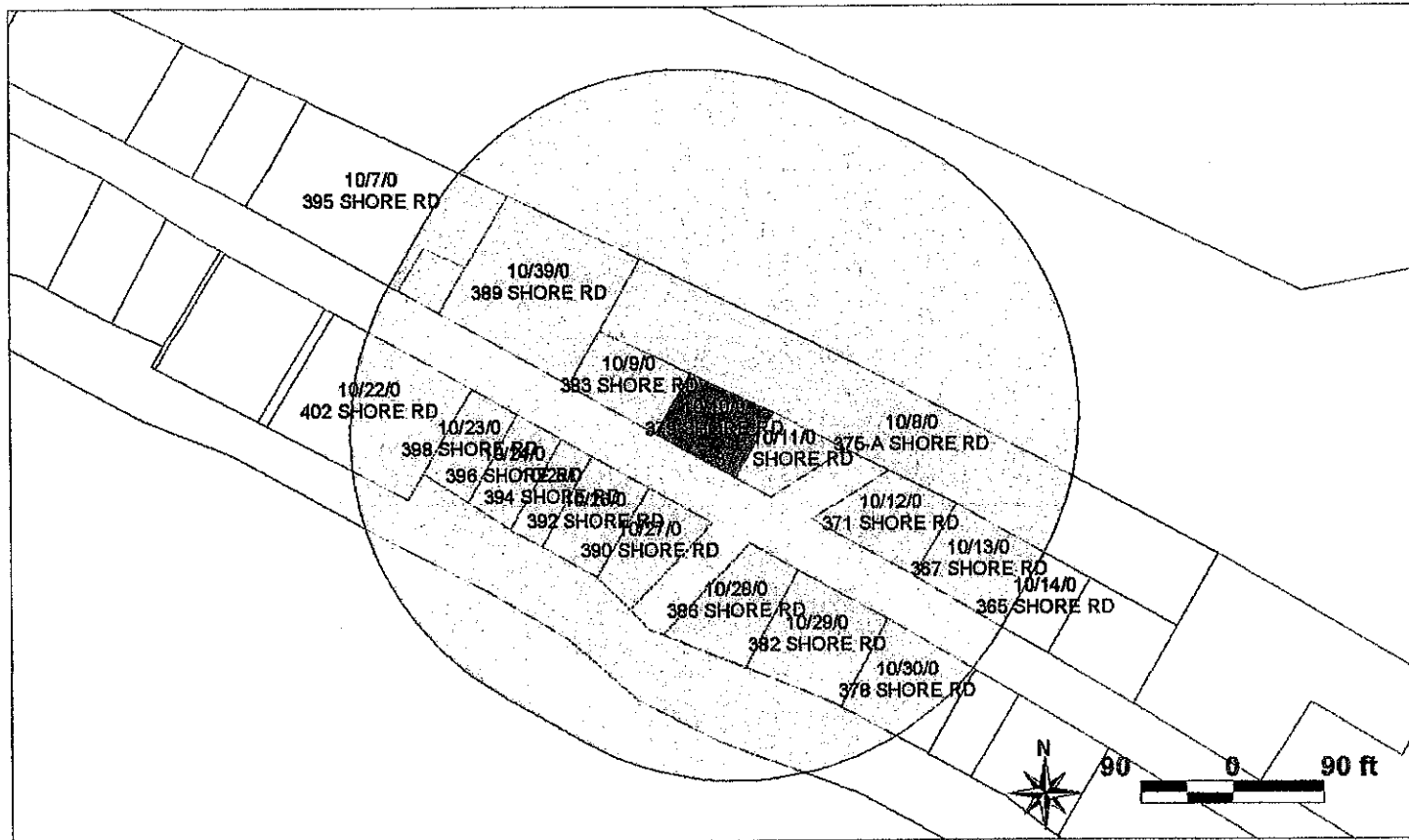
Certified by:

Olga Farrell
Assessing Clerk

379 Shore Road
 Map 10, Parcel 10
 ZBA/ Special Permit

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

Abutters List Within 300 feet of Parcel 10/10/0



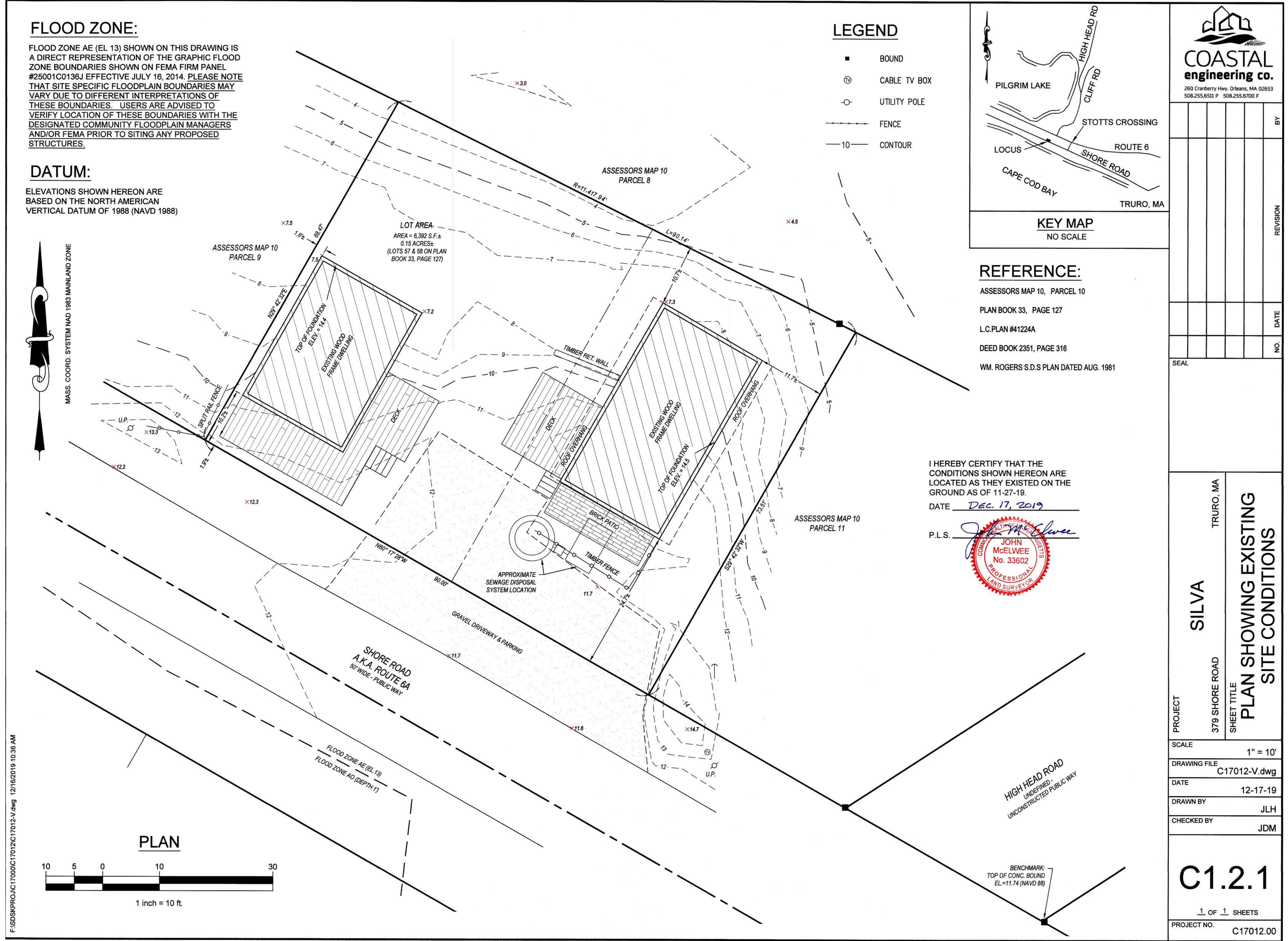
Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
302	10-7-0-R	MURTAGH JULIE & PORZIO MARIE	395 SHORE RD	27 OLD CHATHAM RD	BREWSTER	MA	02631
303	10-8-0-R	HIGHLAND MOORS 20 REALTY TRUST TRS: SILVA CHARLES W & HELEN T	375-A SHORE RD	39 SHIPS WAY ROAD	PROVINCETOWN	MA	02657
304	10-9-0-R	WILLIAM & BLANCHE SHANLEY TRST TRS: SHANLEY WILLIAM & BLANCHE	383 SHORE RD	326 COUNTRY CLUB RD	AVON	CT	06001
305	10-10-0-R	SILVA CHARLES T	379 SHORE RD	39 SHIPS WAY RD	PROVINCETOWN	MA	02657
306	10-11-0-R	390 SHORE ROAD REALTY TRUST TRS: WILLIAM J SEMPOLINSKI	377 SHORE RD	98 BEACH ST	QUINCY	MA	02170
307	10-12-0-R	HIGHLAND MOORS 20 REALTY TRUST TRS: SILVA CHARLES W & HELEN T	371 SHORE RD	39 SHIPS WAY ROAD	PROVINCETOWN	MA	02657
308	10-13-0-R	RIDOLFI EDWARD JR & CHRISTINE	367 SHORE RD	3525 TURTLE CREEK BLVD, U 16C	DALLAS	TX	75219
309	10-14-0-R	GAROFALO ANGELO A	365 SHORE RD	P O BOX 3249	SPRING HILL	FL	34611-3249
317	10-22-0-R	SHEA KEVIN R & RICHLAND JUDITH	402 SHORE RD	357 HARVARD ST APT 1	CAMBRIDGE	MA	02138
318	10-23-0-R	COTTAGE REALTY TRUST TRS: MCDERMOTT JAMES E ET AL	398 SHORE RD	C/O JOHN MCDERMOTT 603 SUGAR MILL RD	GREER	SC	29650
319	10-24-0-R	MORSE MARJORIE J REV TR ETAL TRS: MORSE MARJORIE J	396 SHORE RD	4 SUFFOLK PARK	NASHUA	NH	03063-7018
320	10-25-0-R	WILLIAM & BLANCHE SHANLEY TRST TRS: SHANLEY W BLANCHE	394 SHORE RD	326 COUNTRY CLUB RD	AVON	CT	06001
321	10-26-0-R	GOLDBERG RICHARD	392 SHORE RD	95 MILL HILL RD	WELLFLEET	MA	02667
322	10-27-0-R	390 SHORE ROAD REALTY TRUST TRS: WILLIAM J SEMPOLINSKI	390 SHORE RD	98 BEACH ST	QUINCY	MA	02170
323	10-28-0-R	386 SHORE ROAD REALTY TRUST TRS: SILVA CHARLES W & HELEN T	386 SHORE RD	39 SHIPS WAY RD	PROVINCETOWN	MA	02657

Handwritten signature: M. R. Colozzi
 6/16/2023 Page 1

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
324	10-29-0-R	HIGHLAND MOORS 20 REALTY TRUST TRS: SILVA CHARLES W & HELEN T	382 SHORE RD	39 SHIPS WAY ROAD	PROVINCETOWN	MA	02657
325	10-30-0-R	GOODWIN STEPHEN L & GOODWIN MARINA SURIANO	378 SHORE RD	420 BURNT SWAMP RD	WRENTHAM	MA	02093
331	10-34-0-R	MURTAGH JULIE & PORZIO MARIE	393 SHORE RD	27 OLD CHATHAM RD	BREWSTER	MA	02631
332	10-39-0-R	STEPHEN P BERNARDI TRUST 2013 C/O STEPHEN BERNARDI TRUST 201	389 SHORE RD	250 GROVE ST	FRAMINGHAM	MA	01701

on Kalia/2023

<p>10-7-0-R</p> <p>MURTAGH JULIE & PORZIO MARIE 27 OLD CHATHAM RD BREWSTER, MA 02631</p>	<p>10-8-0-R</p> <p>HIGHLAND MOORS 20 REALTY TRUST TRS: SILVA CHARLES W & HELEN T 39 SHIPS WAY ROAD PROVINCETOWN, MA 02657</p>	<p>10-9-0-R</p> <p>WILLIAM & BLANCHE SHANLEY TRST TRS: SHANLEY WILLIAM & BLANCHE 326 COUNTRY CLUB RD AVON, CT 06001</p>
<p>10-10-0-R</p> <p>SILVA CHARLES T 39 SHIPS WAY RD PROVINCETOWN, MA 02657</p>	<p>10-11-0-R</p> <p>390 SHORE ROAD REALTY TRUST TRS: WILLIAM J SEMPOLINSKI 98 BEACH ST QUINCY, MA 02170</p>	<p>10-12-0-R</p> <p>HIGHLAND MOORS 20 REALTY TRUST TRS: SILVA CHARLES W & HELEN T 39 SHIPS WAY ROAD PROVINCETOWN, MA 02657</p>
<p>10-13-0-R</p> <p>RIDOLFI EDWARD JR & CHRISTINE 3525 TURTLE CREEK BLVD, U 16C DALLAS, TX 75219</p>	<p>10-14-0-R</p> <p>GAROFALO ANGELO A P O BOX 3249 SPRING HILL, FL 34611-3249</p>	<p>10-22-0-R</p> <p>SHEA KEVIN R & RICHLAND JUDITH 357 HARVARD ST APT 1 CAMBRIDGE, MA 02138</p>
<p>10-23-0-R</p> <p>COTTAGE REALTY TRUST TRS: MCDERMOTT JAMES E ET AL C/O JOHN MCDERMOTT 603 SUGAR MILL RD GREER, SC 29650</p>	<p>10-24-0-R</p> <p>MORSE MARJORIE J REV TR ETAL TRS: MORSE MARJORIE J 4 SUFFOLK PARK NASHUA, NH 03063-7018</p>	<p>10-25-0-R</p> <p>WILLIAM & BLANCHE SHANLEY TRST TRS: SHANLEY W BLANCHE 326 COUNTRY CLUB RD AVON, CT 06001</p>
<p>10-26-0-R</p> <p>GOLDBERG RICHARD 95 MILL HILL RD WELLFLEET, MA 02667</p>	<p>10-27-0-R</p> <p>390 SHORE ROAD REALTY TRUST TRS: WILLIAM J SEMPOLINSKI 98 BEACH ST QUINCY, MA 02170</p>	<p>10-28-0-R</p> <p>386 SHORE ROAD REALTY TRUST TRS: SILVA CHARLES W & HELEN T 39 SHIPS WAY RD PROVINCETOWN, MA 02657</p>
<p>10-29-0-R</p> <p>HIGHLAND MOORS 20 REALTY TRUST TRS: SILVA CHARLES W & HELEN T 39 SHIPS WAY ROAD PROVINCETOWN, MA 02657</p>	<p>10-30-0-R</p> <p>GOODWIN STEPHEN L & GOODWIN MARINA SURIANO 420 BURNT SWAMP RD WRENTHAM, MA 02093</p>	<p>10-34-0-R</p> <p>MURTAGH JULIE & PORZIO MARIE 27 OLD CHATHAM RD BREWSTER, MA 02631</p>
<p>10-39-0-R</p> <p>STEPHEN P BERNARDI TRUST 2013 C/O STEPHEN BERNARDI TRUST 201 250 GROVE ST FRAMINGHAM, MA 01701</p>		

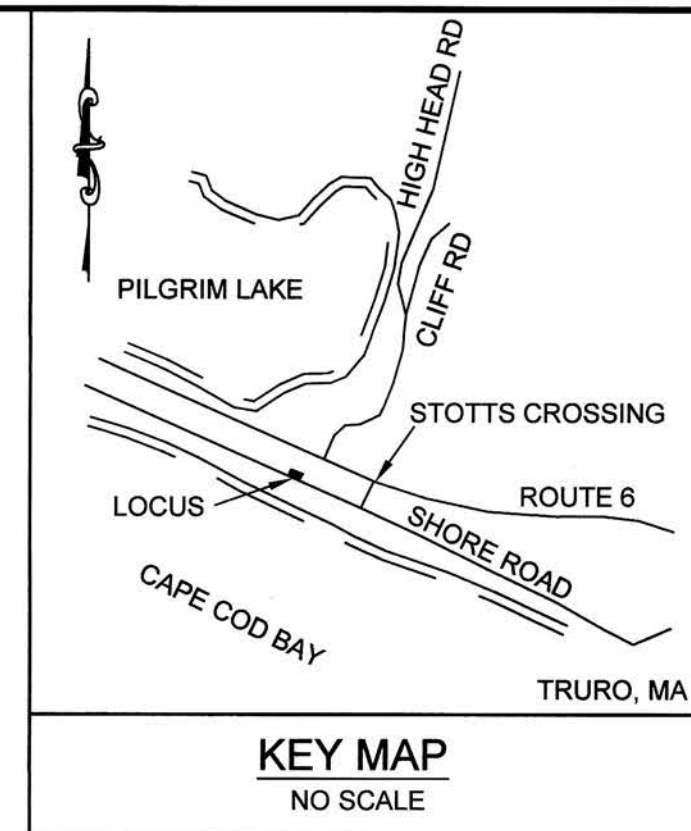


FLOOD ZONE:
 FLOOD ZONE AE (EL 13) SHOWN ON THIS DRAWING IS A DIRECT REPRESENTATION OF THE GRAPHIC FLOOD ZONE BOUNDARIES SHOWN ON FEMA FIRM PANEL #25001C0136J EFFECTIVE JULY 16, 2014. PLEASE NOTE THAT SITE SPECIFIC FLOODPLAIN BOUNDARIES MAY VARY DUE TO DIFFERENT INTERPRETATIONS OF THESE BOUNDARIES. USERS ARE ADVISED TO VERIFY LOCATION OF THESE BOUNDARIES WITH THE DESIGNATED COMMUNITY FLOODPLAIN MANAGERS AND/OR FEMA PRIOR TO SITING ANY PROPOSED STRUCTURES.

DATUM:
 ELEVATIONS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 1988)

LEGEND

- BOUND
- Ⓞ CABLE TV BOX
- UTILITY POLE
- FENCE
- - - - - CONTOUR



REFERENCE:
 ASSESSORS MAP 10, PARCEL 10
 PLAN BOOK 33, PAGE 127
 L.C. PLAN #41224A
 DEED BOOK 2351, PAGE 316
 WM. ROGERS S.D.S. PLAN DATED AUG. 1981

I HEREBY CERTIFY THAT THE CONDITIONS SHOWN HEREON ARE LOCATED AS THEY EXISTED ON THE GROUND AS OF 11-27-19.
 DATE Dec. 17, 2019
 P.L.S. *John McElwee*
 JOHN McELWEE
 No. 33602
 PROFESSIONAL SURVEYOR

 265 Cranberry Hwy., Orleans, MA 02653 508.255.6111 P 508.255.6700 F		BY
		REVISION
SEAL	NO.	DATE
PROJECT	TRURO, MA	
379 SHORE ROAD	SILVA	
SHEET TITLE	PLAN SHOWING EXISTING SITE CONDITIONS	
SCALE	1" = 10'	
DRAWING FILE	C17012-V.dwg	
DATE	12-17-19	
DRAWN BY	JLH	
CHECKED BY	JDM	
C1.2.1		
1 OF 1 SHEETS		
PROJECT NO.	C17012.00	

F:\SDSKPROJECT\17001\17012\17012V.dwg 12/16/2019 10:36 AM

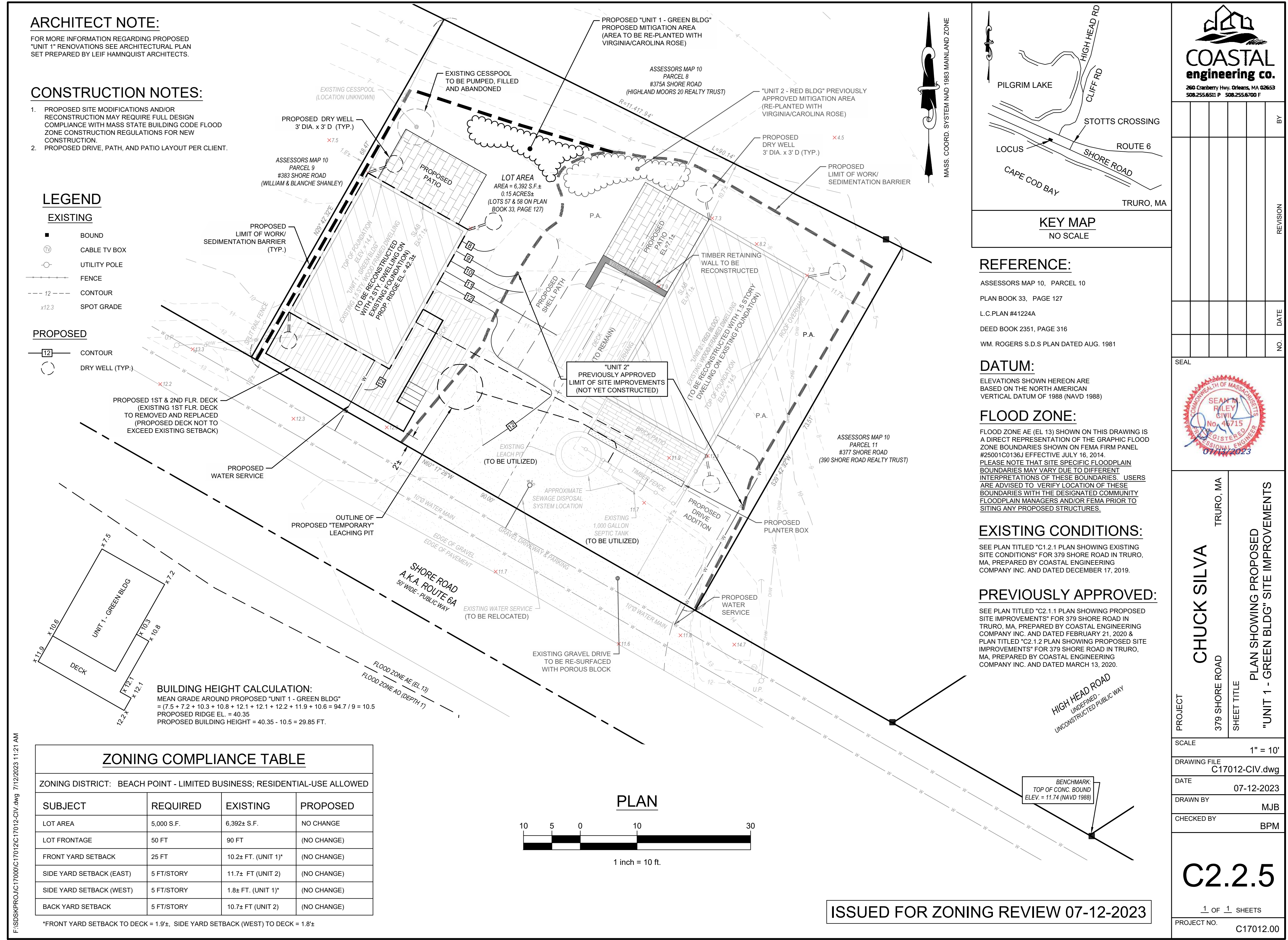
REVISION DATES:

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Title: SITE PLAN EXISTING
 Scale: As Noted
 Date: 07.12.23 NOT FOR CONSTRUCTION

379 Shore Road Unit 1
 379 Shore Road
 Truro, MA

Leif Hammquist Architects
 info@lha.design 617.365.0130
 www.lha.design



ARCHITECT NOTE:
FOR MORE INFORMATION REGARDING PROPOSED "UNIT 1" RENOVATIONS SEE ARCHITECTURAL PLAN SET PREPARED BY LEIF HAMMQUIST ARCHITECTS.

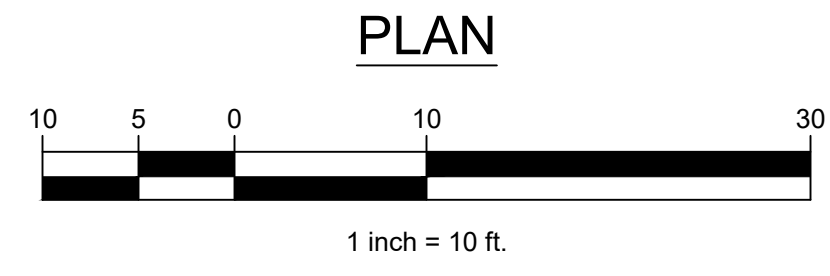
CONSTRUCTION NOTES:
1. PROPOSED SITE MODIFICATIONS AND/OR RECONSTRUCTION MAY REQUIRE FULL DESIGN COMPLIANCE WITH MASS STATE BUILDING CODE FLOOD ZONE CONSTRUCTION REGULATIONS FOR NEW CONSTRUCTION.
2. PROPOSED DRIVE, PATH, AND PATIO LAYOUT PER CLIENT.

LEGEND
EXISTING
■ BOUND
○ CABLE TV BOX
○ UTILITY POLE
- - - FENCE
- - - 12' CONTOUR
x12.3 SPOT GRADE
PROPOSED
- - - CONTOUR
○ DRY WELL (TYP.)

BUILDING HEIGHT CALCULATION:
MEAN GRADE AROUND PROPOSED "UNIT 1 - GREEN BLDG"
= (7.5 + 7.2 + 10.3 + 10.8 + 12.1 + 12.1 + 12.2 + 11.9 + 10.8 + 94.7 / 9 = 10.5
PROPOSED RIDGE EL. = 40.35
PROPOSED BUILDING HEIGHT = 40.35 - 10.5 = 29.85 FT.

ZONING COMPLIANCE TABLE			
ZONING DISTRICT: BEACH POINT - LIMITED BUSINESS; RESIDENTIAL-USE ALLOWED			
SUBJECT	REQUIRED	EXISTING	PROPOSED
LOT AREA	5,000 S.F.	6,392± S.F.	NO CHANGE
LOT FRONTAGE	50 FT	90 FT	(NO CHANGE)
FRONT YARD SETBACK	25 FT	10.2± FT. (UNIT 1)*	(NO CHANGE)
SIDE YARD SETBACK (EAST)	5 FT/STORY	11.7± FT (UNIT 2)	(NO CHANGE)
SIDE YARD SETBACK (WEST)	5 FT/STORY	1.8± FT. (UNIT 1)*	(NO CHANGE)
BACK YARD SETBACK	5 FT/STORY	10.7± FT (UNIT 2)	(NO CHANGE)

*FRONT YARD SETBACK TO DECK = 1.9±. SIDE YARD SETBACK (WEST) TO DECK = 1.8±

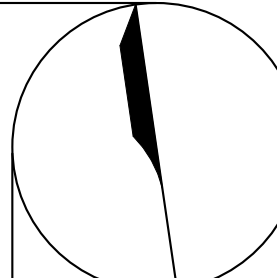


COASTAL engineering co.
260 Cranbury Hwy, Orleans, MA 02653
508.255.6521 P. 508.255.6700 F

NO.	DATE	BY	REVISION

PROJECT 379 SHORE ROAD TRURO, MA	SHEET TITLE PLAN SHOWING PROPOSED "UNIT 1 - GREEN BLDG" SITE IMPROVEMENTS
SCALE 1" = 10'	
DRAWING FILE C17012-CIV.dwg	
DATE 07-12-2023	
DRAWN BY MJB	
CHECKED BY BPM	
C2.2.5	
1 OF 1 SHEETS	
PROJECT NO. C17012.00	

379 Shore Road Unit 1 379 Shore Road Truro, MA	REVISION DATES: Title: SITE PLAN PROPOSED (ZBA) Scale: As Noted Date: 07.12.23 NOT FOR CONSTRUCTION
Leif Hammquist Architects info@lha.design 617.365.0130 www.lha.design	CHUCK SILVA 379 SHORE ROAD TRURO, MA PLAN SHOWING PROPOSED "UNIT 1 - GREEN BLDG" SITE IMPROVEMENTS



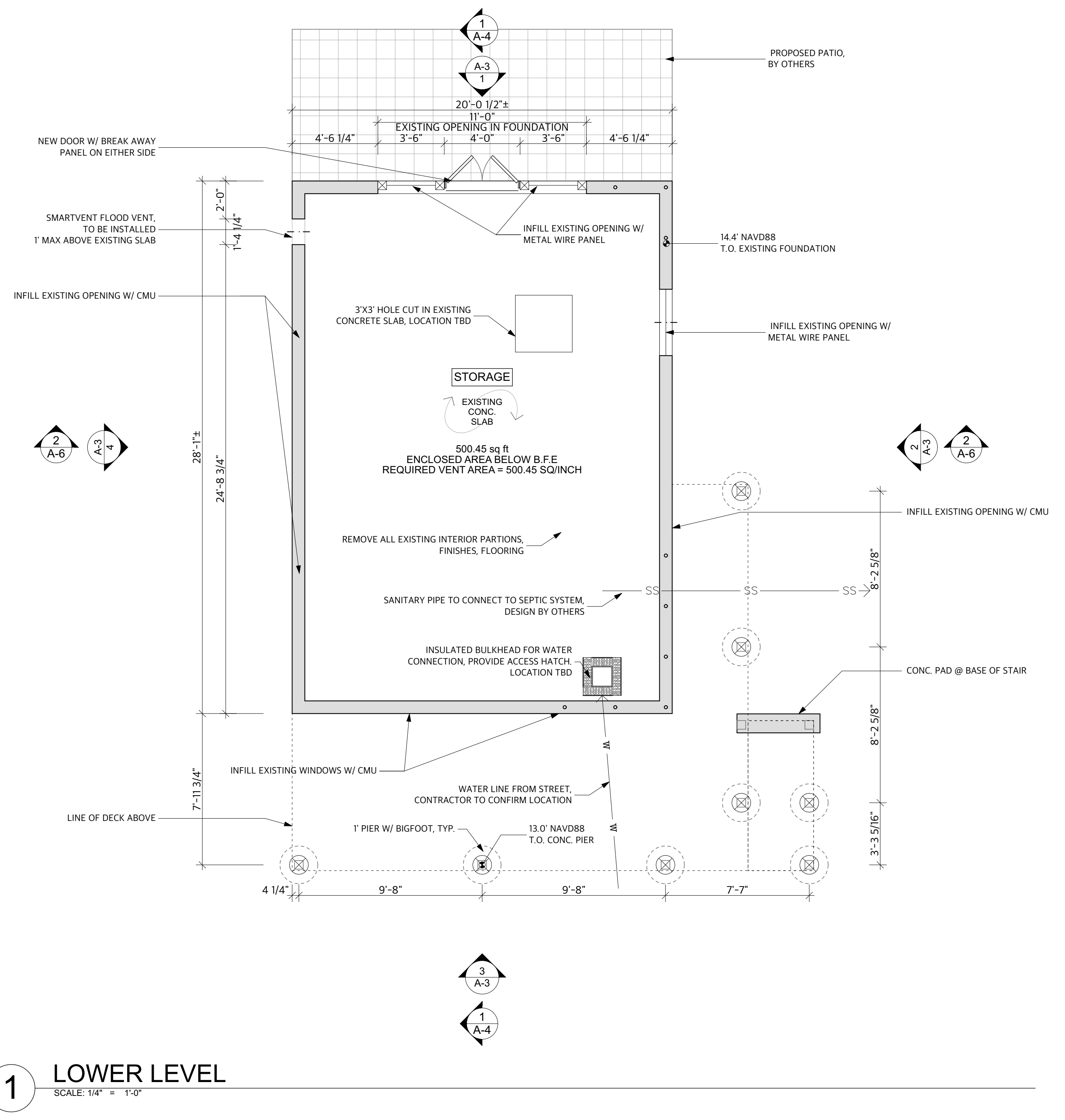
REVISION DATES:

Leif Hammquist Architects
info@lha.design 617.365.0130
www.lha.design

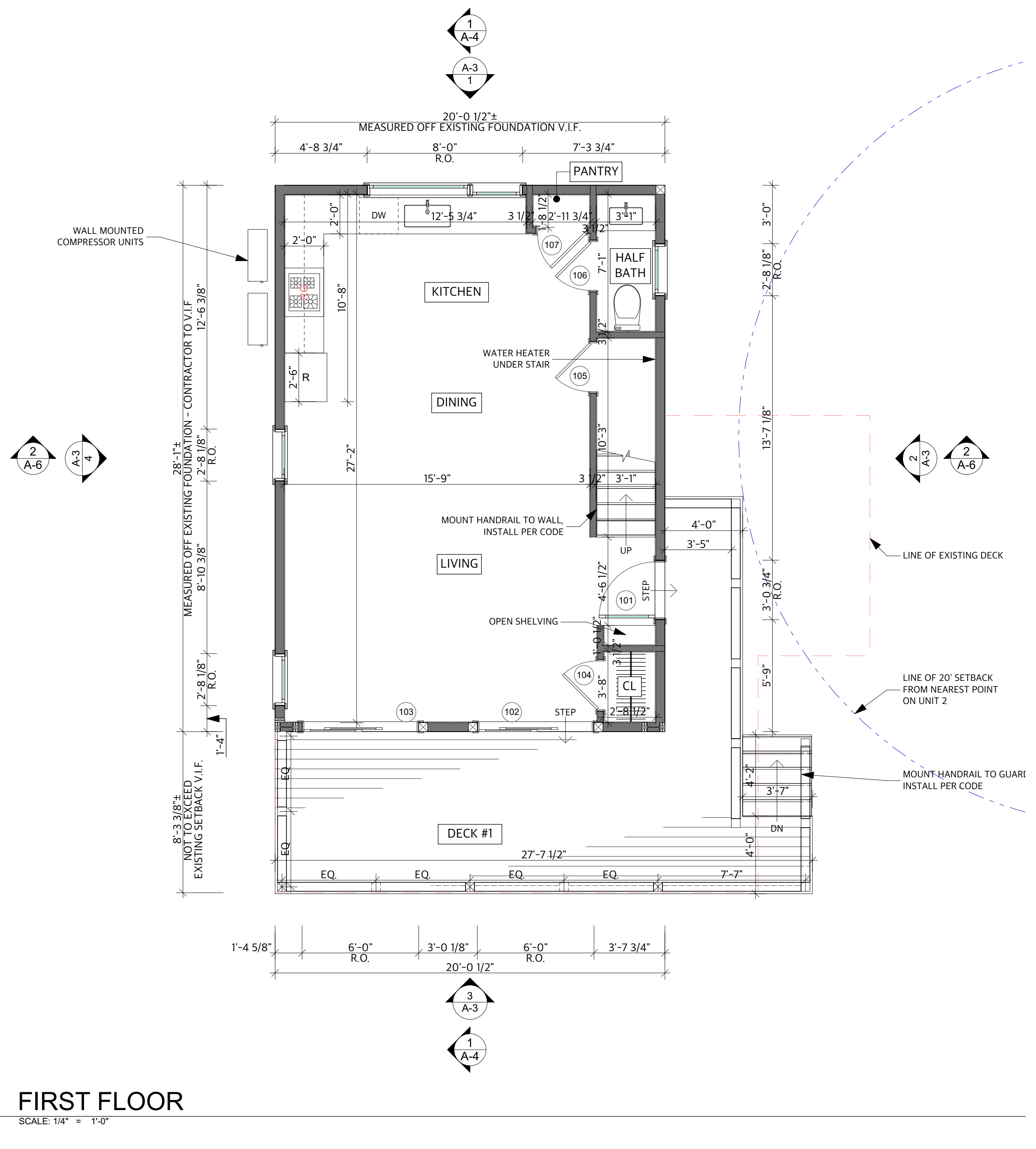
Title: FLOOR PLANS
Scale: As Noted
Date: 07.12.23 NOT FOR CONSTRUCTION

379 Shore Road Unit 1
379 Shore Road
Truro, MA

A-1

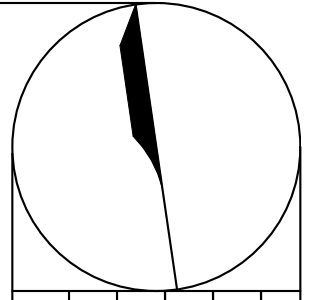


1 LOWER LEVEL
SCALE: 1/4" = 1'-0"



2 FIRST FLOOR
SCALE: 1/4" = 1'-0"

WALL LEGEND	
DEMO	
EXISTING FOUNDATION	
NEW FOUNDATION	
EXISTING CONSTRUCTION	
NEW CONSTRUCTION	



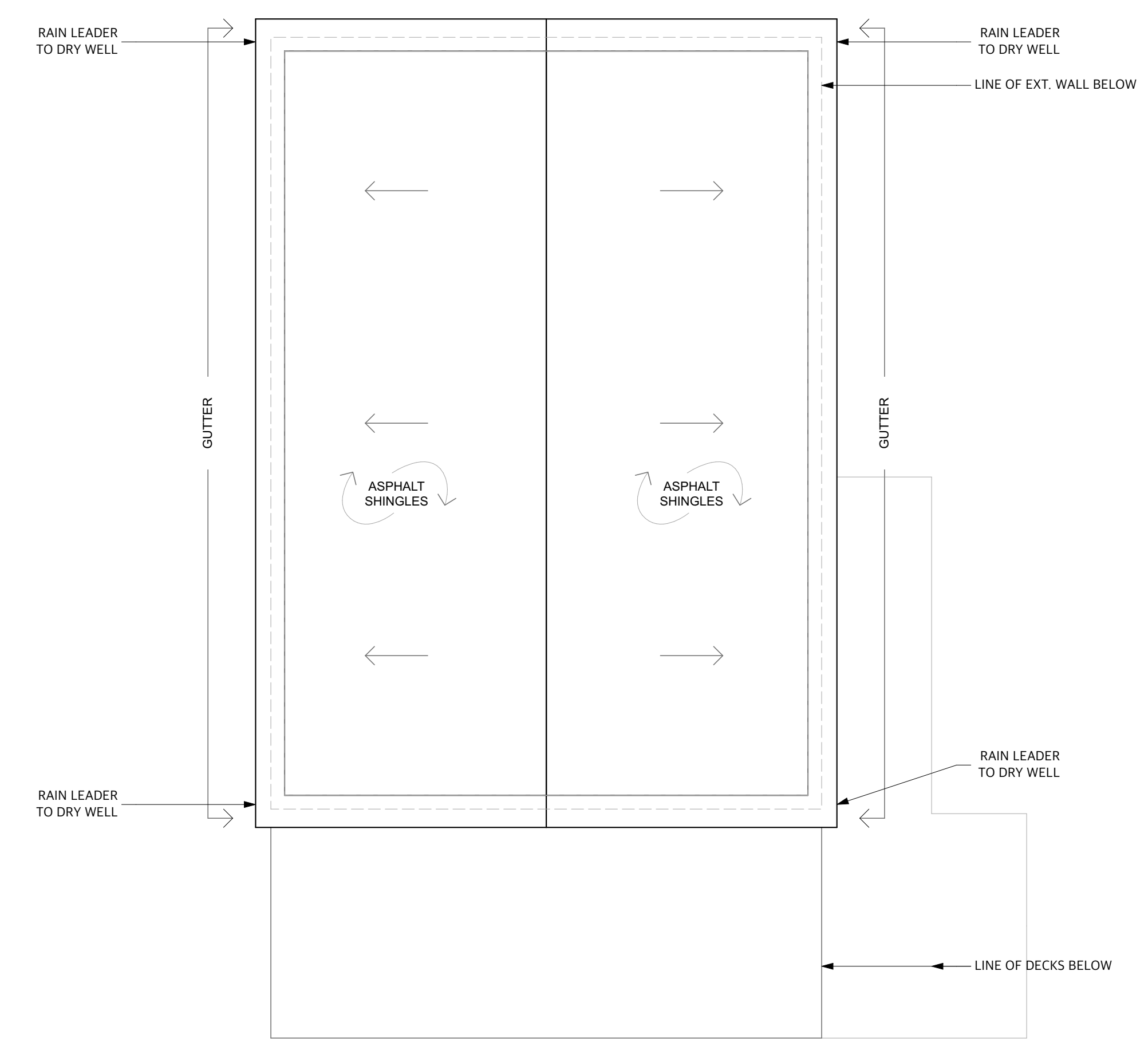
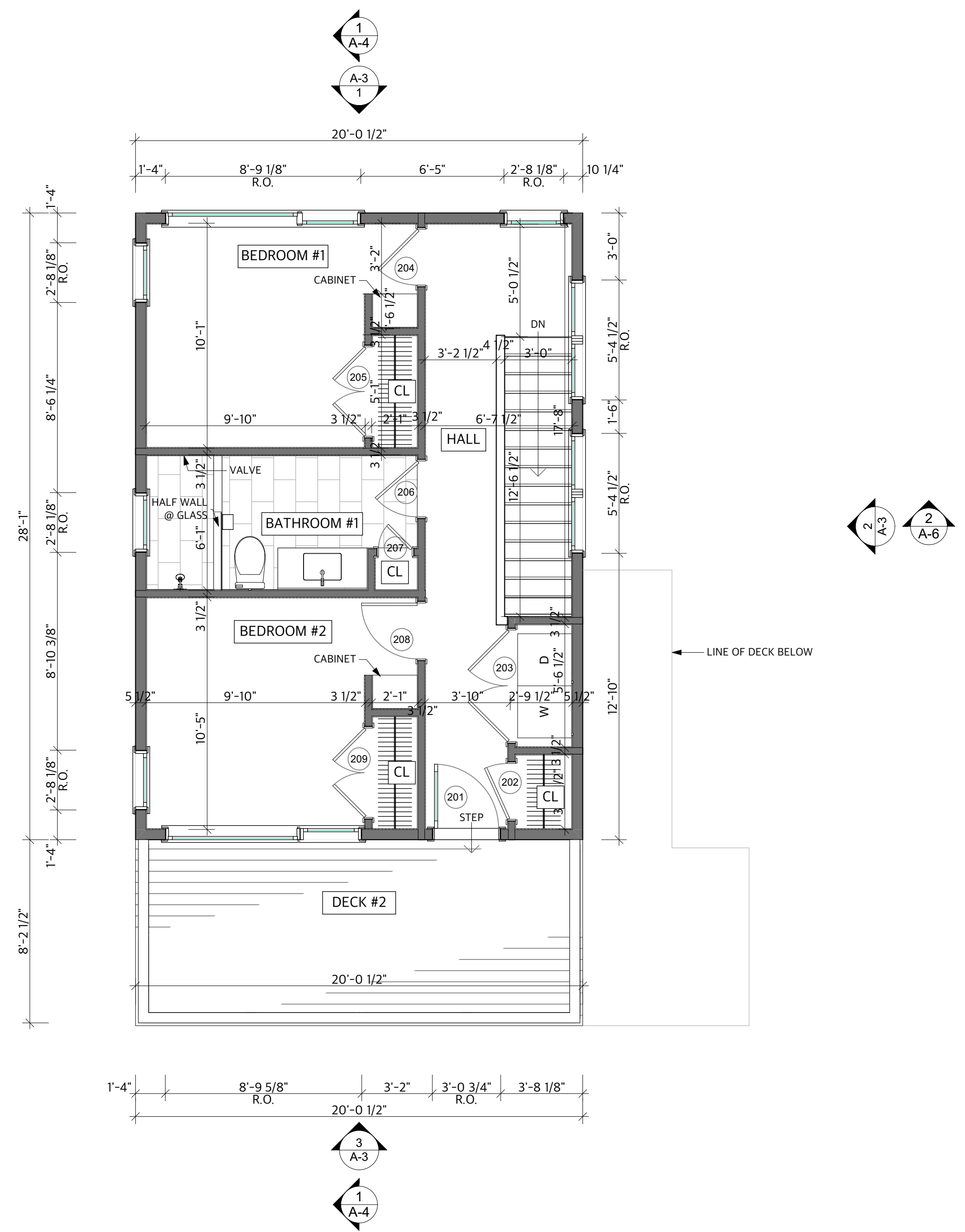
REVISION DATES:

Leif Hammquist Architects
info@lha.design 617.365.0130
www.lha.design

Title: FLOOR PLANS
Scale: As Noted
Date: 07.12.23 NOT FOR CONSTRUCTION

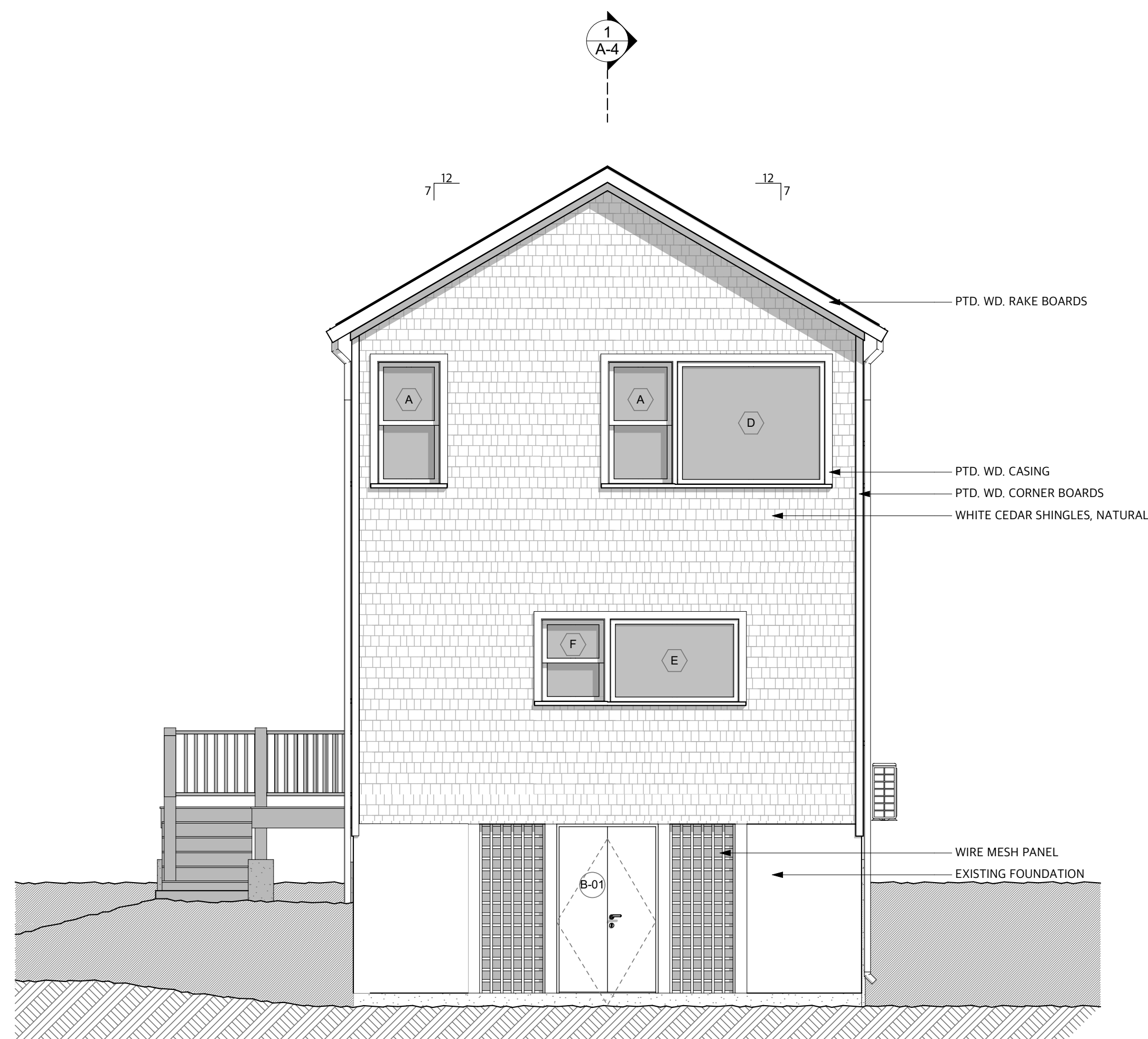
379 Shore Road Unit 1
379 Shore Road
Truro, MA

A-2

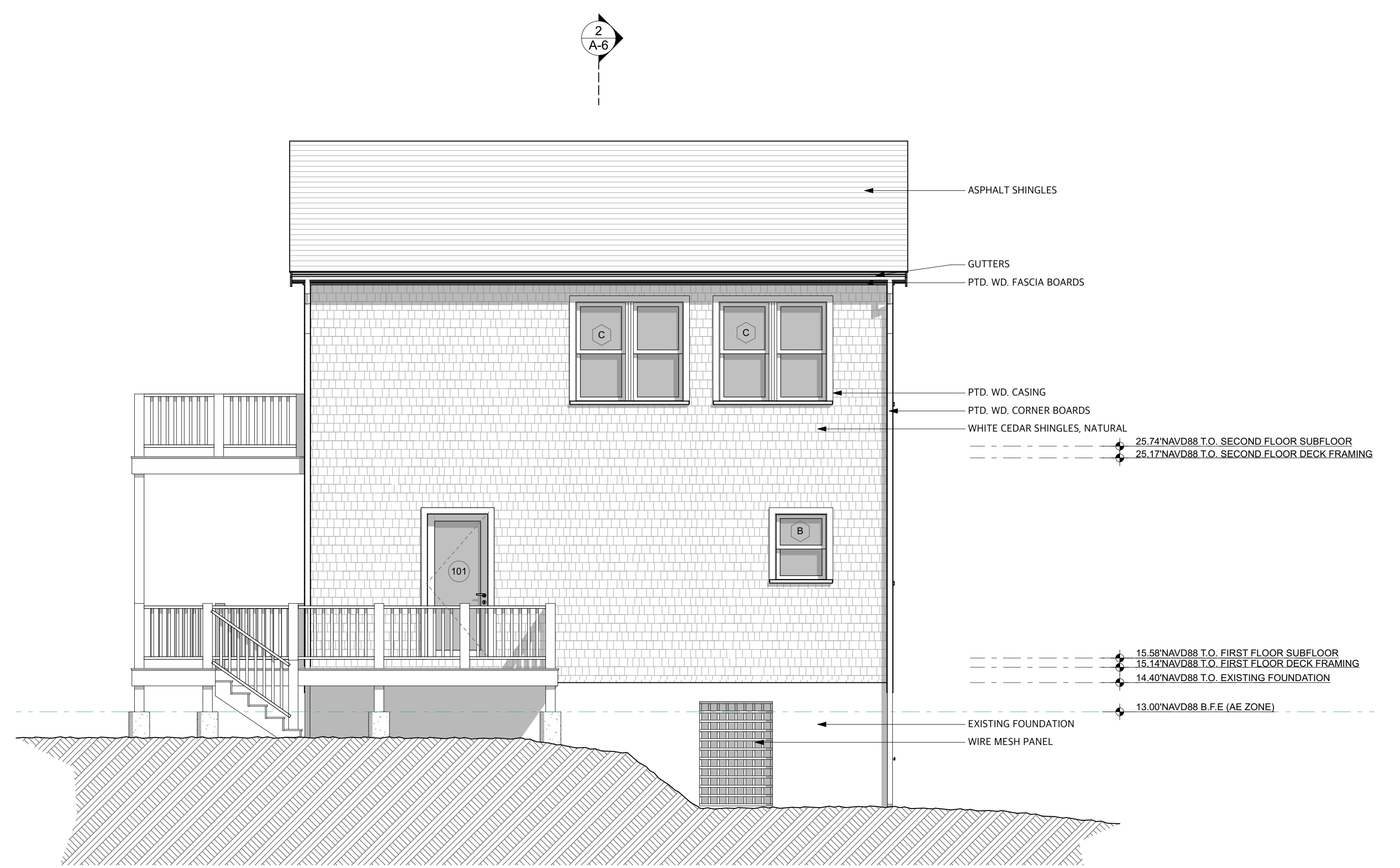


WALL LEGEND

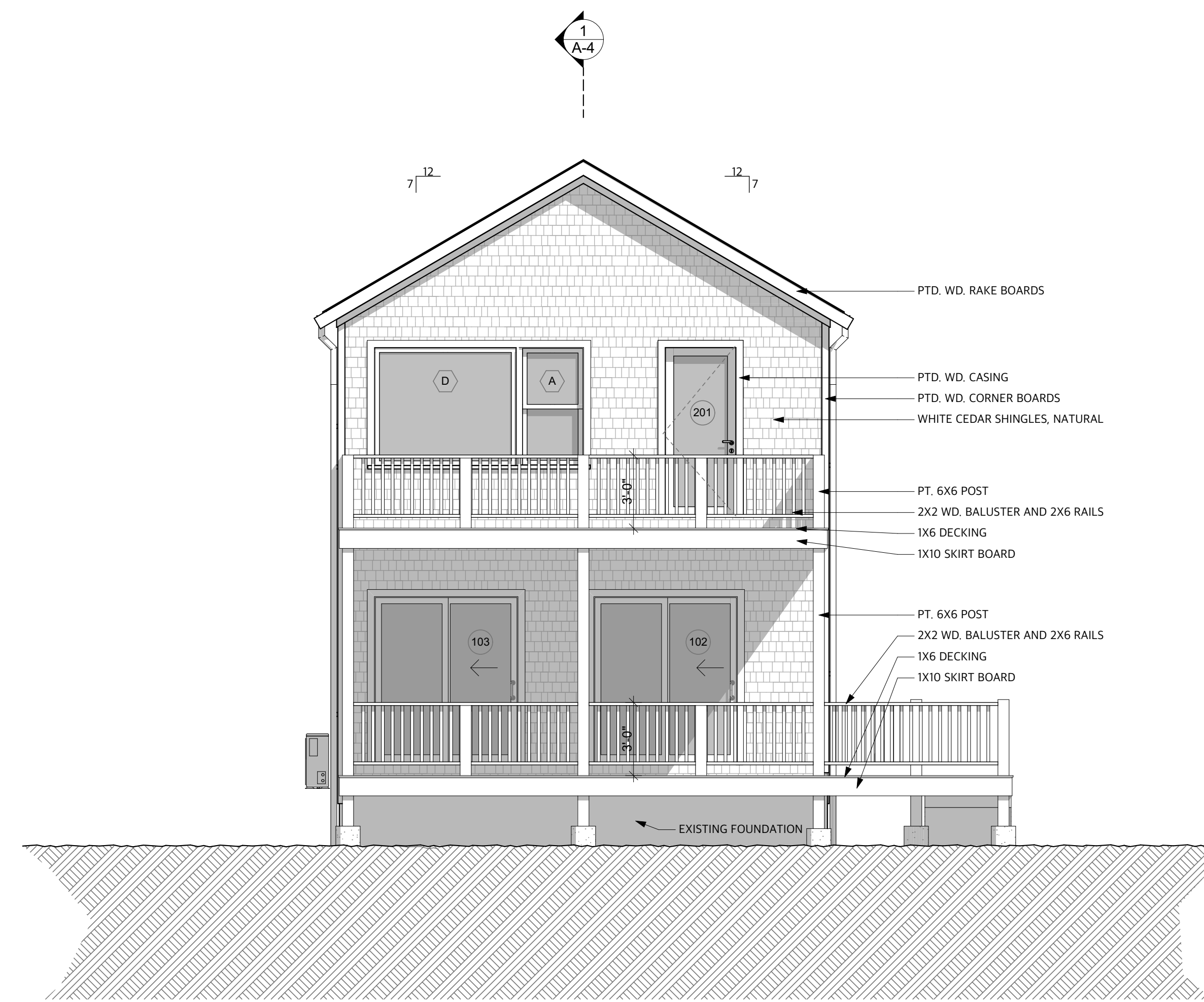
DEMO	
EXISTING FOUNDATION	
NEW FOUNDATION	
EXISTING CONSTRUCTION	
NEW CONSTRUCTION	



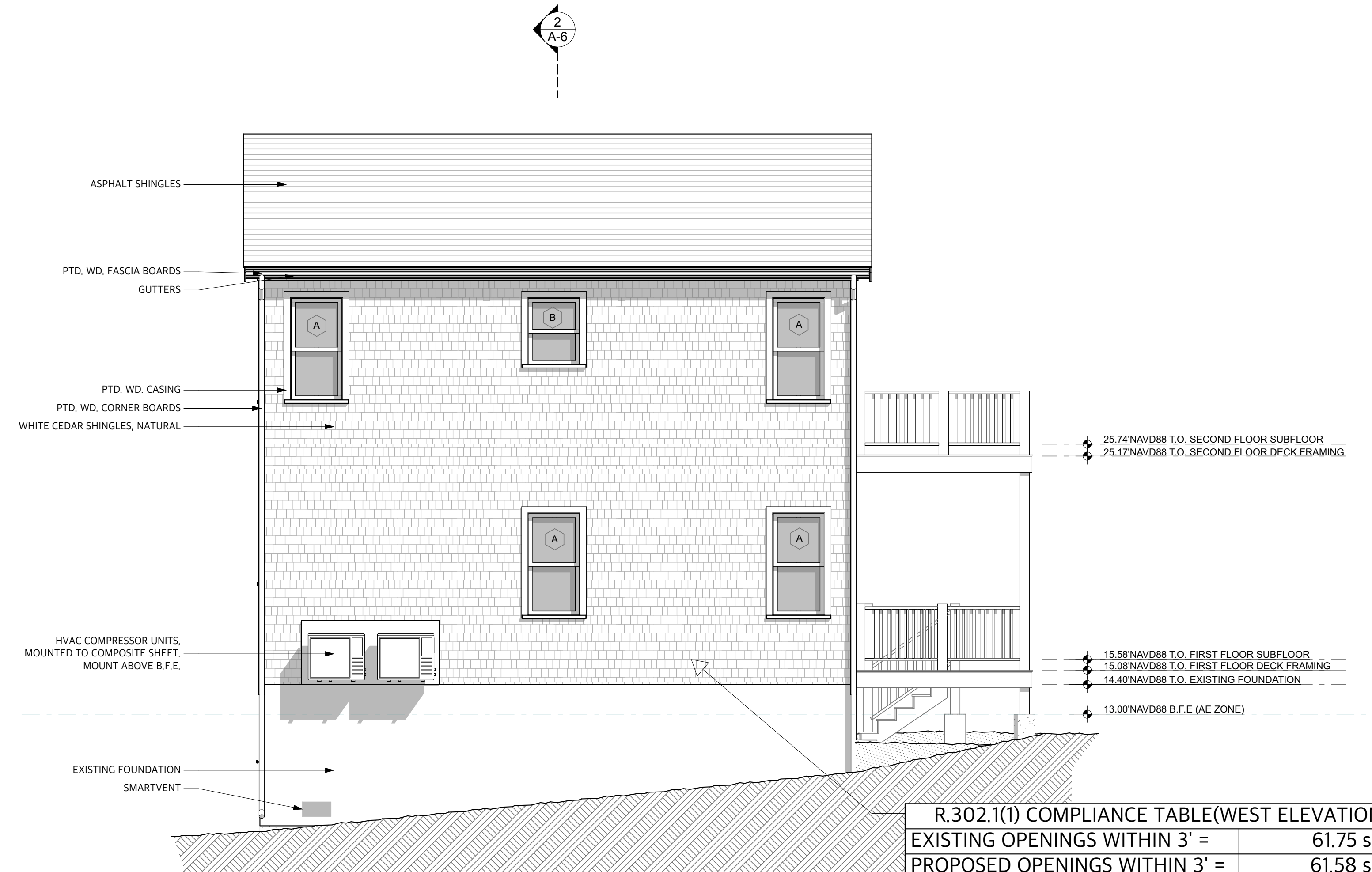
1 NORTH ELEVATION
SCALE: 1/4" = 1'-0"



2 EAST ELEVATION
SCALE: 1/4" = 1'-0"



3 SOUTH ELEVATION
SCALE: 1/4" = 1'-0"



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

R.302.1(1) COMPLIANCE TABLE(WEST ELEVATION)	
EXISTING OPENINGS WITHIN 3' =	61.75 sq. ft.
PROPOSED OPENINGS WITHIN 3' =	61.58 sq. ft.
-WEST ELEVATION IS WITHIN 3'-5" OF SIDELINE SETBACK	
-AREA OF OPENINGS MEASURED AND CONFIRMED BY ARCHITECT	

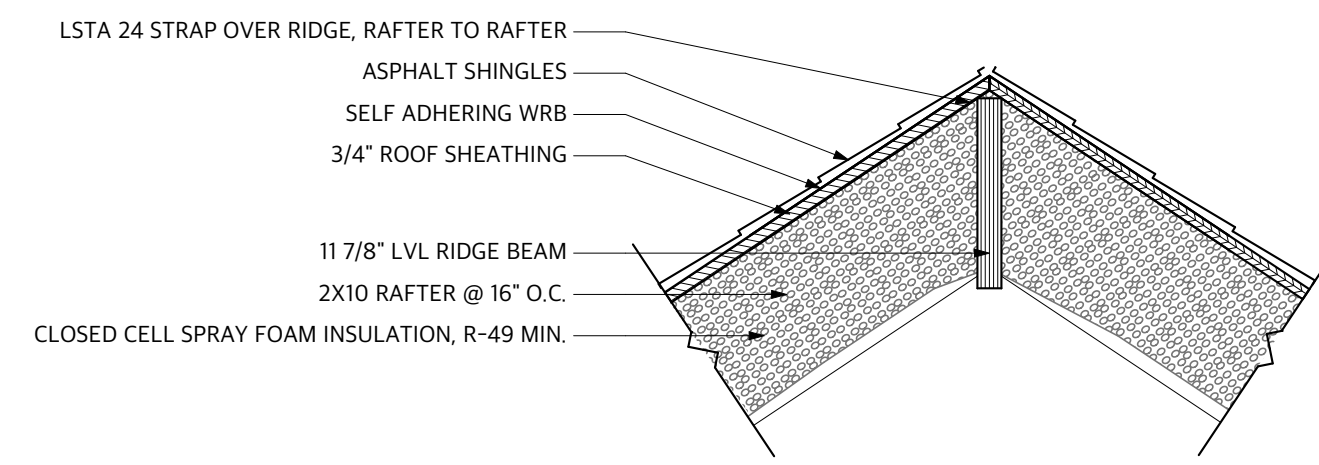
REVISION DATES:

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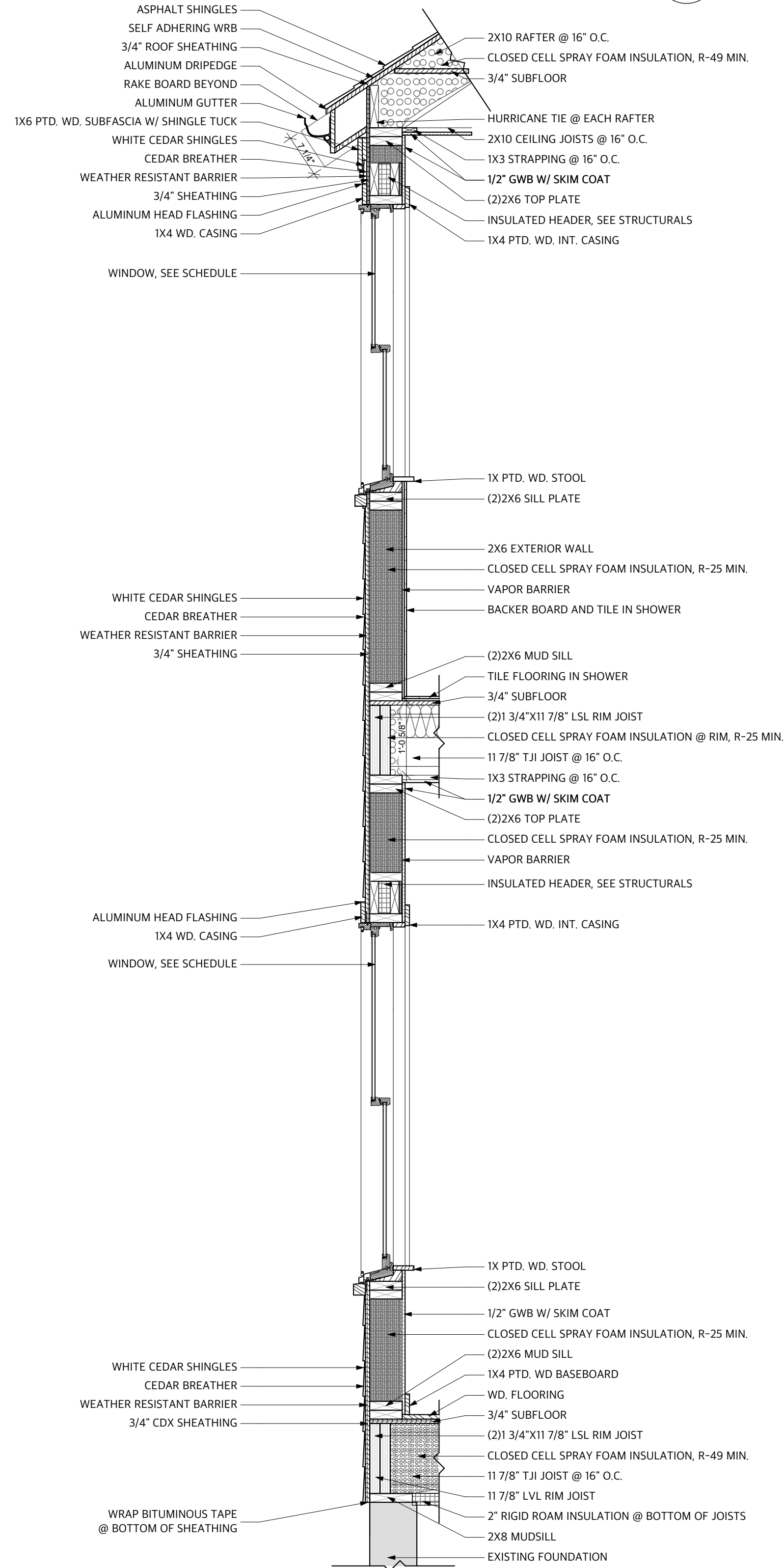
Title: ELEVATIONS
Scale: As Noted
Date: 07.12.23 NOT FOR CONSTRUCTION

379 Shore Road Unit 1
379 Shore Road
Truro, MA

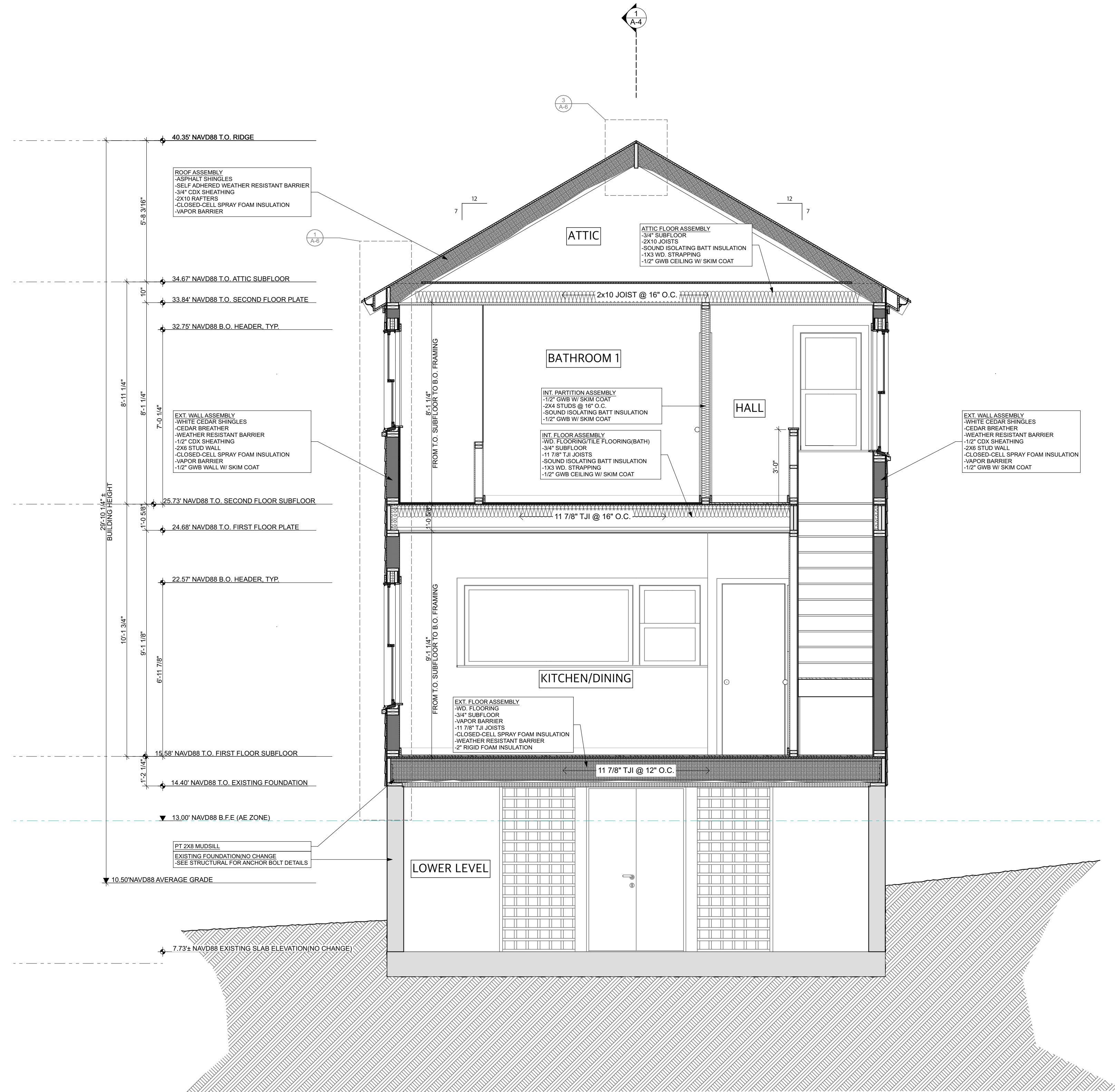
A-3



3 RIDGE DETAIL
SCALE: 1" = 1'-0"



1 WALL SECTION BB
SCALE: 3/4" = 1'-0"



2 BUILDING SECTION BB
SCALE: 3/8" = 1'-0"

REVISION DATES:

Leif Hammquist Architects
 info@lha.design 617.365.0130
 www.lha.design

Title: BUILDING SECTIONS
 Scale: As Noted
 Date: 07.12.23 NOT FOR CONSTRUCTION

379 Shore Road Unit 1
 379 Shore Road
 Truro, MA

A-6

Town of Truro
Zoning Board of Appeals

September 12, 2023

Due to pressing personal demands we were unable to join the meeting held August 21 until this week. We were pleased with the thoughtful and detailed attention your Board members provided before voting on plans presented by Charles Silva to remove and replace two buildings across the street from our cottage on 394 Shore Road.

We own two adjacent lots (383 Shore Rd.), now considered one, to the west of the Silva property. In the past we have voiced our concern with the deteriorating condition for several years of the two Silva buildings. The older building (green trim) has had a window open to the elements for several years, although this sturdy cottage could still be restored. Mr. Silva has been declined a building plan in the past; however, the Town allows unsightly, unsafe conditions to exist while insisting upon many general restrictions to well kept property. The former Fore 'n Aft Motel was left to decay for decades and finally replaced by two inappropriate tall box-style buildings. Two major points concerning the Silva plans:

(1) Mr. Silva plans to build on the existing foundation which is literally inches away from our east boundary line and should not have been allowed at that time. This is the only opportunity to correct this imposition. Apparently the overall plan is to “reduce” from a 3 bed to a two bedroom while at the same time effectively doubling the living space with a **full 2nd story**. This is in addition to an unfinished walkout basement and attic space. As the Board pointed out a second floor would increase the level of non conformity undermining the bylaw intent. A viable alternative would be to improve the existing structure. If the intent is to construct a “nice, little cottage” as Mr. Silva phrased it, this would make a fine rental and retain a traditional Cape Cod experience. From an historical aspect it would enhance the neighborhood as a tall box style cannot. Visit us to see how pleasant “small” can be.

(2) The existing cottage has an unfinished walk-out cellar and there is no inside stairway to the ground floor. The raised second level would in effect allow three floors of living space. As a rental property there will be a greater number of people using the facilities. As you know considerable demands are being made for Beach Point owners to immediately invest and comply with a continually changing septic system and the possibility of scuttling them ~~and~~ if the sewer system is extended from Provincetown.

We trust you can understand our concern with this situation. The two empty lots we own west of the Silva property were purchased for immediate preservation of open space although one building would be allowed, with proper set backs.

We are sorry that we were unable to share these concerns with your Board members in a timely fashion but hope you will consider this information. We appreciate the time and dedication of the Board members.

Sincerely,



Blanche W. Shanley

2024

January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

March						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

April						
S	M	T	W	T	F	S
	1	2	3	4	5	6
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14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June						
S	M	T	W	T	F	S
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23	24	25	26	27	28	29
30						

July						
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21	22	23	24	25	26	27
28	29	30	31			

August						
S	M	T	W	T	F	S
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September						
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22	23	24	25	26	27	28
29	30					

October						
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Note: Leap Year	
Jan 01	New Year's Day
Jan 15	M L King Day
Feb 19	Presidents' Day
Feb 29	Leap Day
Mar 29	Good Friday
Mar 31	Easter Sunday
Apr 15	Patriots' Day
Apr 22	Passover (starts at sundown – do not schedule meetings late afternoon or evening)
Apr 30	Annual Town Mtg
May 14	Annual Town Election
May 27	Memorial Day
Jun 19	Juneteenth
Jul 04	Independence Day
Sep 02	Labor Day
Oct 2	Rosh Hashanah (starts at sundown – do not schedule meetings late afternoon or evening)
Oct 3	Rosh Hashanah (all day – do not schedule meetings)
Oct 11	Yom Kippur (starts at sundown – do not schedule meetings late afternoon or evening)
Oct 12	Yom Kippur
Oct 14	Indigenous Peoples' Day
Nov 11	Veterans' Day
Nov 28	Thanksgiving Day
Nov 29	Thanksgiving (Holiday)
Dec 07	Hanukkah
Dec 24	Christmas Eve Day
Dec 25	Christmas
Dec 31	New Year's Eve Day

Truro Zoning Board of Appeals

2024 Hearing/Meeting Schedule

HEARING/MEETING (Monday at 5:30 pm)	FILING OF NEW APPLICATIONS <i>Electronic and Paper</i> (Due by Noon)	SUPPLEMENTAL FILING <i>Electronic and Paper</i> (Due by Monday Noon of the <i>prior</i> week) (Unless otherwise noted*)
January 22	December 22, 2023	January 16*
February 26	January 26	February 20*
March 25	February 23	March 18
April 29	March 29	April 22
May 20	April 19	May 13
June 24	May 24	June 17
July 22	June 21	July 15
August 19	July 19	August 12
September 23	August 23	September 16
October 21	September 20	October 15*
November 18	October 18	November 12*
December 16	November 15	December 9

MEETING DATES AND TIMES ARE SUBJECT TO CHANGE

Please check the Town Website www.truro-ma.gov for any changes in the schedule