



PROSODY LAW

202 Washington Street, Suite 345
Brookline, MA 02445-7622

phone: 857.600.1956
fax: 855.825.1540
ianhenchylaw@gmail.com

Via UPS
Town of Truro
Town Clerk
24 Town Hall Road
PO Box 2012
Truro, MA 02666

Re: Request for Hearing, Appeal of Decision of Building Inspector regarding Building Permit #22-105

Dear Ms. Fullerton,

Please find enclosed, at the request of the Board, an application for a hearing in regards to the above-referenced appeal of the decision of the Building Inspector to issue Building Permit #22-105. The notice of appeal and memorandum in support, which is attached hereto, was received and stamped on March 28, 2022, at 2:07PM.

I have filled out the Town's application for a hearing form, with the understanding that it is not necessarily formulated for appeals pursuant to M.G.L. c. 40A § 8 and § 15 regarding the issuance (rather than denial) of a building permit. To the extent that the form is not correct for this appeal, I reserve my client's rights under M.G.L. c. 40A § 8 and § 15.

Per M.G.L. c. 40A § 15, "[t]he board of appeals shall hold a hearing on any appeal, application or petition within sixty-five days from the receipt of notice by the board of such appeal, application or petition". Given the circumstances, I would respectfully request that the Board schedule this hearing at its earliest convenience.

Please also find enclosed payment in the amount of \$50.00 for the filing fee associated with this application.

Very truly yours,



Ian F. Henchy, Esq.
Prosody Law, PLLC
202 Washington St., Suite 345
Brookline, MA 02445
(857) 600-1956
Fax: (855) 825-1540
ianhenchylaw@gmail.com
BBO #707284



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 04/01/2022

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)* 3/8/22 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 127 South Pamet Road Map(s) and Parcel(s) 48-12-0

Registry of Deeds title reference: Book _____, Page _____, or Certificate of Title Number 228604 and Land Ct. Lot # 1C; 1D and Plan # #16182-E; #16182-F

Applicant's Name Clyde Watson

Applicant's Legal Mailing Address 55 Three Mile Road, Etna, NH 03750-3809

Applicant's Phone(s), Fax and Email (203) 695-2647; (855) 825-1540; clydegone@yahoo.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 Thomas P. Dennis and Kathleen Dennis; 1537 Main St., Springfield, MA 01103

Representative's Name and Address Ian Henchy, Prosody Law, PLLC, 202 Washington St., Suite 345, Brookline, MA 02445

Representative's Phone(s), Fax and Email (857) 600-1956; (855) 825-1540; ianhenchylaw@gmail.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)

Ian Henchy

Applicant(s)/Representative Printed Name(s)

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


Applicant(s)/Representative 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



Town of Truro Building Permit

24 Town Hall Rd, Truro MA 02666

P: 508-349-7004 x131 F: 508-349-5508

Building Permit #: 22-105	Map: 48	Parcel: 12
Street Location: 127 SOUTH PAMET ROAD		
Owner: T. DENNIS		
Type of Work: RELOCATE HOUSE	HIC:	N/A
Builder: OWNER	CSL:	N/A
Date of Issue: 3-8-22		

This card shall be posted in a conspicuous place and shall not be covered or removed until all work associated with this permit is completed. Work shall be in compliance with 780 CMR and all applicable laws and by-laws of the Town of Truro. Approved plans shall be available on the job site. Where a Certificate of Occupancy is required, the building shall not be occupied until after the final inspection and after the Certificate of Occupancy has been issued.

BUILDING OFFICIAL: 

REQUIRED INSPECTIONS

Footing – Rebar		Electrical Service		Final Gas	
Inspector	Date	Inspector	Date	Inspector	Date
Foundation – Rebar		Rough Wiring		Smoke/Fire Alarm	
Inspector	Date	Inspector	Date	Inspector	Date
Final Foundation		Final Wiring		Oil Furnace	
Inspector	Date	Inspector	Date	Inspector	Date
Cert. Foundation Plan		Low Voltage Rough		Sprinkler System	
Inspector	Date	Inspector	Date	Pressure	Date
Wind Connections		Low Voltage Final		Alarm	Date
Inspector	Date	Inspector	Date	Energy	
Frame		Underground Plumbing		Duct Test	Date
Inspector	Date	Inspector	Date	Blower Door	
Insulation		Rough Plumbing		Final Building	Date
Inspector	Date	Inspector	Date	Inspector	Date
Air Barrier		Final Plumbing		Cert. Of Occupancy	
Inspector	Date	Inspector	Date	Inspector	Date
Chimney/Woodstove		Rough Gas		Special Conditions:	
Inspector	Date	Inspector	Date	HOUSE RELOCATION ONLY	

ZONING ISSUES (IF ANY) TO BE RESOLVED PRIOR TO ANY OCCUPANCY

FEB 24 2022

RECEIVED BY

Building Permit Application

Massachusetts State Building Code, 780 CMR, 9th Edition



TOWN OF TRURO

Building Department

24 Town Hall Rd.
PO Box 2030
Truro, MA 02888

Tel (508) 349-7004 x131 Fax (508) 349-6508

Permit #: 22-105 Fee: \$600.00

SITE INFORMATION

Project Site: 127 S. PAMET RD TRURO, MA 02666

Assessors Map & Parcel: 48-12-0

Zoning District:

Outside Flood Zone

Inside Flood Zone - Specify:

Setbacks: Front: 51' Left Side: 53' Right Side: 150' Rear: 00'

Lot Area (sq. ft.): 4.36 ACRES Frontage: 287.24'

Water Supply: private Public

Subject to Policy 28: Curb Cut? **Y**
If Yes, please attach a copy of the approval to this application.

SUBJECT TO NHESP/MESA REVIEW? Y N

* IF YES, PLEASE ATTACH A COPY OF THE APPROVAL.

PROPERTY OWNERSHIP

Owner of Record: THOMAS & KATHLEEN DENNIS

Mailing Address: 1537 MAIN ST, SPRINGFIELD, MA 01103

Phone: 413.246.1096

E-mail: DENNIS@DENNISGRP.COM

Property Owner Authorization

Signature: [Signature]

Date: 23 FEB. 2022

PROJECT INFORMATION

1 & 2 Family Home

Commercial / Other than 1 & 2 Family Home*

Change of Use

DEMO - Subject to Chapter VI: Historic Properties Bylaw? Y N

* BUILDINGS IN EXCESS OF 35,000 CU. FT. MUST MEET CONTROL CONSTRUCTION REGULATIONS (780 CMR 116). ADDENDUM TO PERMIT APPLICATION AVAILABLE IN BUILDING DEPARTMENT.

New Dwelling: # of units _____

Commercial Building

Addition

Alteration

Mechanical

Accessory Structure: (type) _____

Other: HOUSE RELOCATION

Detailed Description of Proposed Work:

HOUSE MOVE INCLUDING INSTALLATION OF WOOD PILE FOUNDATION.

NO NEW HOUSE CONSTRUCTION - FOUNDATION AND MOVE ONLY

190

Estimated Construction Cost: PLUMBING \$15,000 MUNE \$45,000		Debris Disposal: (Landfill or Company Name)	
Floor Area: (Proposed Work Only)		Basement: <input type="checkbox"/> unfinished _____ <input type="checkbox"/> finished _____	
1 st flr:	2 nd flr:	Porch/Deck:	Other:
# fireplaces:	# chimneys:	# bathrooms: existing _____ proposed _____	
# bedrooms: existing _____ proposed _____			
Type of Heating System:		Type of Cooling System:	

CONTRACTOR INFORMATION*
*HOMEOWNER'S AFFIDAVIT REQUIRED IF OWNERS ARE DOING THEIR OWN WORK (RESIDENTIAL PROJECTS ONLY)

Contractor Name: **SOUTH SHORE PILE DRIVING**
CREDDES MUNE

Address: **112 SEA ST MARCHAND, MA 02050**
8 GARDEN RD BOW, NH 03304

Phone: **781-766-4021** Email: **PAUL@SSPILEDRIVING.NET**
603-234-2192 **CREDDES.MUNE@CIVILDOT.NET**

CSL#: _____ HIC # _____

OFFICE USE

HEALTH/CONSERVATION AGENT Review House move approved under
SE 75-112B. Amended Order needed for new loc
Owner filing for 4/4 Hrg. No connex to septic until
S-plan is filed.

Signature: [Signature] Date: 3-1-2022

Other Comments: _____

BUILDING COMMISSIONER Review & Approval: HOUSE RELOCATION
ONLY - NO OCCUPANCY UNTIL ZONING
ISSUES (IF ANY) ARE RESOLVED

Signature: [Signature] Issuance Date: 3.8.22

HEALTH DEPARTMENT
TOWN OF TRURO

FEB 24 2022

RECEIVED BY _____



TOWN OF TRURO

BUILDING DEPARTMENT

P.O. Box 2030, Truro MA 02666

Tel: 508-349-7004, Ext. 31 Fax: 508-349-5508

HOMEOWNER LICENSE EXEMPTION FORM

Please print:

Job Location: 127 S. Power Rd 48-12-0
Street Address Map Parcel

"HOMEOWNER": Tom Deunis 413-246-1096
Name Home Phone

Present Mailing Address: 1537 Main St.
SPRINGFIELD, MA 01103

780 CMR 110.R5.1.3.1 (Exception) Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions of 780 CMR 110.R5, provided that if a homeowner engages a person(s) for hire to do such work, then such homeowner shall act as supervisor. This exception shall not apply to the field erection of a manufactured buildings constructed pursuant to 780 CMR 110.R3.

Note. Any Licensed Construction Supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with 780 CMR and manufacture's recommendations, as applicable, whether or not the licensed contractor secured the permit for said work.

780 CMR 110.R5 (Homeowner)

Person(s) who owns a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one- or two-family dwelling, attached or detached structures accessory to such use and/or farm structures. A person who constructs more than one home in a two-year period shall not be considered a homeowner.

Homeowner's Signature: [Signature] Date: 23 FEB, 2022

Approval of Building Official: [Signature] Date: 3-8-22

Updated: 01/03/2012

HEALTH DEPARTMENT
TOWN OF TRURO

FEB 24 2022

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The Commonwealth of Massachusetts
Department of Industrial Accidents
1 Congress Street, Suite 100
Boston, MA 02114-2017
www.mass.gov/dia

Workers' Compensation Insurance Affidavit: Builders/Contractors/Electricians/Plumbers.
TO BE FILED WITH THE PERMITTING AUTHORITY.

Applicant Information

Please Print Legibly

Name (Business/Organization/Individual): THOMAS DENNIS

Address: 1537 MAID ST

City/State/Zip: SPRINGFIELD, MA 01103 Phone #: 413-246-1096

<p>Are you an employer? Check the appropriate box:</p> <p>1. <input type="checkbox"/> I am an employer with _____ employees (full and/or part-time).*</p> <p>2. <input type="checkbox"/> I am a sole proprietor or partnership and have no employees working for me in any capacity. [No workers' comp. insurance required.]</p> <p>3. <input type="checkbox"/> I am a homeowner doing all work myself. [No workers' comp. insurance required.][†]</p> <p>4. <input checked="" type="checkbox"/> I am a homeowner and will be hiring contractors to conduct all work on my property. I will ensure that all contractors either have workers' compensation insurance or are sole proprietors with no employees.</p> <p>5. <input type="checkbox"/> I am a general contractor and I have hired the sub-contractors listed on the attached sheet. These sub-contractors have employees and have workers' comp. insurance.[‡]</p> <p>6. <input type="checkbox"/> We are a corporation and its officers have exercised their right of exemption per MGL c. 152, §1(4), and we have no employees. [No workers' comp. insurance required.]</p>	<p>Type of project (required):</p> <p>7. <input type="checkbox"/> New construction</p> <p>8. <input type="checkbox"/> Remodeling</p> <p>9. <input type="checkbox"/> Demolition</p> <p>10. <input type="checkbox"/> Building addition</p> <p>11. <input type="checkbox"/> Electrical repairs or additions</p> <p>12. <input type="checkbox"/> Plumbing repairs or additions</p> <p>13. <input type="checkbox"/> Roof repairs</p> <p>14. <input checked="" type="checkbox"/> Other <u>HOME MOVE</u></p>
---	---

*Any applicant that checks box #1 must also fill out the section below showing their workers' compensation policy information.
† Homeowners who submit this affidavit indicating they are doing all work and then hire outside contractors must submit a new affidavit indicating such.
‡ Contractors that check this box must attach an additional sheet showing the name of the sub-contractors and state whether or not those entities have employees. If the sub-contractors have employees, they must provide their workers' comp. policy number.

I am an employer that is providing workers' compensation insurance for my employees. Below is the policy and job site information.

Insurance Company Name: _____

Policy # or Self-ins. Lic. #: _____ Expiration Date: _____

Job Site Address: _____ City/State/Zip: _____

Attach a copy of the workers' compensation policy declaration page (showing the policy number and expiration date).
Failure to secure coverage as required under MGL c. 152, §25A is a criminal violation punishable by a fine up to \$1,500.00 and/or one-year imprisonment, as well as civil penalties in the form of a STOP WORK ORDER and a fine of up to \$250.00 a day against the violator. A copy of this statement may be forwarded to the Office of Investigations of the DIA for insurance coverage verification.

I do hereby certify under the pains and penalties of perjury that the information provided above is true and correct.

Signature: Thomas Dennis Date: 23 FEB. 2022

Phone #: 413-246-1096

Official use only. Do not write in this area, to be completed by city or town official.

City or Town: _____ Permit/License # _____

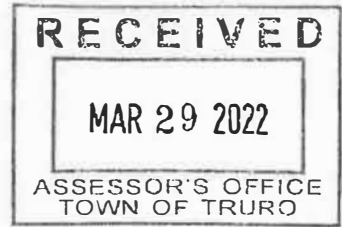
Issuing Authority (circle one):
 1. Board of Health 2. Building Department 3. City/Town Clerk 4. Electrical Inspector 5. Plumbing Inspector
 6. Other _____

Contact Person: _____ Phone #: _____



TOWN OF TRURO

Assessors Office Certified Abutters List Request Form



DATE: 3/28/22

NAME OF APPLICANT: Clyde Watson

NAME OF AGENT (if any): Atty. Ian Henchy

MAILING ADDRESS: Prosody Law, PLLC 202 Washington St., Suite 345 Brookline, MA 02445

CONTACT: HOME/CELL (857) 600-1956 EMAIL ianhenchy.law@gmail.com

PROPERTY LOCATION: 127 South Parrot Road
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 48 PARCEL 12 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)

- | | | |
|---|---|--|
| <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 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 | |

\$15 per 3/28 conversion w/ Jan Nichols

Other Appeal of Decision of Building Inspector to Issue Permit #22-105 (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: 3/29/2022

Date completed: 3/29/2022

List completed by: [Signature]

Date paid: 3/29/2022 Cash/Check 1002

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: March 29, 2022

To: Clyde Watson
c/o Ian Henchy; Prosody Law PLLC
202 Washington St Ste 345
Brookline, MA 02445

From: Assessors Department

Property: 127 So Pamet Rd. Parcel ID 48-12

Certified abutters list application for: Appeal of Issue of Building Permit #22-105

Attached is an abutters list for 127 So Pamet Rd, Parcel ID 48-12. The owner of the Property is Thomas P Jr. & Kathleen Dennis. The names and addresses of the abutting parcels are as of March 25, 2022, according to the most recent documents received from the Barnstable County Registry of Deeds and the ownership records kept by the Town of Truro.

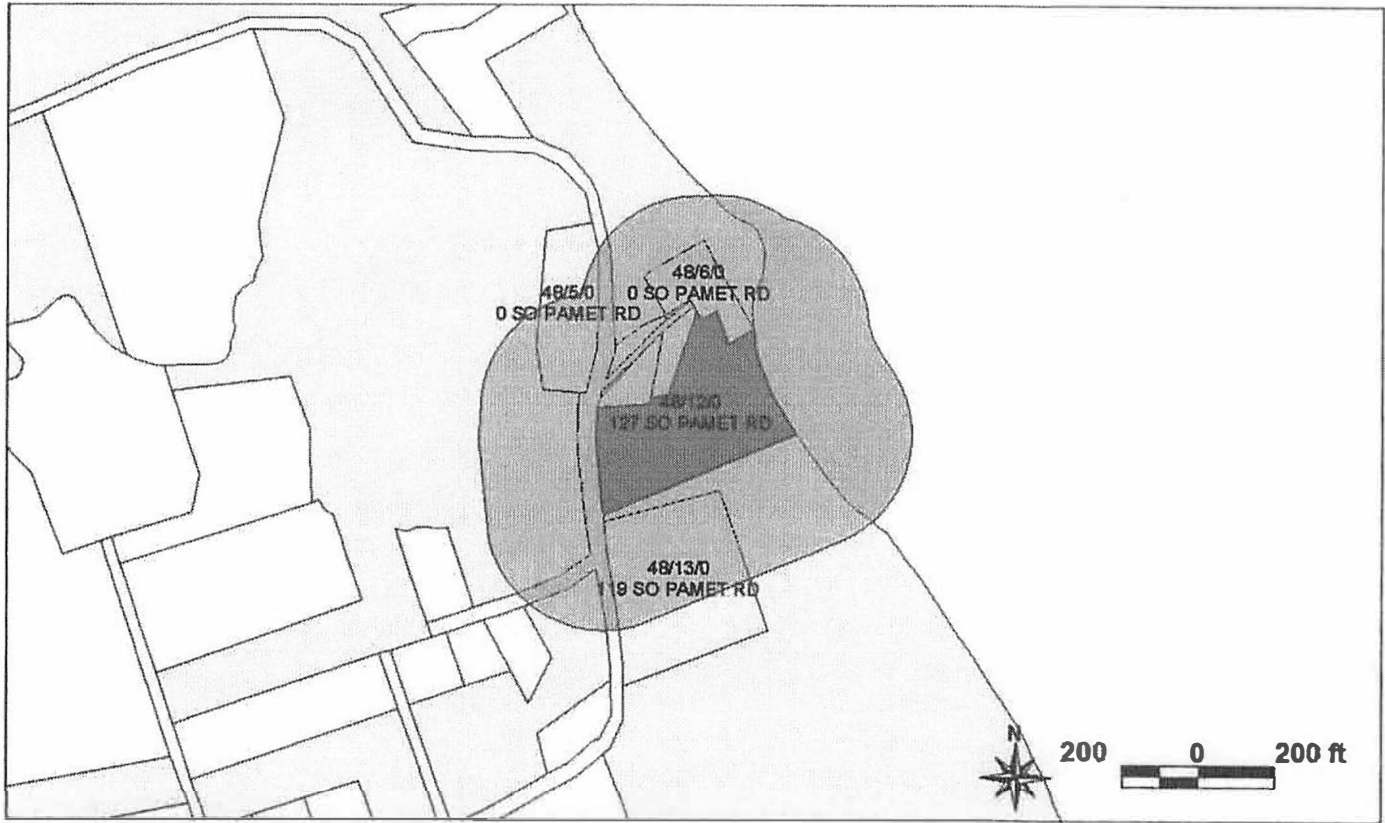
Certified by: _____ *Jon Nahas* 

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

MAP 48 PARCEL 12
 127 So Pamet Rd
 Appeal of BP#22-105

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

Abutters List Within 300 feet of Parcel 48/12/0



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
2742	48-5-0-E	TOWN OF TRURO	0 SO PAMET RD	PO BOX 2030	TRURO	MA	02868-2030
2743	48-6-0-E	TOWN OF TRURO	0 SO PAMET RD	PO BOX 2030	TRURO	MA	02666-2030
2744	48-7-0-E	TOWN OF TRURO	135 SO PAMET RD	PO BOX 2012	TRURO	MA	02866
2745	48-8-0-R	THOMAS P DENNIS JR REV TRUST & KATHLEEN C WESTHEAD-DENNIS REV	133 SO PAMET RD	C/O DENNIS GROUP 1537 MAIN ST	SPRINGFIELD	MA	01103
2748	48-11-0-R	SEAL OF APPROVAL LLC MGR: THOMAS ROCCO	131 SO PAMET RD	14 HAMMEL COURT	PORTSMOUTH	RI	02871
2749	48-12-0-R	DENNIS THOMAS P JR & KATHLEEN	127 SO PAMET RD	30 COLONY RD	SPRINGFIELD	MA	01106
2750	48-13-0-R	WATSON CLYDE D QPR TRUST TRS: WATSON CLYDE D	119 SO PAMET RD	55 THREE MILE RD	ETNA	NH	03750-3809

40-999-0-E

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

48-5-0-E

TOWN OF TRURO
PO BOX 2030
TRURO, MA 02666-2030

48-6-0-E

TOWN OF TRURO
PO BOX 2030
TRURO, MA 02666-2030

48-7-0-E

TOWN OF TRURO
PO BOX 2012
TRURO, MA 02666

48-8-0-R

THOMAS P DENNIS JR REV TRUST &
KATHLEEN C WESTHEAD-DENNIS REV
C/O DENNIS GROUP
1537 MAIN ST
SPRINGFIELD, MA 01103

48-11-0-R

SEAL OF APPROVAL LLC
MGR: THOMAS ROCCO
14 HAMMEL COURT
PORTSMOUTH, RI 02871

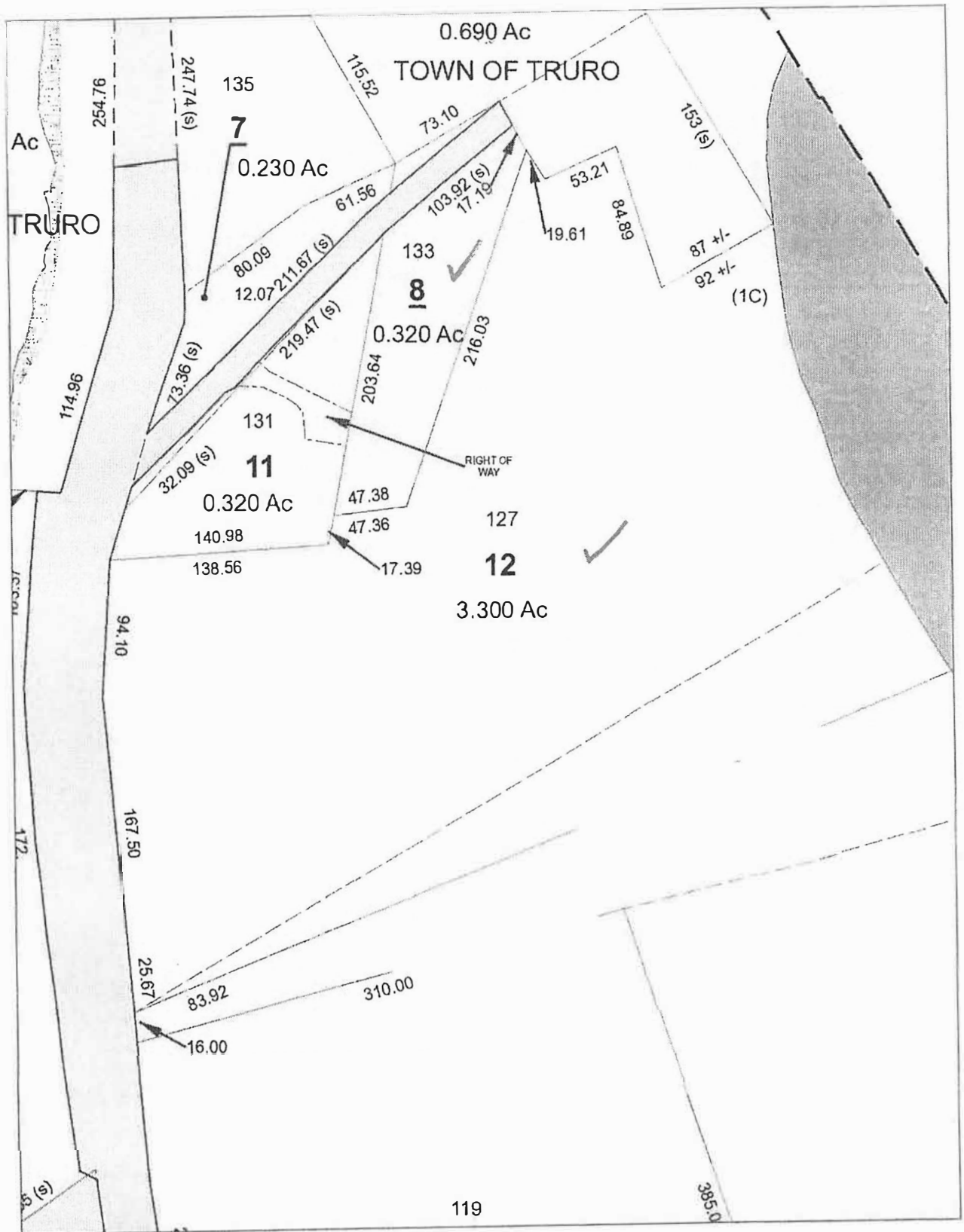
48-12-0-R

DENNIS THOMAS P JR & KATHLEEN
30 COLONY RD
SPRINGFIELD, MA 01106

48-13-0-R

WATSON CLYDE D QPR TRUST
TRS: WATSON CLYDE D
55 THREE MILE RD
ETNA, NH 03750-3809





16182F

SUBDIVISION PLAN OF LAND IN TRURO

John R. Dyer, O. E.

May - 1949



South Pamet Road
Town Way

I.C
Plan 16182 E
with cert. 7719



ATLANTIC OCEAN

Coast Guard Telephone Easement

Top of Bank 1

Frederic A. Washburn
Cert. 4254

Lucy Osborn Ball
L.C. 15097 A sh. 4
with Cert. 3152

Subdivision of part of Parcel 1
Shown on plan 16182^A sh. 1
Filed with Cert. of Title No. 4254
Registry District of Barnstable County

Separate certificates of title may be issued
for lots I.D and I.E as shown hereon
By the Court

John R. Dyer
Recorder

Copy of part of plan
filed in
LAND REGISTRATION OFFICE
JUNE 1, 1949
Scale of this plan 120 feet to an inch
W.T. Fairclough, Engineer for Court

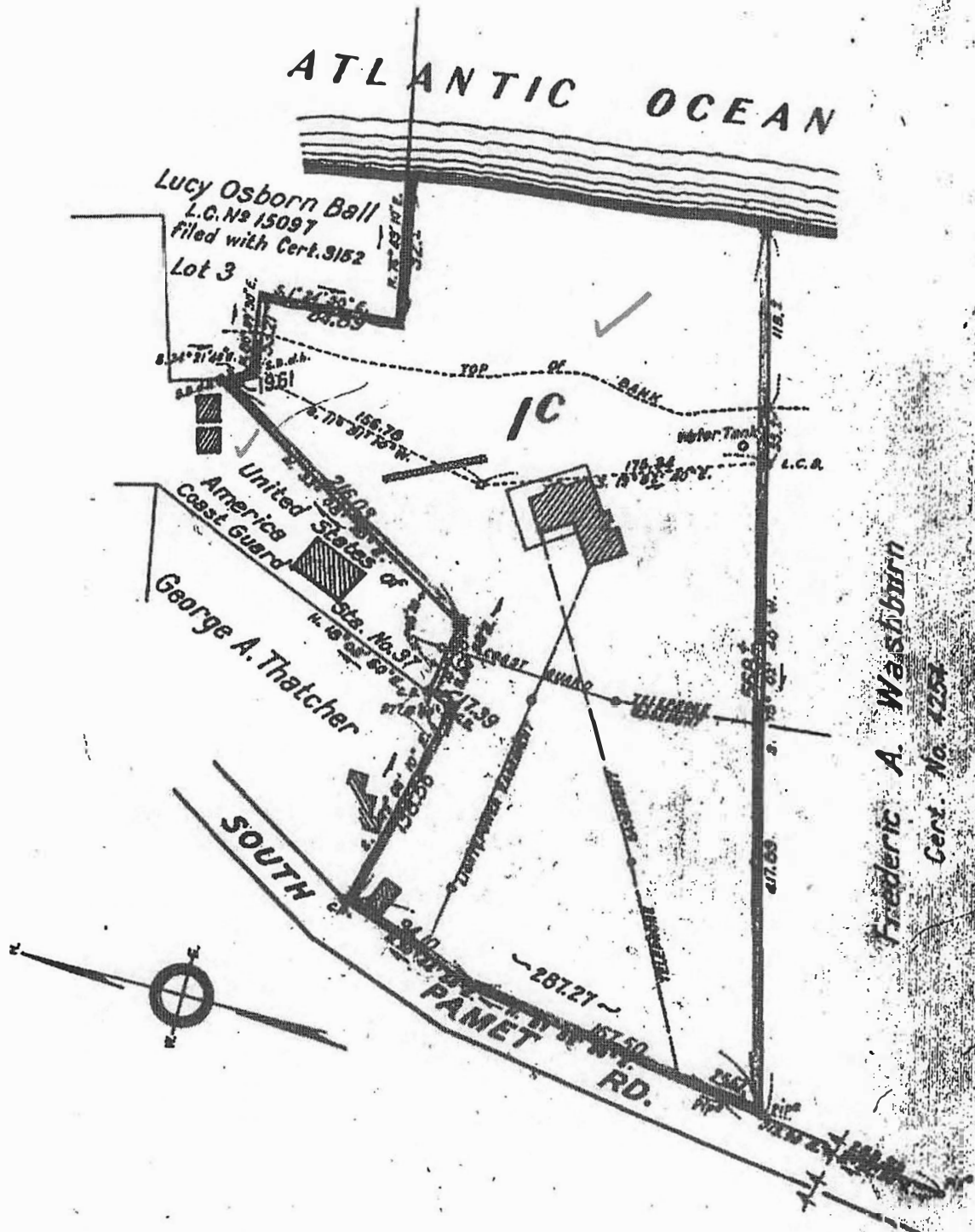
JUNE 1, 1949

Subdivision of part of Parcel 1 shown on plan 16182^A sh.1 16182^E
 Filed with Cert. of Title No. 4254 Registry District of Barnstable County

LAND IN TRUST

October 1945

John R. Dyer. Civil Eng'r.



Frederic A. Washburn
 Cert. No. 4254

Frederic A. Washburn, Owner., Cert. No. 4254

Separate certificates of title may be issued
 for Lot 1c as shown hereon
 By the Court
 Robert E. French
 Recorder
 Nov. 9, 1945.

Copy of map of this
 LAND REGISTRATION OFFICE
 NOV. 9, 1945
 Scale of this plan 80 Feet to an Inch
 C. S. Humphrey, Engineer for Court



PROSODY LAW

TOWN OF TRURO
Thaei L...
MAR 28 2022
2:07pm
RECEIVED
TOWN CLERK

202 Washington Street, Suite 345
Brookline, MA 02445-7622

phone: 857.600.1956
fax: 855.825.1540
ianhenchylaw@gmail.com

Via FedEx
Town of Truro
Town Clerk
24 Town Hall Road
PO Box 2012
Truro, MA 02666

Town of Truro
Truro Zoning Board of Appeals
24 Town Hall Road
PO Box 2030
Truro, MA 02666

Re: Notice of Appeal of Decision of Building Inspector regarding Building Permit #22-105

MEMORANDUM

This memorandum serves as notice of appeal, pursuant to M.G.L. c. 40A §§ 8 and 15, of the inspector of buildings' decision to issue Building Permit #22-105. This appeal is brought by an abutter to the proposed receiving lot, Clyde Watson ("Ms. Watson"), of 119 South Pamet Road in Truro, Massachusetts. Ms. Watson is aggrieved by the issuance of building permit #22-105, issued prior to any determination of compliance with zoning (as required by 780 CMR 105.3.1.2). It is not lawful to issue such a permit, as the Building Inspector did here, leaving to a later date the determination of Zoning compliance. The practical and legal issues raised by this practice are obvious, especially where, as here, there is a history of obvious zoning non-compliance issues that were previously raised with the Board, and where there is pending, at the time of the building permit's issuance, an application for a Special Permit for the proposed use.

As set forth below, there remain a number of zoning issues that require resolution *prior* to any relocation of the 133 South Pamet Road property to the 127 South Pamet Road address. The Board should forthwith reverse the Building Inspector's imprudent decision to issue Building permit #22-105 and require that no building permit issue until all zoning issues are finally resolved.

Standing to Appeal

As an abutter to the proposed receiving lot, 127 South Pamet Road, Ms. Watson has standing to appeal under M.G.L. c. 40A § 8 as a “person aggrieved ... by an order or decision ... in violation of” a zoning provision. M.G.L. c. 40A § 8. *See also Gallivan v. Zoning Bd. of Appeals of Wellesley*, 71 Mass. App. Ct. 850, 854 (2008); *Elio v. Zoning Bd. of Appeals of Barnstable*, 55 Mass. App. Ct. 424, 427–428 (2002); *Lanner v. Board of Appeal of Tewksbury*, 348 Mass. 220, 221–223 (1964) (discussing similar language in statutory predecessor to G.L. c. 40A, § 8).

Applicant's Prior Applications for Zoning Relief

On October 22, 2021, the applicant sought zoning relief from the Truro Zoning Board of Appeals (“ZBA”) to move the house located at 133 South Pamet Road to 127 South Pamet Road. That application noted that 127 South Pamet Road is “pre-existing and non-conforming under current zoning as to minimum lot size”, and that lot area was noted to be 1.68 acres¹ (where 3 acres would be required). The applicant accordingly sought a variance to place a second dwelling on the 127 South Pamet Lot, and a special permit to increase the intensity of the existing nonconformity as to lot area.

On January 20, 2022, the applicant submitted a “Request for Amendment of Special Permit and Variance Petitions”, proposing a new location for the 133 South Pamet Road dwelling.

Despite a number of hearings on the zoning issues, including on November 22, 2021, December 20, 2022, and January 24, 2022, all of which did not grant the zoning relief requests, the applicant applied for a building permit on February 24, 2022.

Under a new theory, counsel for the applicant determined that — if the kitchen were to be removed from the 133 South Pamet Property — it could be relocated by right (and without

¹ The Application for Building Permit lists the Lot Area of 127 South Pamet Road as 4.36 acres.

requiring zoning relief) to the 127 South Pamet Road location as what counsel referred to as a “habitable accessory building” in e-mails to the Building Commissioner. On March 8, 2022, the above-referenced building permit was issued, after an apparent determination that the proposed dwelling could be categorized as a “habitable studio”. The building permit notes: “House Relocation Only. **Zoning issues (if any) to be resolved prior to occupancy.**” (emphasis added).

Thus, the Building Inspector has set in motion a series of events that could very conceivably set the stage for the Board ultimately denying the requested zoning relief (see below), the structure being set upon a foundation via a building permit unlawfully obtained, and extensive litigation thereafter to enforce the Zoning by-law and remove the building.

In such a case the landowner will justifiably claim that they relied upon an official act of the Town, claim hardship, place this Board in the unenviable position of requiring the relocation of the structure barely rescued from the sea, drop a difficult enforcement case in Town Counsel’s lap, undermine the Cape Cod National Seashore and the Town’s seashore zoning, and ultimately cause the taxpayers and abutters to expend significant funds on completely unnecessary litigation.

a.) No Building Permit may Issue for a Structure or Use Not in Compliance with Zoning or other local laws

The Building Inspector’s action has turned the process for issuance of building permits on its head. It is his duty to first, before any building permit is issued, to determine compliance with local zoning or other laws. This principle is enshrined in the Building Code, 780 CMR 105.3.1 provides that:

105.3.1 Action on application. The building official shall examine or cause to be examined applications for permits and amendments, and shall issue or deny the permit, within 30 days of filing. If the application or construction documents do not conform to the requirements of 780 CMR and all pertinent laws under the building official’s jurisdiction, the building official shall deny such application in writing, stating the reasons therefore. The building official’s signature shall be attached to every permit. **The following requirements, where applicable, shall be satisfied before a building permit is issued:** 1.) **Zoning**, in accordance with M.G.L. c. 40A or St. 1956, c. 665 . . .

(Emphasis added) 780 CMR 105.3.1. Here, the Building Inspector failed to comply with the condition precedent to the issuance of a building permit. On its face, the building permit specifically “punts” on a central issue to the issuance of such a permit—whether the structure

complies with Zoning. Moreover, there is no evidence that there is compliance with the Wetlands Act, the Truro Wetlands By-law, Title V of the Sanitary Code, or the Truro Board of Health Regulations.

b.) Failure to comply with 780 CMR 105.3.1 alone should invalidate the Building permit

Moreover, the Board should consider the grave issues presented for future administration of Truro by-laws presented by this course of action. If the Building Inspector is allowed to issue Building Permits absent compliance with zoning, wetlands, or health regulations, where does the practice end? How many enforcement actions will become necessary? It may be argued that this case presents an unusual circumstance, but this is not true. Truro's beaches—on both the ocean and bay side (Beach Point) are constantly eroding and placing structures at risk. Is every building that teeters on the edge of an eroding beach going to become the subject of speculative purchases knowing that a building permit can be obtained for the relocation before the Board of Appeals, Conservation Commission, and Board of Health give prior review?

It is one thing to grant emergency relief to a landowner to allow them to attempt to save such a structure. It is quite another to then grant a building permit before the permanent location of the structure complies with zoning, wetlands, and health regulations. The Board truly needs to consider the chaos that will inevitably be created in Truro's land use regulatory programs if this building permit is allowed to stand.

Categorization of 133 South Pamet Road Dwelling as a Second "Habitable Studio"

There is already one principal residence and one habitable studio present on the site. "Uses not expressly permitted are deemed prohibited". Town of Truro, Massachusetts Zoning Bylaw, § 30.2. Both an accessory dwelling unit ("ADU") and a habitable studio are permitted in the Seashore District. *See* Zoning Bylaw, § 30.2, "Use Table". An accessory dwelling unit is defined as follows:

Dwelling Unit, Accessory. A dwelling unit either detached from or located within or attached to a principal single family dwelling, or an accessory structure to the principal single family dwelling on the same lot, such as a garage. The Accessory Dwelling Unit (ADU) shall contain at least four hundred (400) square feet but not more than one thousand (1,000) square feet of Gross Floor Area. An Accessory Dwelling Unit shall be a complete, separate housekeeping unit containing both kitchen and sanitary facilities in conformance with §40.2 of this bylaw.

(Emphasis added) Zoning Bylaw, § 10.4. A habitable studio, on the other hand, is defined as follows:

Habitable Studio. A habitable studio shall consist of one or more bedrooms, with or without bathroom facilities, in a building detached from the principal residence, **which is incidental and accessory to the principal residence and which does not include residential kitchen facilities.** A room identified as a bedroom will be included in considerations under the State Environmental Code, Title 5.

(Emphasis added — note the singular pronoun used in both the definitional section and in the Use Table—the Zoning by-law does not permit multiple habitable studios, only a singular habitable studio, on a residential lot — see below) *Id.*

The dwelling proposed by the applicant cannot be correctly categorized as a habitable studio or an accessory dwelling unit, nor can it be considered a “habitable accessory dwelling”, in the language used by counsel for the applicant.

a.) The Proposed Dwelling is not an Accessory Dwelling Unit

As noted in the definition above, an accessory dwelling unit may not contain more than one thousand square feet of Gross Floor Area. Per counsel’s February 23, 2022 email to the Building Commissioner, the proposed dwelling would contain 1,540 square feet of Total Gross Floor Area. This is clearly in excess of the maximum allowable 1,000 square feet of Total Gross Floor Area allowed of an Accessory Dwelling Unit.

To the extent that the applicant proposed removing the kitchen in an attempt to comply with the limitation on allowable Total Gross Floor Area, removal of the kitchen would also take the dwelling outside the definition of an accessory dwelling unit. As noted above, an accessory dwelling unit must “contain[] both **kitchen** and sanitary facilities” (emphasis added). Zoning Bylaw, § 10.4.

Put simply, if the kitchen is removed, in order to comply with the limitation on Total Gross Floor Area of 1,000 square feet, the dwelling cannot be categorized as an accessory dwelling unit. If the kitchen is not removed, the dwelling exceeds the maximum allowable Total Gross Floor Area. Accordingly, the dwelling cannot be an accessory dwelling unit.

b.) The Proposed Dwelling is not a Habitable Studio

A habitable studio may “**not include residential kitchen facilities**”. (emphasis added) Zoning Bylaw, § 10.4. As an initial matter, the building permit that was issued does not mandate removal

of the kitchen from the 133 South Pamet home prior to moving it to the 127 South Pamet address. If the kitchen is not removed, then the dwelling may not be categorized as a habitable studio. In addition, a habitable studio must be “**incidental and accessory to the principal residence**” (emphasis added). This is simply not the case here. 133 South Pamet Road was, historically, a US Coast Guard² building. It is now a single-family residence. It cannot be said to be incidental and accessory to the residence at 127 South Pamet Road.

Furthermore, the Town of Truro Zoning Bylaws consider the presence of “**a habitable studio**” (singular), not “**habitable studios**” (plural). The Building Inspector’s determination that the Bylaws do not limit the number of habitable studios per lot is in error. As counsel for the appellant understands, the Building Inspector’s position was that — since the Zoning Bylaws are silent as to the *number* of allowable habitable studios — this could allow the 133 South Pamet property to be categorized as a habitable studio, despite an already-existing habitable studio on the receiving lot. In other words, there could be two habitable studios on one lot.

The Building Commissioner is *not* correct that the Zoning Bylaws are silent as to the *number* of habitable studios allowed per lot. The Use Table says “**Habitable Studio**”(singular) , not “**Habitable Studios**” (plural). The Zoning Bylaws is clear and explicit as to whether a use is allowable absent explicit permission: “**Uses not expressly permitted are deemed prohibited**”. Town of Truro, Massachusetts Zoning Bylaw, § 30.2. Accordingly, since the Bylaws do not **expressly permit** the presence of two or more habitable studios, the presence of two habitable studios on one lot is deemed prohibited under § 30.2.

Further, the Board should again consider the precedential value of a different construction, as implicit in the issuance of the Building Permit. How many habitable studios are permissible? One? Two? Five? In an age of short-term rentals and AirBnB, the incentive to multiply “**habitable studios**” is obvious. Is the Board ready to re-write the Seashore District by allowing an interpretation not allowed by the plain, singular, language of the by-law. Is such an interpretation consistent with the purposes and intent of the Seashore District, as required by M.G.L. c. 40A §

² Known at the time as the U.S. Life-saving Services. See, e.g. <https://www.history.uscg.mil/Research/Bibliography-Collections/History-and-Tradition/Lifesaving-Service/>

9 (“Special permits may be issued only for uses which are in harmony with the general purpose and intent of the ordinance or by-law”)? On behalf of my client, I suggest the answers are self-evident and do not favor the Building Inspector’s interpretation.

c.) The Proposed Dwelling is not a “Habitable Accessory Dwelling”

Counsel for the applicant referred to the proposed dwelling as a “habitable accessory dwelling” in his email to the Building Commissioner, dated February 23, 2022. As noted above, “uses not expressly permitted are deemed prohibited”. Since the Zoning Bylaws contain no definition of — and do not permit — a “habitable accessory dwelling”, the proposed dwelling cannot be categorized as a “habitable accessory dwelling”. Zoning Bylaw, § 30.2.

Dimensional Zoning Relief is Required

In addition to the use issues noted above, the applicant will require dimensional zoning relief prior to the moving of the 133 South Pamet Road dwelling. As acknowledged in the first application for zoning relief, 127 South Pamet Road is nonconforming as to area, and the addition of the 133 South Pamet structure (whether a habitable studio, accessory dwelling unit, or otherwise) would increase the intensity of the existing nonconformity. This would require a special permit pursuant to M.G.L. c. 40A, § 6. *Bjorklund v. Zoning Board of Appeals of Norwell*, 450 Mass. 357 (2008).

The original application for zoning relief notes the lot size of 127 South Pamet to be 73,200 square feet/1.68 acres (where 3 acres would be required). The building permit, however, notes a lot area of 4.32 acres for 127 South Pamet Road, and .32 acres for 133 South Pamet Road. Counsel for the applicant’s argument, as summarized by the Town Planner in the March 24, 2022 memorandum regarding the March 28, 2022 Zoning Board of Appeals hearing is as follows:

- 1.) The 127 and 133 South Pamet lots predate April 30, 1987; therefore, the current definition of “Lot Area”³ does not apply;

³ Lot Area. The area of a lot when used for building purposes shall not be less than the minimum required by this bylaw for the district in which it is located. Such an area shall not be interpreted to include any portion of a lot below mean water level on fresh water, below mean high water on tidal water or within the limits of any defined way, exclusive of driveways serving only the lot itself. No less than 100% of the minimum lot area required shall consist of contiguous upland exclusive of marsh, bog, swamp, beach,

- 2.) If the current definition of “Lot Area” does not apply, area other than upland — including area “below mean high water — may be counted toward calculation of lot area;
- 3.) If the lot area of 127 South Pamet is calculated based on plans from the 1940s (prior to substantial loss of land to the ocean), rather than on upland area as it currently exists on the lot, the lot area of 127 South Pamet is 4.36 acres, exceeding the 3-acre minimum;
- 4.) Where the newly-calculated lot area is **conforming** under the Bylaw, the dwelling structure may be moved onto the property as of right, without need for a special permit from the ZBA under M.G.L. c. 40A § 6 and Bylaw § 30.7.

Pre-1987 Lot Area Definition Calculations

For the sake of argument, if the pre-1987 definition of lot area applies (which it will not, for the reasons mentioned below), the result would not be that **all** acreage shown on the earlier plans may be included in the lot area calculation. Rather, the pre-1987 Bylaw definition of Lot Area provides that “no less than 75% of the minimum lot area must be contiguous upland, exclusive of marsh, bog, swamp, **beach, dune, or wet meadow.**” (Emphasis added). If the pre-1987 definition *were* to apply, the contiguous upland requirement is not simply eliminated; it is simply reduced from 100% to 75%. Given the substantial presence of dune soil and beach on the lot, it is unlikely that — under either definition — the lot conforms to the Seashore District required minimum lot area. Moreover, there is no basis for any determination of the lot area, even under the pre-1987 definition, as the site plans fail to distinguish or quantify the area contained within the lots pre-1987 that are “beach”, or “dune”.

Current Lot Area Definition Calculations

It is doubtful that the pre-1987 Lot Area definition applies, however, in light of the applicant’s proposed combination of the 127 and 133 South Pamet lots. If the lots are combined, they would create a new, 2022 lot, and the current definition of Lot Area will apply to this newly created lot. The acreage of a combined lot would be the current acreage (127 South Pamet Road)

dune or wet meadow. This definition shall apply only to lots created after April 30, 1987. Zoning Bylaw, § 10.4.

minus any portion of that lot with is beach or dune, plus any **current acreage of whatever is now left of 133 South Pamet Road less the portion of that lot which is beach or dune.** These numbers would be necessarily less than the Seashore lot area minimum, and would support a Gross Floor Area substantially below the 3,936 square feet asserted by counsel for the applicant. This would require a special permit to exceed the Seashore Gross Floor Area, at the Board's discretion, under § 30.3.1.A.2 of the Zoning Bylaws:

Special Permit to exceed the Seashore District Total Gross Floor Area limit: The Seashore District Total Gross Floor Area limit for a lot established in subsection A.1 may be exceeded, up to the cap established by this subsection, by special permit, as provided in the remaining provisions of this Bylaw.

Any such grant of Special Permit must, under G.L. c. 40A sec. 9, be predicated on a finding that the grant of relief is consistent with the purposes of the Seashore District. Given that the relief requested is on its face to allow for the creation of a second "habitable studio" on a lot where there is already a residence and an existing studio, it is far-fetched to square the discretionary grant of such relief with "preservation and development of the Cape Cod National Seashore in accordance with the purposes of the Act of Congress of August 7, 1961 (75 Stat. 284, 291); to prohibit commercial and industrial uses therein; to preserve and increase the amenities of the Town; and to conserve natural conditions, wildlife, and open spaces for the education, recreation and general welfare of the public".

Moreover, before any such permit can be requested or approved, the applicant must obtain, through the Conservation Commission, a determination of the extent of beach, dune, and upland on the two lots, or any "lot area" calculation is entirely speculative. This is true for the pre-1987 lot areas, and it is true for the present areas—all of which have changed year by year from the same forces that undercut the structure.

Use Variance Required for Second Dwelling Unit on Lot

Finally, relocation of the 133 South Pamet Road dwelling onto the 127 South Pamet Road lot would create a new use nonconformity, which would require a use variance. The presence of two single-family dwellings⁴ on one lot is not a permissible use in the Seashore District. M.G.L. c.

⁴ See discussion above for why the 133 South Pamet Road dwelling may not be categorized as a habitable studio or accessory dwelling unit.

40A § 10 allows use variances only where expressly allowed by zoning regulation. “Except where local ordinances or by-laws shall expressly permit variances for use, no variance may authorize a use or activity not otherwise permitted in the district in which the land or structure is located.”

M.G.L. c. 40A § 10.

The Truro Zoning Bylaw expressly prohibits the Zoning Board of Appeals from hearing use variances:

§ 60.2 Board of Appeals A Board of Appeals consisting of five members and two associated members shall have the power conferred on it under Chapter 40A of the General Laws of Massachusetts and under this zoning bylaw, which powers shall include the review of Special Permit and Variance applications, **except for Variances as to use, and the appeal of decisions of the Building Commissioner.**

(Emphasis added) Zoning Bylaw, § 60.2. In other words, the Zoning Board has no authority to grant a use variance allowing a second single-family home to be located on the 127 South Pamet Road lot.

CONCLUSION

Due to the presence of significant unresolved zoning issues, conceded by the applicant by the filing of its petition for Zoning Relief, coupled with the absence of required permits from Conservation and Health, the appellant respectfully appeals the decision of the Building Inspector to issue Building Permit #22-105 and requests the Board to revoke said permit. The dwelling at 133 South Pamet Road may not simply be moved as of right to the 127 South Pamet lot, because it is not correctly categorized as an accessory dwelling unit, and the presence of multiple habitable studios is prohibited by the zoning bylaws. In addition, the 133 South Pamet dwelling may not be moved as-is (i.e., as a single-family home), because the required use variance may not be granted by the Zoning Board of Appeals. Finally, where the Lot Area (under the pre-1987 *or* likely applicable current definition) may not support the calculated Gross Floor Area, a special permit would need to be granted by the Board (at its discretion) prior to relocation of the 133 South Pamet structure.

Respectfully submitted,
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Dated: March 26, 2022

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