



Truro Zoning Board of Appeals Agenda

Remote Meeting

Monday, August 22, 2022 – 5:30 pm
www.truro-ma.gov

TRURO
AUG 17 2022
1:50 pm
RECEIVED
TOWN CLERK

Open Meeting

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

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the Agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free at [1-866-899-4679](tel:1-866-899-4679) and entering the access code [767-577-725#](tel:767-577-725#) when prompted. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/live stream, please lower or mute the volume on your computer or television during public comment so that you may be heard clearly. Citizens may also provide written comment via postal mail or by emailing Liz Sturdy, Planning Department Administrator, at esturdy@truro-ma.gov.

Meeting link: <https://meet.goto.com/767577725>

Public Comment Period

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

Public Hearings – Continued

2022-006/ZBA (SP's) – Outer Shore Nominee Trust, Rachel Kalin, Trustee for property located at 17 Coast Guard Road (Atlas Map 34, Parcel 3, Registry of Deeds title reference: Book 34387, Page 1). Applicant seeks: (1) a **Special Permit** under M.G.L. Ch. 40A §6 and §30.3.1(A)2 of the Truro Zoning Bylaw to exceed total Gross Floor Area limit in the Seashore District; and (2) a **Special Permit** under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw to demolish 5 of 6 pre-existing, non-conforming cottages; construct new single-family dwelling; convert non-conforming cottage into accessory pool structure in the Seashore District. **[Original Material in 4/25/2022, 5/23/2022, 6/27/2022 and 7/25/2022 packets]**

- ◆ Extension Agreement

2022-007/ZBA (Appeal) – Clyde Watson for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #1C, Plan #16182-E and Land Ct. Lot #1D, Plan #16182-F). The Applicant is aggrieved by the grant of a building permit, #22-105 dated March 8, 2022, to relocate a structure from 133 South Pamet Road onto 127 South Pamet Road. **[Original Material in 5/23/2022 packet]**

- ◆ Withdraw with Prejudice

2022-008/ZBA (SP/VAR) – Douglas Ambrose for property located 49 Fisher Road (Atlas Map 53, Parcel 24). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7A of the Truro Zoning Bylaw for demolition and reconstructing of a dwelling on a nonconforming lot (lot area). Applicant also seeks Variances under M.G.L. Ch. 40A §10 and §50.1.A of the Truro Zoning Bylaw or Special Permits under M.G.L. Ch. 40A §6 and §30.7 of the Truro Zoning Bylaw for three new nonconformities: setbacks of 18.1 feet; 21.7 feet; and 24.8 feet, where 25 feet required. [Original Material in 5/23/2022 and 6/27/2022 packets]

2022-010/ZBA (Appeal) – Thomas P. Dennis, Jr. and Kathleen C. Dennis, Individually and as Trustees for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #1C, Plan #16182-E and Land Ct. Lot #1D, Plan #16182-F) and 133 South Pamet Road (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). The Applicant is aggrieved by order or decision of the Building Commissioner on April 5, 2022 revoking a building permit issued March 8, 2022.

- ◆ Withdraw with Prejudice

Public Hearings

2022-014/ZBA (VAR) – Patrick Rice for property located at 4 Phats Valley Road (Atlas Map 54, Parcel 6, Registry of Deeds title references: Book 7626, Page 110, and Land Court Plan #25187-C (easement)). Applicant seeks a Variance under M.G.L. Ch. 40A §10 and §50.1.A of the Truro Zoning Bylaw for development of a single family dwelling on lot lacking frontage conforming to the Zoning Bylaw.

- ◆ Comments

2022-015/ZBA (SP) – George M. Shimko for property located at 2 Moses Way (Atlas Map 40, Parcel 14, Registry of Deeds title reference: Book 21691, Page 299). Applicant seeks a Special Permit under §40.3 of the Truro Zoning Bylaw to convert a former 3-unit cottage colony to 3-unit year-round multifamily use (condominium).

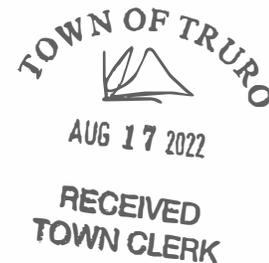
Minutes

- ◆ June 27, 2022

Next Meeting

- ◆ Monday, September 26, 2022 at 5:30 p.m.

Adjourn



MEMORANDUM

To: Truro Zoning Board of Appeals
From: Barbara Carboni, Town Planner/Land Use Counsel
Date: August 17, 2022
Re: August 22, 2022 meeting

2022-014/ZBA (VAR)- Patrick Rice for property located at 4 Phats Valley Road (Atlas Map 54, Parcel 6, Registry of Deeds title references: Book 7626, Page 110, and Land Court Plan #25187- C (easement)). Applicant seeks a Variance under M.G.L. Ch. 40A §10 and §50.1.A of the Truro Zoning Bylaw for development of a single family dwelling on lot lacking frontage conforming to the Zoning Bylaw.

Existing Conditions and Request for Relief

The subject lot, located in the Residential District and containing 3.09 acres, is depicted on a subdivision plan approved by the Planning Board approval in 1991. As depicted in that plan (and in the Existing Conditions Plan submitted), the lot has frontage on the cul-de-sac of a “Way.” The Way is accessed by a 40-foot wide easement running from Old County Road over abutting property. (A deed included in the application shows that the easement was conveyed together with the subject lot to the current owner).

In an attachment to the Form D Covenant recorded in conjunction with the subdivision plan, the Planning Board agreed “to waive the construction requirements as set forth in Section IV, Design Standards of our regulations for the way as shown on [the] plan.” That is, the owner was not required to construct the Way, which is now known as Phats Valley Road.

The applicant (prospective purchaser) seeks to develop the lot for single-family use. As described in the application narrative, the lot will “use the frontage shown on the 1991 Subdivision Plan (i.e., the physical 9-feet of access that existed in 1991 and exists today).” See Variance Narrative at p. 1.B. A variance is sought “to waive any interpretation of the terms ‘Lot Frontage’ and/or ‘Street’ in the ZBL that could be construed as requiring Parcel 6 to have 14 feet of constructed width, rather than the 9 feet of width as approved by the Planning Board in 1991 and that still exists today.” See Narrative at p. 1.B.

There is no requirement in the Zoning Bylaw to have 14 feet of constructed width; this requirement appears to be taken from a table of design standards in the Town’s Subdivision Rules and Regulations.¹ The Variance Narrative contains further discussion of road construction

¹ As the Board is aware, the Zoning Bylaw definition of “Street” references certain Design Standards that were previously contained in the Subdivision Regulations. These are the referenced Design Standards:

“(b) The minimum width of street right-of-ways shall be 40 feet.

standards in the Subdivision Regulations (current and prior), but these standards are not relevant to the zoning question before the Board. See Narrative at pp. 1-5. Even if it could be established that the Way conforms to design standards in the Subdivision Regulations, this would not resolve the *zoning* issue identified by the Building Commissioner, which is that the lot lacks *frontage conforming to the Zoning Bylaw*. Accordingly, it requires a variance – not from requirements of Subdivision Regulations and design standards, but from the *Zoning Bylaw* frontage requirement.

Based on discussion with the Building Commissioner, his determination that the lot does not have frontage conforming to the Zoning Bylaw - and accordingly requires a variance - is based not simply on the unconstructed nature of the Way (or the narrowness of access on the ground), but also on the manner in which the Way is reached from Old County Road – via an easement across abutting property. The Zoning Bylaw defines “Street” as “[a] *public or private way* which affords access to abutting property.” (emphasis added). Phats Valley Road is a private way, but it does not by itself afford access to the subject lot. Such access is only possible by travel over the easement from Old County Road to Phats Valley Road; an easement is not a public or private way. The lot’s frontage on Phats Valley Road does not provide conformity to Zoning Bylaw requirements.

The Board’s consideration of this application is therefore under the same standard as any other variance application.

Variance Requirements

Under G.L. Chapter 40A, s.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 make an affirmative finding on all three of the above to grant a variance. The applicant offers argument on each. See Variance Narrative at p. 6.

(c) Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet.

(d) Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 80 feet. When ways requiring turnarounds may be extended in future subdivisions, the Board may require only an area equal to the above requirement to be shown and marked “Reserved for Turning.” Upon extension of the way through this turning area, the portions not included in the way shall revert to their respective lots.”

It is of course for the Board to decide whether these requirements are met, but the following may be noted with respect to the third (“hardship”) factor: the applicant is not the owner of the property; he is a prospective buyer. To the extent hardship might be found in this case if a variance were denied, it would seemingly be the *owner’s* hardship, not the buyer’s.

2022-015/ZBA (SP) - George M. Shimko for property located at 2 Moses Way (Atlas Map 40, Parcel 14, Registry of Deeds title reference: Book 21691, Page 299). Applicant seeks a Special Permit under §40.3 of the Truro Zoning Bylaw to convert a former 3-unit cottage colony to 3-unit year-round multifamily use (condominium).

Existing Conditions and Requested Relief

The subject lot is located at the corner of Moses Way and South Highland Road in the Residential District. There is a principal dwelling and two cottages on the lot.² The property historically functioned as a cottage colony, but according to the applicant (and consistent with Health Agent comment), the cottages have been occupied by year-round tenants since 2008 or earlier. There is a prospective buyer for the property. Prior inspections by Health and Building Departments found noncompliant conditions; repairs and upgrades are intended should zoning approval be obtained.³

The application is described as one “to convert the former 3 unit cottage colony . . . into a 3 unit year round condominium.” However, under the Zoning Bylaw, the “conversion” that may be allowed by special permit from the Board is conversion from a cottage colony “to single family or multi-family use under any type of ownership.” Section 40.3.A. That is, the Board is approving a change in *use* – from cottage colony to multifamily - not a change in the type of ownership. (The owner or subsequent owner may intend to convert the existing ownership form to condominium ownership, but that is a separate statutory process that does not involve the Board).

Requirements of Bylaw Section 40.3

Section 40.3.C provides:

“The applicant shall state in its application whether the units are to be used for seasonal or year-round use. The Building Commissioner and Board of Health shall accordingly determine and advise the Board of Appeals of the suitability of all infrastructure serving the converted premises based upon the proposed term of use of the converted premises.”

The Town’s Health, Conservation and Building Departments utilize a joint “Condominium Conversion Application,” which has a checklist for a property’s compliance with their respective regulations. In this case, while the repairs that would be required for compliance have not been completed, it is understood by the Departments and the prospective owner that such repairs

²Assessor’s records indicate that all three were constructed in 1960; in correspondence from counsel, it is suggested that two of the cottages were constructed around 1987.

³ As the Board may be aware, an application for conversion of a cottage colony may be filed only where “the applicant has operated the facility as a cottage or cabin colony, motor court, motel or hotel for at least three consecutive years.” Section 40.3.B.5.

would be undertaken after zoning approval obtained. (Any special permit grant by this Board would include conditions requiring compliance with all applicable regulations). The Health Agent and Building Commissioner have each submitted comment on the application, which contain further information on the history and condition of the property.

Applicable Standard

Section 40.3 contains no specific standard for the Board to apply in considering the grant of a special permit for conversion from cottage colony to (in this case) multi-family use. Under such circumstances, the application may be reviewed under the general standard for special permits provided in Section 30.8(C):

“Special permits may be approved only after a finding by the Board of Appeals . . . 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 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.”

(emphasis added). Consistent with the above, the Board may wish to consider a condition requiring one or more of these units to be rented for 12-month terms.



TOWN OF TRURO

Planning Department

24 Town Hall Road, P.O. Box 2030, Truro, MA 02666
Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505

EXTENSION AGREEMENT FOR CASE NO. 2022-006/ZBA

I, Benjamin E. Zander, as authorized agent of
Rachel Kalin, Trustee, with respect to property
located at 17 Coast Guard Road, Truro, agree to an extension of
time through September 26, 2022 for action by the Planning Board on the above Application.

Zoning

Signature of Applicant/Agent

8/3/2022

Date

Filed with the Planning Department:

Elizabeth Sturdy 8/3/2022
Name Date

Filed with the Town Clerk:

Kim Sullivan 8/3/2022
Name Date

Elizabeth Sturdy

From: Benjamin Zehnder <bzehnder@zehnderllc.com>
Sent: Thursday, August 4, 2022 2:00 PM
To: Elizabeth Sturdy
Cc: 'Ian Henchy'; Barbara Carboni; Kaci Fullerton
Subject: RE: Tom Dennis Appeal No. 2022-010

Hello Liz:

Could you please pass along to the Board of Appeals this request that the Dennis' Appeal No. 2022-010 be withdrawn with prejudice?

My thanks and regards to all,

Ben

Please note new email and contact information below and update your address book:

Benjamin E. Zehnder
Benjamin E. Zehnder, LLC
62 Route 6A, Unit B
Orleans, MA 02653
508.255.7766 – Office
508.246.4064 – Mobile
bzehnder@zehnderllc.com

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Elizabeth Sturdy

From: Ian Henchy <ianhenchylaw@gmail.com>
Sent: Thursday, August 4, 2022 2:02 PM
To: Benjamin Zehnder
Cc: Elizabeth Sturdy; Barbara Carboni; Kaci Fullerton
Subject: Re: Tom Dennis Appeal No. 2022-010

Hi Liz:

Likewise on Ms. Watson's Building Permit appeal, No. 2022-007. Could you pass along that Ms. Watson's appeal be withdrawn with prejudice?

Thanks very much,
Ian

On Thu, Aug 4, 2022 at 1:59 PM Benjamin Zehnder <bzehnder@zehnderllc.com> wrote:

Hello Liz:

Could you please pass along to the Board of Appeals this request that the Dennis' Appeal No. 2022-010 be withdrawn with prejudice?

My thanks and regards to all,

Ben

Please note new email and contact information below and update your address book:

Benjamin E. Zehnder
Benjamin E. Zehnder, LLC
62 Route 6A, Unit B
Orleans, MA 02653
508.255.7766 – Office
508.246.4064 – Mobile
bzehnder@zehnderllc.com

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TOWN OF TRURO

Planning Department

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

Tel: (508) 349-7004, Ext. 127 Fax: (508) 349-5505

EXTENSION AGREEMENT FOR CASE NO. 2022-008173A

I, Brigman Zehnder, as authorized agent of DOUGLAS AMBROSE, with respect to property located at 49 FISHER ROAD, agree to an extension of time through 9/26/22 for action by the ~~Planning~~ Zoning Board on the above Application.

Signature of Applicant/Agent

8/22/2022

Date

TOWN OF TRURO
12:05 PM

AUG 22 2022

RECEIVED
TOWN CLERK
NS

Filed with the Planning Department:

Elizabeth Sturdy
Name

8/22/2022
Date

Filed with the ^{Asst:} Town Clerk:

Della L. Scullion
Name

8.22.2022
Date

Elizabeth Sturdy

From: Emily Beebe
Sent: Thursday, August 4, 2022 11:37 AM
To: Barbara Carboni; Elizabeth Sturdy
Subject: 4 Phats Valley Road

Good Morning,

The property at 4 Phat's Valley Road is in large part located within- not in close proximity to- wetland resource areas. The Riverfront area is defined as extending landward 200' from mean high water. Mean high in this location is easily observed at the toe of the embankment on the outside edge of the access defined as Proprietors Way on the site plan. The wetland areas were delineated and flagged, and their borders captured by a site survey, as shown on the plan developed by J.M. O'Reilly & Associates. This plan was filed with the Conservation Commission in February 2022 with an ANRAD application.

An ANRAD is an "abbreviated notice of resource area delineation", and is a procedure for the applicant to confirm the delineation of bordering vegetated wetland boundaries. Confirmation of other resource areas may also be included on the plans which accompany the delineation, as is the case in this filing. The plan submitted shows the cul-de-sac approved by the Planning Board, however, no construction activities were proposed, the filing only included the information that showed the resource areas at this location. The Commission issued an Order of Resource Area delineation on April 25, 2022, confirming their acceptance of the wetland delineation only.

The access road is located in the following resource areas: Riverfront Area, Land subject to coastal storm flowage and a portion is within the bordering vegetated wetland; it is also located within the immediate buffer zone (within 15') of the Salt marsh.

A perc test for location of a title 5 was conducted on the property in 2012, below a depth of 3-4 feet from the surface, the soil consists of class 1, medium sands.

Thanks very much,
Emily

Emily Beebe, RS
Truro Health & Conservation Agent
24 Town Hall Road
Truro, MA 02666

For Registry of Deeds Use Only



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
**WPA Form 4B – Order of Resource Area
Delineation**

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

Provided by MassDEP:

SE 75-1136

MassDEP File Number

eDEP Transaction Number

TRURO

City/Town

A. General Information

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



Note: Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

From: TRURO
1. Conservation Commission

2. This Issuance is for (check one):

a. Order of Resource Area Delineation

b. Amended Order of Resource Area Delineation

3. Applicant:

Patrick Rice
a. First Name b. Last Name

223 1/2 38th St
c. Organization

Pittsburgh PA 15201
d. Mailing Address e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):

Marilyn Albert
a. First Name b. Last Name

Truro Old County Rd Trust
c. Organization

6526 Montrose Ave.
d. Mailing Address

Baltimore MD 21212
e. City/Town f. State g. Zip Code

5. Project Location:

4 Phats Valley Rd Truro 02666
a. Street Address b. City/Town c. Zip Code

54 6
d. Assessors Map/Plat Number e. Parcel/Lot Number

Latitude and Longitude (in degrees, minutes, seconds): 41d59m03.4s 70d05m08.4s
f. Latitude g. Longitude

6. Dates: 2/11/2022 4/4/2022 4/25/2022
a. Date ANRAD filed b. Date Public Hearing Closed c. Date of Issuance



WPA Form 4B – Order of Resource Area Delineation

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

A. General Information (cont.)

7. Title and Date (or Revised Date if applicable) of Final Plans and Other Documents:

Existing Conditions Plan		3/25/2022
a. Title		b. Date
c. Title		d. Date

B. Order of Delineation

1. The Conservation Commission has determined the following (check whichever is applicable):

a. **Accurate:** The boundaries described on the referenced plan(s) above and in the Abbreviated Notice of Resource Area Delineation are accurately drawn for the following resource area(s):

1. Bordering Vegetated Wetlands
2. Other resource area(s), specifically:

a. Coastal Bank, Riverfront Area, Salt Marsh, Land Subject to Coastal Storm Flowage

b. **Modified:** The boundaries described on the plan(s) referenced above, as modified by the Conservation Commission from the plans contained in the Abbreviated Notice of Resource Area Delineation, are accurately drawn from the following resource area(s):

1. Bordering Vegetated Wetlands
2. Other resource area(s), specifically:

a. _____

c. **Inaccurate:** The boundaries described on the referenced plan(s) and in the Abbreviated Notice of Resource Area Delineation were found to be inaccurate and cannot be confirmed for the following resource area(s):

1. Bordering Vegetated Wetlands
2. Other resource area(s), specifically:



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

SE 75-1136

MassDEP File Number

WPA Form 4B – Order of Resource Area Delineation

eDEP Transaction Number

TRURO

City/Town

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

B. Order of Delineation (cont.)

- 3. The boundaries were determined to be inaccurate because:

C. Findings

This Order of Resource Area Delineation determines that the boundaries of those resource areas noted above, have been delineated and approved by the Commission and are binding as to all decisions rendered pursuant to the Massachusetts Wetlands Protection Act (M.G.L. c.131, § 40) and its regulations (310 CMR 10.00). This Order does not, however, determine the boundaries of any resource area or Buffer Zone to any resource area not specifically noted above, regardless of whether such boundaries are contained on the plans attached to this Order or to the Abbreviated Notice of Resource Area Delineation.

This Order must be signed by a majority of the Conservation Commission. The Order must be sent 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 DEP Regional Office (see <https://www.mass.gov/service-details/massdep-regional-offices-by-community>).

D. Appeals

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

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

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



WPA Form 4B – Order of Resource Area Delineation

eDEP Transaction Number
TRURO
City/Town

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

E. Signatures

4/25/2022
Date of Issuance

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

4
1. Number of Signers

Signatures

[Signature]
Signature of Conservation Commission Member

Signature of Conservation Commission Member

Robert M. White
Printed Name

Carol Girard-Truitt
Printed Name

Laura Young Res.
Printed Name

Diane Messinger
Printed Name

Printed Name

Printed Name

Printed Name

Printed Name

This Order is valid for three years from the date of issuance.

If this Order constitutes an Amended Order of Resource Area Delineation, this Order does not extend the issuance date of the original Final Order, which expires on _____ unless extended in writing by the issuing authority.

This Order is issued to the applicant and the property owner (if different) as follows:

2. By hand delivery on

3. By certified mail, return receipt requested on

a. Date

a. Date

4/25/2022

STONE & REID
ATTORNEYS AT LAW
A PROFESSIONAL ASSOCIATION *
SOUTH YARMOUTH PROFESSIONAL BUILDING
1292 ROUTE 28 SOUTH YARMOUTH, MA 02664-4452
TEL (508) 394-5648 FAX (508) 398-1699

DAVID S. REID, ESQ.
DSReid@verizon.net

MICHAEL F. STONE, ESQ.
MFStoneEsq@comcast.net

August 16, 2022

Truro Zoning Board of Appeals
24 Town Hall Road
P O Box 2012
Truro MA 02666

RE: Patrick Rice
4 Phats Valley Road
Map 54 parcel 6

Dear Chairman Hultin,

The above matter is scheduled for hearing before the Board of Appeals on August 22, 2022. I represent the westerly abutters to the subject property, the John Field Revocable Trust and the Jane Katz Field Revocable Trust, being parcels 10 and 8 on Assessors Map 54. My clients are opposed to the variance requested in this petition.

1. The applicant's presentation appears to fail to distinguish between the powers and effect of the Planning Board's authority under the Subdivision Control Law, and the requirement of frontage under the Zoning Act and Truro Zoning Bylaw. While the zoning bylaw's definition of "frontage" incorporates the standards from the Planning Board's regulations, the Planning Board has no authority to waive these standards for zoning purposes. The fact that the Planning Board waived construction of the road under its regulations does not relieve the applicant from fully complying with the original standards as preserved in the zoning definition. The Planning Board administers the Subdivision Control Law; the Board of Appeals enforces the Zoning Bylaw. (see Arrigo v. Franklin, 12 Mass. App. Ct. 802 (1981))

2. I would question the characterization that this lot was “created” in 1991 by the approval of the subdivision plan. The lot was actually created in 1982, within the plan recorded in Plan Book 365 page 1 (copy enclosed - then labeled as lot B2). What was created in 1991 was the paper “way”, as an extension of the easement over the adjoining lot 5. The Planning Board waived construction of the way and the *cul de sac* in its approval. (copy of the subdivision plan enclosed - Plan book 482 page 12 - now labeled as lot B3). So the only thing created in 1991 was the paper way.

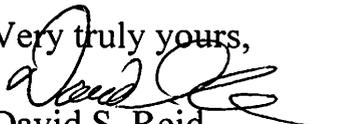
3. As the Schiffenhaus v. Kline decision stated in 2011, the Truro zoning bylaw definition of frontage requires an actual road, on the ground, not a paper road. “[T]he bylaw ‘does not cast its requirements for a road forty-foot wide so it can be satisfied merely by drawing a new line on a paper plan’. Frontage roads must ‘in fact exist on the ground’.” 79 Mass App Ct. 600, 604 (2011). It therefore must be an actual 40 foot wide road, on the ground, to qualify as frontage, which this is not. And this applies not only to the “way” located within the Lot B3, but also to the “easement” over the adjoining lot 5, which provides the access to Old County Road. The reportedly 9 foot wide traveled way does not become conforming “frontage” merely by the drawing of these additional lines on this 1991 plan, as the wider road has not been built and does not in fact exist on the ground.

4. As to the variance criteria of General Laws, Chapter 40A section 10, the deficiency that currently exists is the fact that the road was not built. This condition is the product of the owner’s own choice to request the waiver of construction by the Planning Board in 1991. It is not any natural condition of the “land” that causes this inability to conform to zoning, it was the choice of the former owner not to build the approved roadway that renders it non complying. As for the alleged financial hardship, the fact that the present owner may have made a questionable investment, due to inadequate understanding of the zoning bylaw, or due to the increased cost of constructing a road, is not the basis for a variance. To be eligible for a variance, the hardship must have arisen from a unique condition of the land itself. Furthermore, the actual applicant before you is not even the owner of the property (presumably Patrick Rice is a prospective buyer) so he has no existing hardship, financial or otherwise.

Finally, the applicant’s presentation on the variance criteria omits discussion of the final element required by the statute: whether the requested relief could be granted “without nullifying or substantially derogating from the intent or purpose of such... bylaw”. To grant relief from the frontage bylaw, allowing an unconstructed way to serve as frontage, in place of an actual 40 foot subdivision

road required by the bylaw, would totally abrogate the mandate of the bylaw. Such a variance would permit to be done exactly what the bylaw prohibits; the use of a paper way as frontage. Whether one agrees with the bylaw or not, and whether one finds the existing access acceptable or not, is not the question. The Bylaw simply does not provide the option to make a case-by-case determination of the adequacy of an individual road in lieu of compliance with its mandated design criteria. The bottom line is that what is proposed does not in any way comport with the bylaw's clear and unequivocal standards or intent, and to grant such a variance would clearly derogate from the intent and purpose of the bylaw.

We therefore respectfully submit that the present application does not support the granting of a variance from the zoning requirement of frontage for the development of this lot, and the application should be denied.

Very truly yours,

David S. Reid

encl (2)

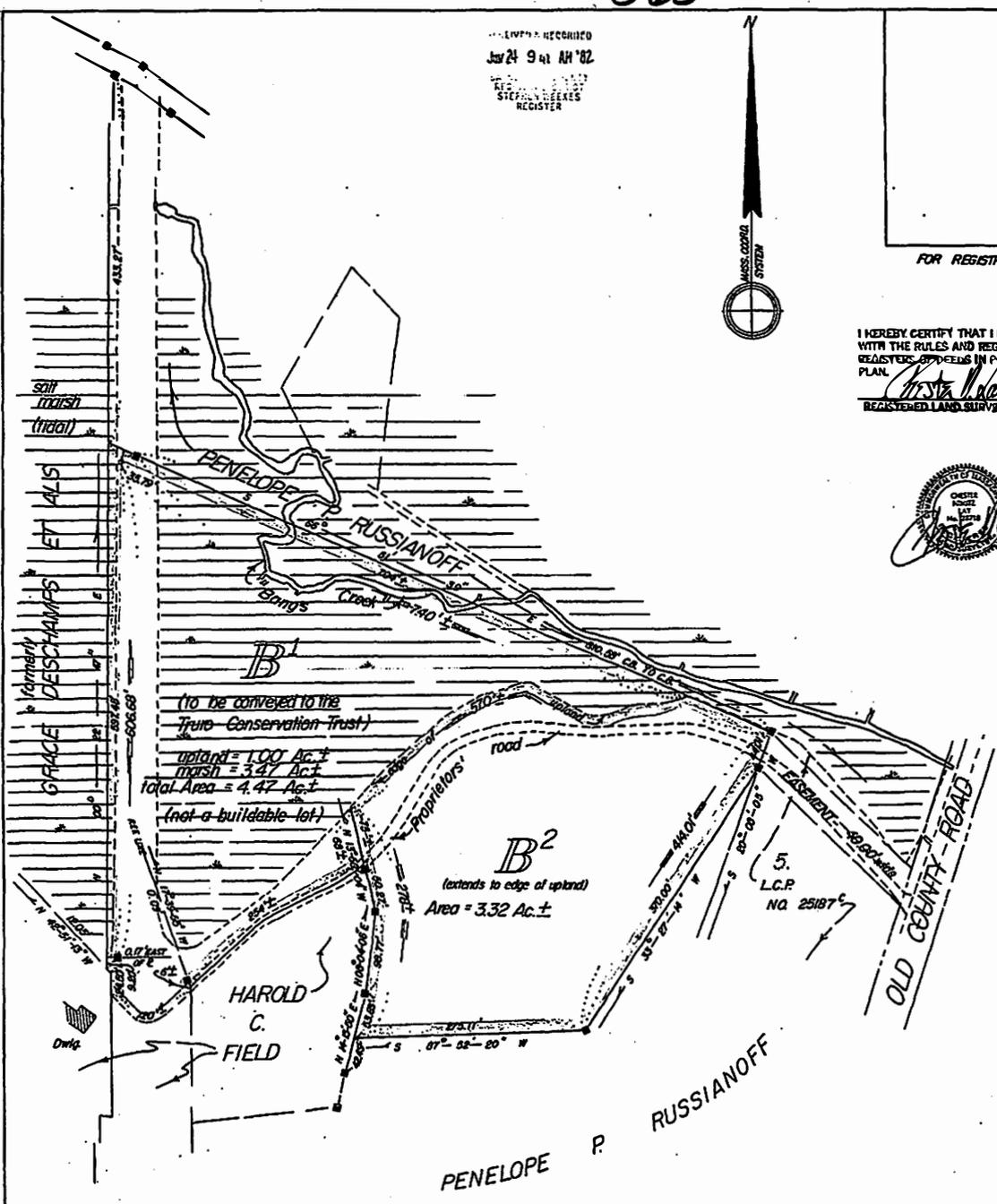
365-1

RECORDED
JUN 24 9 41 AM '82
REGISTER



FOR REGISTRY USE:

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTERED SURVEYORS IN PREPARING THIS PLAN.
Christa New DATE: June 2
REGISTERED LAND SURVEYOR



(to be conveyed to the Truro Conservation Trust)
upland = 1.00 Ac. ±
marsh = 3.47 Ac. ±
total Area = 4.47 Ac. ±
(not a buildable lot)

B²
(extends to edge of upland)
Area = 3.32 Ac. ±

C.
HAROLD
FIELD

APPROVAL UNDER THE SUBDIVISION CONTROL LAW NOT REQUIRED:

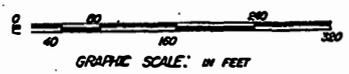
[Signatures]

NOTE:
B = d.A. in C.S. P.L.O.
See Pfm Bk. 315,
Pg. 37 and 38.

DIVISION
PLAN OF LAND IN TRURO
— made for —

HARRY KAHN

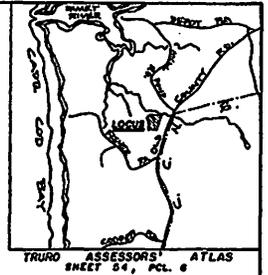
SCALE: 1 IN. = 80 FT. JUNE, 1982
SLADE ASSOCIATES, INC. REGISTERED LAND SURVEYORS
EAST MAIN STREET AT ROUTE 6, WELLFLEET, MASSACHUSETTS 02667



DATE: June 2, 1982

365-1

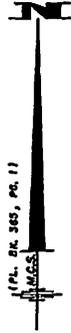
RECEIVED
JUN 26 2 49 PM '91
BARHSTABLE COUNTY
REGISTER DEEDS
JOHN H. JOF



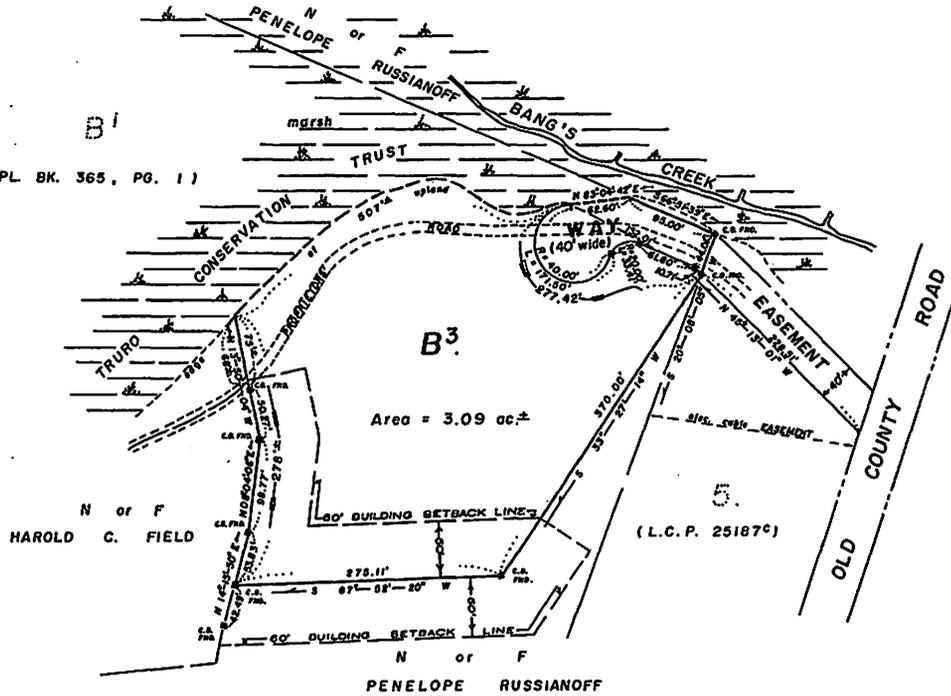
FOR REGISTRY USE

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS IN PREPARING THIS PLAN

Cynthia Slade DATE: 7/12/91
REGISTERED LAND SURVEYOR



(PL. BK. 365, PG. 1)



482-12

PLAN OF LAND IN TRURO
made for _____
JENNY KAUFMANN

SCALE: 1 IN. = 80 FT. FEB., 1991
SLADE ASSOCIATES, INC. REG. LAND SURVEYORS
RTE. 6 & PINE PT. RD., WELLFLEET, MA. 02667



NOTE: ■ = C.B. SET, UNLESS OTHERWISE NOTED.



I, CYNTHIA SLADE, Clerk of the Town of Truro, hereby certify that the notice of approval of this plan by the Truro Planning Board has been received and recorded at this office and no appeal was received during the twenty days after such receipt and recording of said notice.
Date: July 10, 1991 *Cynthia Slade*
Town Clerk

APPROVED:
[Signature]
[Signature]
[Signature]

TRURO PLANNING BOARD
DATE: 7/12/91
SEE COVENANT TO BE RECORDED HEREWITH

Sylvia Russianoff
128 Rochelle Avenue
Philadelphia, PA 19128

August 16, 2022

Truro Zoning Board of Appeals
24 Town Hall Road
PO Box 2012
Truro, MA 02666

Re: In the Matter of 2022-014/ZBA (VAR) -Patrick Rice at 4Phats Valley Road

Dear Chairman Hultin,

I am writing in opposition to the above referenced request for a variance set for hearing on August 22, 2022..

I am an abutter of the property for which the variance is requested at 47 Old County Road (Parcel ID 54-011.0) and 4 Fisher Hill Way (Parcel ID 54-120.0)

I oppose the variance request for the reasons set forth by my neighbors Peter Field (the John Field Revocable Trust and the Jane Katz Field Revocable Trust) in a letter dated August 15, 2022 by their attorney David S. Reid. and Ross and Judy Ain, in their filings dated August 16, 2022.

Thank you for your consideration of my comments.

Respectfully,

A handwritten signature in black ink, appearing to read 'Sylvia Russianoff', written in a cursive style.

Sylvia Russianoff

Subject: 2022-014/ZBA (VAR) - Patrick Rice at 4 Phats Valley Road

1. Filing in opposition to the grant of any relief in the matter of 2022-014/ZBA (VAR)- Patrick Rice at 4 Phats Valley Road

2. Filed by Ross and Judy Ain, abutters at:

(1) at 55 Old County Road (Parcel ID 54-106-0-R), owned by Ross D. Ain and Judith S. Ain,

(2) at 5 Fisher Hill Way (Parcel ID 054-012-000) owned by the Ross D. Ain Revocable Trust, and

(3) at 6 Fisher Hill Way (Parcel ID 054-016-000) owned by the Judith Stone Ain Revocable Trust.

We are empowered both as the joint tenant owners of 55 Old County Road and trustees of both the Ross D. Ain Revocable Trust and the Judith Stone Ain Revocable Trust to make this filing.

3. The property for which relief is sought from the ZBA is the 1991 Subdivision approved by the Truro PB July 10, 1991.

Statement of our position:

We file this statement in strong opposition to the grant of any relief in this matter. The basis for our position is as follows:

1. On August 16, 1991- August 20, 1991, Hurricane Bob permanently changed the conditions that may have previously been determined to allow safe and adequate access to 4 Phats Valley Road for a single - family dwelling. Additionally, the recent and expected continuing rise of the sea levels over the next 20-30 years makes any such relief imprudent, unsafe, and unwise.

2. Endorsed Subdivision Plans are exempt from Zoning Bylaw changes for 8 years from the date of endorsement. That exemption period expired on July 10, 1999. The party granted the variance in 1991 had 8 years to take advantage of the variance to either sell the property or otherwise construct a house on the property. Her delay in doing so is a self-created hardship. and no relief from Zoning Bylaw changes are now appropriate or prudent.

A. Asking for relief now based on economic hardship is totally unjustified.

B. Additionally, we have had discussions with the Truro Conservation Trust which indicates that this would be a very desirable property for inclusion in the Trust's inventory. This is especially true because the Trust could then connect Old County Road

with Fisher Road with a trail starting at Old County and continuing around Poor's Hill to Fisher Road. We and others in the Old County Road and Fisher Road area as well as in other areas of Truro have indicated to the Truro Conservation Trust that we would generously support that acquisition. Another path for the current owner to avoid her self-created "economic hardship" would be to gift the property to the Trust and take the tax deduction at its current fair market value.

Therefore, for the above reasons, the economic hardship argument is very self-serving and not a justifiable basis for the relief requested.

3. Currently the frontage approved in 1991 no longer provides safe and adequate access and is illusory in that it is under water at various times of the year. Climate change, sea level rise, increased frequency and severity of storms no longer allow for safe and adequate access in an AE Flood Zone. We have included in a separate email filing photos and a brief video showing the flooding of this roadway during high tides conditions which we would respectfully ask be included in the record of this proceeding and available for public viewing. How can this relief be granted when under current conditions, the access road is frequently under water and only will be more so in the coming years. How will emergency vehicles, much less passenger vehicles, be able to access the residential structure being proposed to be built on this property? What if there is a fire in the residence and fire trucks cannot get to the structure? Construction and emergency vehicles have a wider footprint than 9 feet, closer to 10.5 feet or more. The use of this access road for construction and maintenance of the residential structure is not consistent with the nine-foot access way being proposed.

4. The JM O'Reilly 3/25/2022 existing conditions plan contained in the packet show the approved way and cul-de-sac are now adjacent to or within the dotted lines labeled Edge of Marsh, Edge of River Front, Edge of Bordering Vegetated Wetland, Bottom of Bank, Coastal Bank and Top of Bank. All of these areas are included in the Wetlands Protection Act. Rising waters have nowhere to go and pile up on Phats Valley Road to exceed several feet in depth. This dead-end road has no turn outs and no secondary means of entrance, egress, or escape.

5. As of September 10th, 2007, all previous subdivisions and Regulations were repealed.

The rules currently in effect in relevant part are as follows:

Truro Rules and Regulations Governing the Subdivision of Land

Section 1. General Provisions, include:

1.2 Purpose

These Rules and Regulations have been adopted for the purpose of protecting the safety, convenience, and welfare of the inhabitants of Truro.....

Providing access to all of the lots in a subdivision by ways that will be safe and convenient for travel securing safety in case of fire, flood, panic, and other emergencies.

Ensuring compliance with the Truro Zoning Bylaw

2.5.8 Two Year Deadline

In all cases, approval will be effective for two years from the date of such approval.

3.6.6 Dead End Streets

1. a. The length of dead-end streets should not exceed one thousand (1000) feet, and the dead-end street shall include at the end a turnaround having a property-line diameter of at least eighty (feet).
2. Length of the street shall. be measured along the centerline for the end of the turnaround.

Truro Zoning Bylaw, Section 10 -General Provisions

10.2 Purpose

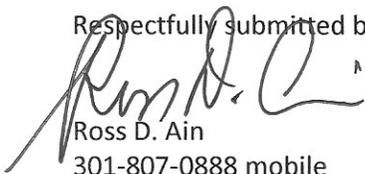
The purpose of this bylaw is to promote the health, safety, convenience, and welfare of the inhabitants of Truro....

In its present condition and any future conditions, Phats Valley Road does not and will not meet any of the current minimum standards for safe and adequate access and there is no plan provided to insure safe and adequate access. It is highly questionable if the Conservation Commission, in implementing the Wetlands Protection Act, has the authority or can make the necessary findings to approve any alteration of the protected resource area through which the Phats Valley Road travels which would remedy these inadequacies and non-compliance with Truro Rules and Regulations.

6. These are the major reasons which demonstrate that granting a Variance in this case is not in the public interest and not supported by the record. No Variance could or should be approved in this case because the necessary finding regarding public safety and environmental protection cannot be made and any economic hardship is self-created and there are remedies available as discussed herein. Therefore, the application must be denied with prejudice.

I greatly appreciate this opportunity to make our views known.

Respectfully submitted by:



Ross D. Ain
301-807-0888 mobile

rain@cenyc.com



Judith S. Ain
301-807-0095
judy.ain@gmail.com

August 16, 2022

To the Truro Zoning Board of Appeals,

RE: Application for Variance: 4 Phats Valley Road, Map 54 Parcel 6-0

In the narrative the petitioner seeks a variance *"in order to allow Parcel 6 to be developed for one single-family dwelling that will use the frontage shown on the 1991 Subdivision Plan"*¹.

The 1991 Plan certified by C. Lay (Barnstable County Registry of Deeds, Book 482, Page 12) and used by the Truro Planning Board in their granting of a one-lot subdivision at the end of a 228.51-foot private easement shows both the easement and the proposed new road to be located totally upon upland.²

The Parcel 6 Plan, "Existing Conditions Plan, 4 Phats Valley Road, Truro, MA," dated March 25, 2022, and revised through July 15, 2022, prepared by J.M. O'Reilly & Associates, Inc. of Brewster, MA, shows otherwise.

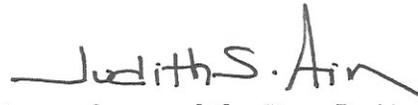
Rather than the total layout of both the approved road and the connective easement being all located totally on upland, the existing ancient proprietors road is shown to be bordering immediately against the *"Edge of Bordering Vegetated Wetland"*.³

In fact both the approved road and the easement encompass both the Salt Marsh and the Riverfront within their layouts.

Both the attached picture ("Phats Valley Road.jpg") and the 9-second movie ("Phats Valley Road movie.m4v") clearly show that both the easement and the paper road that the proponents propose as *"safe and adequate access for a single-family dwelling for Parcel 6"* are periodically well underwater and, as such, are not safe.

Such a road cannot satisfy the requirement of *"safe and adequate access"* for the issuance of a building permit.

Thank you.



Ross D. Ain and Judith S. Ain, on behalf of themselves and the Ross D. Ain Revocable Trust and the Judith Stone Ain Revocable Trust

Abutters at: 55 Old County Road (Parcel ID 54-106-0-R),
5 Fisher Hill Way (Parcel ID 054-012-000), and
6 Fisher Hill Way (Parcel ID 054-016-000)

¹ https://www.truro-ma.gov/sites/g/files/vyhlf3936/f/news/2022-014_zba_4_phats_valley_road_packet.pdf (Page 9 of 34), Section B (Relief sought for Parcel 6.), 1st paragraph

² Ibid. (Page 20 of 34), C. Lay 1991 Plan, (Barnstable County Registry of Deeds, Book 482, Page 12)

³ Ibid. (Page 16 of 34), Parcel 6 Plan, revised through July 15, 2022, prepared by J.M. O'Reilly & Associates, Inc.



IMQLAW, LLC
15 Northfield Drive
Rockland, MA 02370

August 19, 2022

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

Re: **Variance Application for 4 Phats Valley Road**

Dear Members of the Zoning Board of Appeals:

On behalf of the Petitioner and Owner of 4 Phats Valley Road please accept the following specific responses to the August 16, 2022 Opposition submitted by Attorney Reid on behalf of the owners of land shown on Assessing Map 54 as Parcel 8 and 10. This letter will review and then respond to each opposition point.

Opposition Point #1: The Planning Board has no authority to waive frontage standards.

RESPONSE: This statement is true but is not relevant - as no waiver of frontage has occurred.

Of course, it is true that a planning board has no authority to waive frontage standards; however, this statement of law is irrelevant to the ZBA's decision as the Planning Board did not and has not waived frontage standards for the applicable land. Rather, the Planning Board's 1991 subdivision determination, using the expressly required 1989 Subdivision Regulations, *is* the applicable frontage standard for the subject property.

The current ZBL definition of "Lot Frontage" expressly states that the 1989 Planning Board Subdivision Design Standards *are* the frontage requirements; and the 1989 Subdivision Regulations expressly and explicitly allowed the PB the full discretion to waive some or all of the subdivision roadway standards and to "set the requirements for the way."

Furthermore, if the ZBA reviews the current subdivision rules and regulations (§§3.6.8 Design Standards (Appendix 2) and Section 3.7 (Rural Road Alternative) and Appendix 2), the ZBA will see that the current subdivision regulations still allow for a rural subdivision road with reduced construction. A rural subdivision way with only a 14-foot width may service up to four lots.

Opposition Point #2. The only thing created under the 1991 Subdivision Plan was a "paper street".

RESPONSE: This statement is not accurate as the 1991 subdivision action approved the 9-foot way as frontage.

In 1991, the Planning Board waived the otherwise applicable subdivision way design standards and allowed the existing 9-foot access way that was on the ground at that time to be the approved access way because the Planning Board determined that the 9-foot access way was adequate access for the development of the 4 Phats Valley parcel for one single-family dwelling.

The Planning Board's 1991 action created a single lot (the parcel now in question) and allowed it to use the existing access way that was on the ground in 1991, with 9 feet of width at its narrowest point) as frontage. This is not a "paper street" situation.

Opposition Point #3. The Truro ZBL definition of frontage requires an actual road, on the ground, not a paper road under the Schiffenhaus v. Kline, 79 Mass. App. Ct. 600, 604 (2011) decision.

RESPONSE: This statement is not relevant as the 9-foot access way is an actual way, on the ground.

The opposition accurately states that the Schiffenhaus decision provides that: Frontage roads must "in fact exist on the ground," but this statement is not relevant because the frontage road relied upon *does* exist on the ground. There was a 9-foot access way on the ground in 1991 and it is still on the ground today. In 1991, the Planning Board determined that the 9-foot wide access that was on the ground at the time was adequate access for the 4 Phats Valley parcel to be developed for one single-family dwelling.

The Schiffenhaus decision that the opposition relies upon concerned an entirely different factual situation. In that case, a nonconforming sized lot on a way with less than 40 feet of width was determined to be subject to a 40-foot frontage width requirement because the Appeals Court held that no applicable provision had been pointed to by the parties in that case that would allow for a "separate overriding determination that a lesser width is permissible if it can be deemed of sufficient width, suitable grades and adequate construction." (Schiffenhaus at p. 603-604).

In the case before the ZBA, the 4 Phats Valley Road parcel **does** have a specific and explicit determination that the 9-foot wide access way that was on the ground in 1991 was adequate for access to allow a single-family dwelling on the property and that 1991 determination relied upon the 1989 Subdivision Regulations that are expressly incorporated into the current Lot Frontage and Street definitions.

The current ZBL definition of frontage expressly adopts the Planning Boards' 1989 Subdivision Design requirements. The Subdivision Design provisions, both in 1991 and today, expressly allow the PB to approve an access way that waives some or all of the subdivision roadway design requirements.

- In 1991, the Planning Board had the authority to waive the subdivision roadway requirements so as to allow an access way with a width of 9 feet.
- Today, the Planning Board, for a rural residential subdivision that is located in an environmentally sensitive area, still may waive subdivision roadway design requirements. However, today's Subdivision Regulations provide that the required width of such an access way must be at least 14 feet and such a way (i.e., with 14 feet of width) may be used for up to four lots.

So, in 1991, the Planning Board did not approve a paper street; rather it approved a 9-foot access way that allowed 4 Phats Valley Road to be developed for one single-family dwelling.

In summary, the opposition states that there is not a way on the ground and that only a "paper street" exists. This is not accurate. What is accurate is that:

- The 9-foot access way was on the ground in 1991
- The 9-foot access way was expressly determined by the PB in 1991 to be adequate access for 4 Phats Valley Road to be developed for one single-family dwelling.
- The 9-foot access way is still on the ground today

Opposition Point #4: The deficiency is that “the road was not built” and the variance standards have not been satisfied as noted below.

Opposition Point 4.i: There is: “no natural condition of the ‘land’ that causes this inability to conform to zoning.”

RESPONSE Point 4.1: This statement is not accurate.

The first two criteria for eligibility for variance relief under G.L. c.40A, §10 are that the requested variance must be needed (i) “owing to circumstances relating to the soil conditions, shape, or topography of such land” and (ii) that those circumstances especially affect this land and do not generally affect the zoning district in which the land is located.

Each of the above two variance criterion listed above are satisfied.

The 9-foot way that is on the ground today (and has been on the ground for decades) was formed in order to accommodate and conform to the natural conditions at the property. There are wetlands on one side of the 9-foot access way and a very steep bank on other side of the 9-foot access way. These conditions are soil and topography conditions satisfy the first variance criterion and these conditions do not “affect generally the zoning district” in which the land is located.

Opposition Point 4.ii: There is no “hardship” within the meaning of G.L. c.40A, §10.

RESPONSE 4.ii: This statement is not accurate.

The hardship eligibility criterion under G.L. c.40A, §10 is that the ZBA must find that “a literal enforcement of the provisions [of the ZBL] would involve a substantial hardship, financial or otherwise to the petitioner.”

An interpretation of the current zoning provisions so as to preclude the use of the 9-foot access way to allow the development of one single-family dwelling a the 4 Phats Valley parcel would eliminate the benefit conferred by the 1991 Planning Board subdivision approval which approved the 9-foot access way as frontage and that would eliminate virtually all of the value of the property.

The 4 Phats Valley parcel was purchased on July 11, 1991 for \$230,000 in reliance upon the 1991 Subdivision Plan and approval of the 9-foot access way on the ground as frontage for one single-family dwelling.

This is not a situation, as asserted in the opposition, where the owner simply “chose not to build the approved roadway.” To the contrary, the owner (who has assented to having a prospective purchaser seek this relief) relied upon the relief granted in 1991 that established that construction of the full subdivision way was waived and that the 9-foot access way on the ground (in 1991 and now) is the approved frontage for the 4 Phats Valley parcel.

Allowing an interpretation now of the Zoning Bylaw that obliterates the 1991 action of the Planning Board would create a severe financial hardship within the meaning of the G.L. c.40A, §10.

Opposition Point 4.iii. Granting variance relief would “totally abrogate the mandate of the bylaw.”

RESPONSE 4.iii: This statement is incorrect.

It is the Petitioner’s and the Owner’s position that it is totally reasonable to interpret the current Zoning Bylaw as allowing a single-family dwelling at the 4 Phats Valley parcel now as of right; and, to the extent that the current Zoning Bylaw could be interpreted otherwise, thereby eliminating all value in the lot and the eliminate the value of the subdivision approval of the 9-foot access way as lawful frontage in 1991, then any such interpretation should be varied by the ZBA by granting the requested relief.

Seeking a building permit and obtaining a potential denial would cost the parties an unreasonable amount of money for building level plans and the Petitioner and Owner elected to seek variance relief rather than building permit relief.

CONCLUSION:

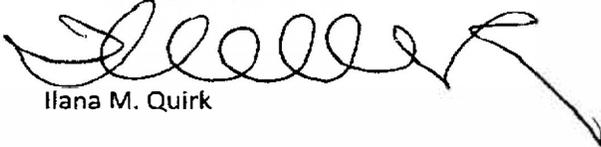
The Petitioner and Owner of the 4 Phats Valley Road parcel respectfully request the Zoning Board of Appeals to grant the following variance relief:

To the extent that any provision in the Truro Zoning Bylaw could be interpreted as precluding the development of one single-family dwelling at the 4 Phats Valley parcel using the 1991 subdivision approval by the Planning Board that approved the use of the 9-foot access way on the ground as frontage, variance relief is hereby granted under G.L. c.40A, §10 to allow one (and only one) single-family dwelling to be constructed at the subject property using the existing 9-foot access way that is ground as the ZBA determined that all of the criteria for variance relief have been duly established as set forth below:

- i. There are soil (wetlands) and topography (a steep bank) conditions at the subject property, conditions that: (a) resulted in 1991 subdivision relief that approved the existing 9-foot access way on the ground as frontage; and (b) warrant this variance relief.
- ii. The soil and topography conditions at the subject property especially affect the subject property but do not affect generally the zoning district in which the property is located.
- iii. A substantial financial hardship will result if the variance relief is not provided as the owner of the subject property purchased the land in 1991 for \$230,000 in reliance upon the determination made by the Planning Board that the 9-foot access way at the property was adequate frontage for one single-family dwelling at the property.
- iv. Granting the instant relief will not nullify or substantially derogate from the intent or purposes of the Turo Zoning Bylaw.

The Petitioner and the Owner thank the Zoning Board of Appeals for its service and for its time and consideration of this Petition.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Ilana M. Quirk', with a long, sweeping tail extending to the right.

Ilana M. Quirk

August 19, 2022

Town Clerk
Town of Truro
PO Box 2012
Truro, MA 02666

RE: Variance application to the Board of Appeals
4 Phats Valley Road, Truro, MA (Atlas Map 54, Parcel 6)
Book 7626.. Page 110, and Land Court Plan #25187-C (easement)

Dear Madam Clerk,

In response to Ms. Quirk's request for a variance to be able to construct a single family dwelling for Mr. Patrick Rice, my initial response is that it's a very bad idea.

Phats Valley Road barely qualifies as a road, during fairly frequent occurrences of high tide, the road is flooded making its' use impossible for access to any dwelling en route. Added to that, predictions of rising sea levels in the coming years will further exacerbate the problem.

Further, on the site drawing that was produced for the application, the parcel of land (it's boundaries and exact location) in relationship neighboring parcels is not clear. In addition, no location for a dwelling or driveway is indicated.

If the applicant intends to clarify his intent by locating a dwelling, drive and clearly showing property lines, etc, knowing the pitfalls of locating off this particular road, I still think it's a bad location.

Sincerely,



John Fülöp
19 Fisher Road, Truro

IMQLAW, LLC
15 NORTHFIELD DRIVE
ROCKLAND, MA 02370

July 20, 2022

Via Overnight Mail

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

Re: Variance Application to the Zoning Board of Appeals
4 Phats Valley Road, Truro, MA (Assessing Map 54, Parcel 6)

Dear Madam Clerk,

As set forth under G.L. c.40A, §15, enclosed please find a variance application to the Truro Zoning Board of Appeals, which I request that you please certify a copy of and then transmit to the Zoning Board of Appeals, together with the required packets which are enclosed. The ten packets enclosed contain one packet with original materials and 9 with copies of the following:

1. The \$200 application fee;
2. The Variance Application;
3. The Variance Application Narrative;
4. The Variance Application Exhibits
 - i. An Existing Conditions Plan
 - ii. June 5, 1991 Subdivision Certificate of Approval
 - iii. July 10, 1991 Subdivision Covenant and Vote
 - iv. July 10, 1991 Endorsed Subdivision Plan
 - v. July 26, 1991 Deed for Parcel 6
 - vi. January 1, 1989 through 1991 Planning Board Subdivision Regulations
5. The Certified Abutters List

Please note that an electronic copy of the materials will be forwarded to the Planning Department Administrator at esturdy@truro-ma.gov.

As always, thank you very much for your assistance.

Sincerely,


Ilana M. Quirk

Enclosures



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 19, 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)* _____ 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)* _____

SEE ATTACHED NARRATIVE.

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 4 Phats Valley Road Map(s) and Parcel(s) Map 54, Parcel 6-0

Registry of Deeds title reference: Book 7626, Page 110, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # 25187-C

Applicant's Name Patrick Rice

Applicant's Legal Mailing Address 223 1/2 38th Street, Pittsburgh, PA 15201

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

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 Marilyn Albert, Trustee, 6526 Montrose Ave., Baltimore, MD 21212

Representative's Name and Address Ivana M. Quirk, Esq., IMQLAW, LLC, 15 Northfield Dr., Rockland, MA 02370

Representative's Phone(s), Fax and Email (617) 755-0674 imq@imqlaw.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).

- 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)

Patrick Rice
Applicant(s)/Prospective Buyer Printed Name(s)

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

Ivana M. Quirk
Applicant(s)/Representative Signature *Ivana M. Quirk* 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

Marilyn Albert
6526 Montrose Avenue
Baltimore, MD 21212

July 25, 2022

Truro Zoning Board of Appeals
24 Town Hall Road
Truro, MA 0266

Re: 4 Phats Valley Road Variance Application

Dear Members of the Zoning Board of Appeals,

This is to confirm my written permission, as the Trustee of the Truro Old County Road Trust, the owner of the subject property, to allow the above-referenced variance application to go forward.

I thank the Board and its members and staff for their attention to this matter.

Regards,

A handwritten signature in cursive script that reads "Marilyn Albert". The signature is written in black ink and is positioned above the typed name and address.

Marilyn Albert, Trustee
4 Phats Valley Road
Truro, MA



TRURO ASSESSORS OFFICE

PO Box 2012 Truro, MA 02666

Telephone: (508) 214-0921

Fax: (508) 349-5506

Date: July 14, 2022

To: Ilana M. Quirk, Esq., Agent for Patrick Rice

From: Assessors Department

Certified Abutters List: 4 Phats Valley Road (Map 54, Parcel 6)

ZBA/Variance

Attached is a combined list of abutters for the property located at 4 Phats Valley Road.

The current owner is Truro Old County Road Trust, Marilyn Albert, Trustee.

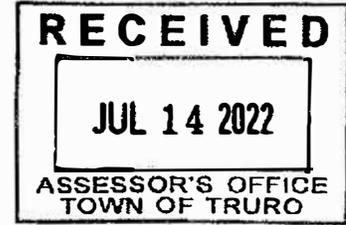
The names and addresses of the abutters are as of July 8, 2022 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: _____

Olga Farrell
Assessing Clerk



TOWN OF TRURO
Assessors Office
Certified Abutters List
Request Form



DATE: July 11, 2022

NAME OF APPLICANT: Patrick Rice

NAME OF AGENT (if any): Ilana M. Quirk, Esq.

MAILING ADDRESS: IMQLAW, LLC 15 Northfield Drive, Rockland MA 02370

CONTACT: HOME/CELL 617 755-0674 EMAIL imq@imqlaw.com

PROPERTY LOCATION: 4 Phats Valley Road (street address)

PROPERTY IDENTIFICATION NUMBER: MAP 54 PARCEL 6-0 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 Health, Cape Cod Commission, Conservation Commission, Licensing, Type, Other
Planning Board (PB), Special Permit, Site Plan, Preliminary Subdivision, Definitive Subdivision, Accessory Dwelling Unit (ADU)
Zoning Board of Appeals (ZBA), Special Permit, Variance

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

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

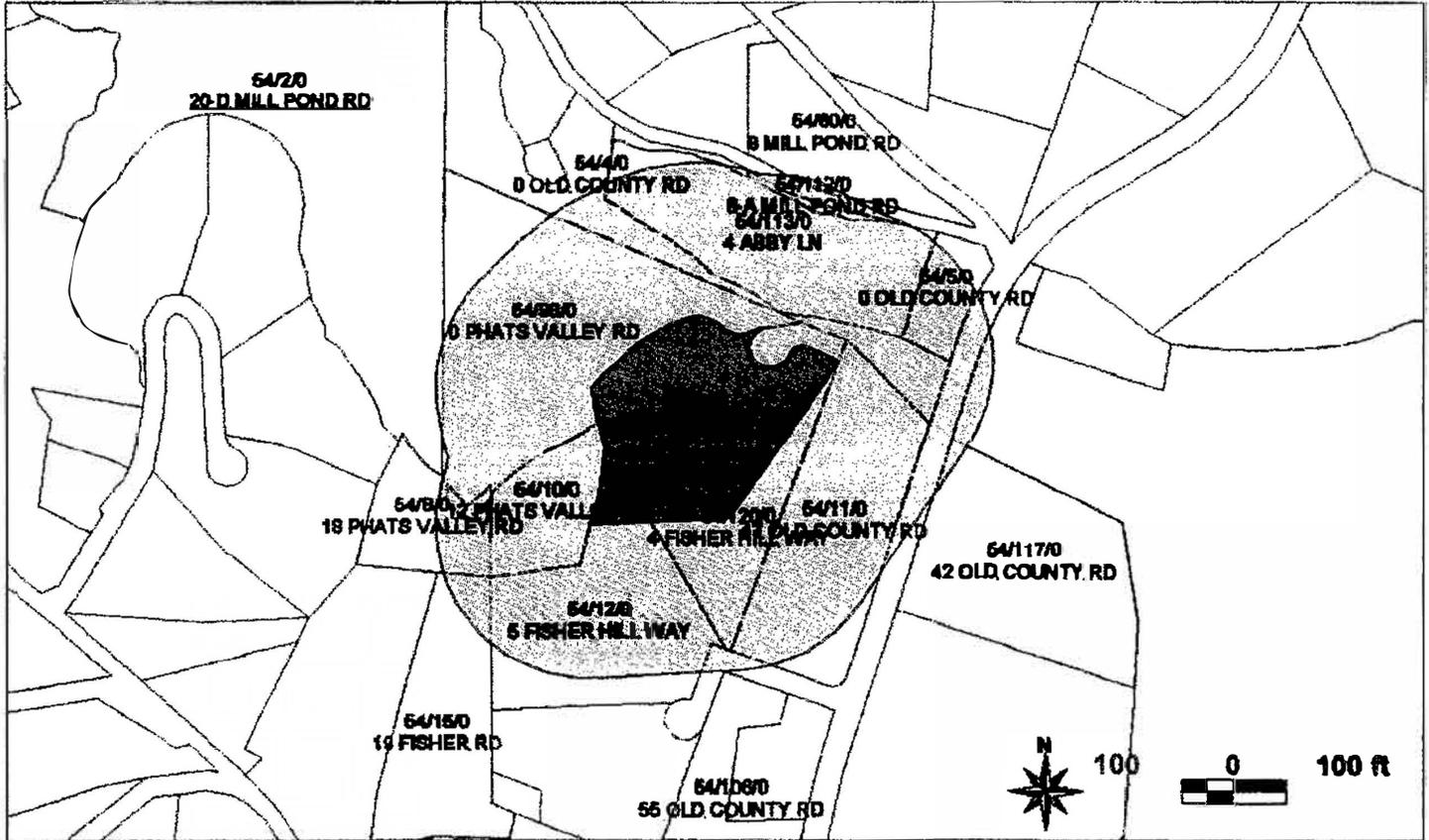
Date request received by Assessors: 7/14/2022 Date completed: 8/19/2022
List completed by: [Signature] Date paid: 7/11/2022 Cash/Check # 1691

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.

4 Phats Valley Road
 Map 54, Parcel 6
 ZBA/Variance

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

Abutters List Within 300 feet of Parcel 54/6/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
7292	40-939-0-E	USA-DEPT OF INTERIOR Cape Cod National Seashore	0 CAPE COD NATIONAL SEASHORE	89 Marconi Site Rd	Wellfleet	MA	02667
3239	54-2-0-R	OWNER UNKNOWN	20-D MILL POND RD	20 D MILL POND RD	TRURO	MA	02668
3241	54-4-0-E	TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL	0 OLD COUNTY RD	PO BOX 327	NO TRURO	MA	02652-0327
3242	54-5-0-E	TOWN OF TRURO	0 OLD COUNTY RD	PO BOX 2030	TRURO	MA	02668-2030
3243	54-6-0-R	TRURO OLD COUNTY ROAD TRUST TRS: ALBERT MARILYN	4 PHATS VALLEY RD	6526 MONTROSE AVE	BALTIMORE	MD	21212
3245	54-8-0-R	JOHN FIELD REVOC TRUST & JANE KATZ FIELD REVOC TRUST	18 PHATS VALLEY RD	care of: PETER FIELD 371 MADISON ST, APT 508	NEW YORK	NY	10002
3246	54-10-0-R	JOHN FIELD REVOC TRUST & JANE KATZ FIELD REVOC TRUST	12 PHATS VALLEY RD	care of: PETER FIELD 371 MADISON ST, APT 508	NEW YORK	NY	10002
3247	54-11-0-R	RUSSIANOFF SYLVIA	47 OLD COUNTY RD	128 ROCHELLE AVE	PHILADELPHIA	PA	19128
3248	54-12-0-R	ROSS D AIN REVOCABLE TRUST TRS: ROSS D & JUDITH STONE AIN	5 FISHER HILL WAY	3512 NEWARK ST NW	WASHINGTON	DC	20016
3251	54-15-0-R	FULOP JOHN	19 FISHER RD	103 EAST ALFORD RD	WEST STOCKBRIDGE	MA	02166
3293	54-60-0-R	TRACEY DENNIS H III & C/O MAUREEN P MANNING TRUST	8 MILL POND RD	28 ARLINGTON ST	CAMBRIDGE	MA	02140
3329	64-98-0-E	TRURO CONSERVATION TRUST TRS: BETSEY BROWN ET AL	0 PHATS VALLEY RD	PO BOX 327	NO TRURO	MA	02652-0327
3335	64-106-0-R	AIN ROSS D & JUDITH S	55 OLD COUNTY RD	3512 NEWARK ST NW	WASHINGTON	DC	20016-3168
5750	54-112-0-R	TRACEY DENNIS H III & C/O MAUREEN P MANNING TRUST	8A MILL POND RD	28 ARLINGTON ST	CAMBRIDGE	MA	02140
5774	64-113-0-R	REICHELHELM GEORGE & CAROLE	4 ABBY LN	127 HARBOR RD	WESTPORT	CT	06880

7/14/2022
 Page 1

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
5775	54-114-0-E	TOWN OF TRURO	10-A ABBY LN	PO BOX 2030	TRURO	MA	02666-2030
6296	54-117-0-E	U S A DEPT OF THE INTERIOR	42 OLD COUNTY RD	CAPE COD NATIONAL SEASHORE 99 MARCONI SITE RD	WELLFLEET	MA	02667
7308	54-120-0-R	RUSSIANOFF SYLVIA	4 FISHER HILL WAY	128 ROCHELLE AVE	PHILADELPHIA	PA	19128

40-998-0-E

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

54-2-0-R

OWNER UNKNOWN
20 D MILL POND RD
TRURO, MA 02666

54-4-0-E

TRURO CONSERVATION TRUST
TRS: BETSEY BROWN ET AL
PO BOX 327
NO TRURO, MA 02652-0327

54-5-0-E

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

54-6-0-R

TRURO OLD COUNTY ROAD TRUST
TRS: ALBERT MARILYN
6526 MONTROSE AVE
BALTIMORE, MD 21212

54-8-0-R

JOHN FIELD REVOC TRUST &
JANE KATZ FIELD REVOC TRUST
care of: PETER FIELD
371 MADISON ST, APT 508
NEW YORK, NY 10002

54-10-0-R

JOHN FIELD REVOC TRUST &
JANE KATZ FIELD REVOC TRUST
care of: PETER FIELD
371 MADISON ST, APT 508
NEW YORK, NY 10002

54-11-0-R

RUSSIANOFF SYLVIA
128 ROCHELLE AVE
PHILADELPHIA, PA 19128

54-12-0-R

ROSS D AIN REVOCABLE TRUST
TRS: ROSS D & JUDITH STONE AIN
3512 NEWARK ST NW
WASHINGTON, DC 20016

54-15-0-R

FULOP JOHN
103 EAST ALFORD RD
WEST STOCKBRIDGE, MA 02166

54-60-0-R

TRACEY DENNIS H III &
C/O MAUREEN P MANNING TRUST
26 ARLINGTON ST
CAMBRIDGE, MA 02140

54-98-0-E

TRURO CONSERVATION TRUST
TRS: BETSEY BROWN ET AL
PO BOX 327
NO TRURO, MA 02652-0327

54-106-0-R

AIN ROSS D & JUDITH S
3512 NEWARK ST NW
WASHINGTON, DC 20016-3168

54-112-0-R

TRACEY DENNIS H III &
C/O MAUREEN P MANNING TRUST
26 ARLINGTON ST
CAMBRIDGE, MA 02140

54-113-0-R

REICHHELM GEORGE & CAROLE
127 HARBOR RD
WESTPORT, CT 06880

54-114-0-E

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

54-117-0-E

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

54-120-0-R

RUSSIANOFF SYLVIA
128 ROCHELLE AVE
PHILADELPHIA, PA 19128

VARIANCE NARRATIVE

**4 PHATS VALLEY ROAD
(Map 54, Parcel 6-0)**

A. The Property for which relief is sought.

The Property for which relief is sought from the Zoning Board of Appeals (“ZBA”) is:

- A 3+ acre parcel of land known as 4 Phats Valley Road shown on Assessing Map 54, as Parcel 6-0) (“Parcel 6”).
- Parcel 6 was created under a definitive subdivision plan that was approved and endorsed in 1991 by the Truro Planning Board (the “1991 Subdivision Plan”).
- The 1991 Subdivision created frontage for Parcel 6, with an express vote by the Planning Board, on July 10, 1991, under Section IV(g) of the Planning Board’s Subdivision Regulations, that:

We the undersigned, being a majority of the members of the Truro Planning Board present at a meeting held July 10, 1991, hereby agree to waive the [subdivision way] construction requirements, as set forth in Section IV, Design Standards, of our regulations for the way as shown the aforementioned plan [i.e., for Parcel 6]. This waiver is granted in accordance with Section IV(g) of our regulations.

Parcel 6 is owned by the Marilyn Albert, Trustee (“Owner”) and the applicant is Patrick Rice, a prospective purchaser of Parcel 6 (“Applicant”).

B. Relief sought for Parcel 6.

The Applicant seeks a variance relief from the ZBA from any zoning provision in the Truro Zoning Bylaw and Sign Code (“ZBL”), to the extent necessary, in order to allow Parcel 6 to be developed for one single-family dwelling that will use the frontage shown on the 1991 Subdivision Plan (i.e., the physical 9-feet of access that existed in 1991 and exists today).

The same physical access that is in place today was determined by the Planning Board in 1991 to provide safe and adequate access for a single-family dwelling for Parcel 6 and it still provides safe and adequate access for that purpose today.

More specifically, to the extent necessary, variance relief is sought to waive any interpretation of the terms “Lot Frontage” and/or or “Street” in the ZBL that could be construed as requiring Parcel 6 to have 14 feet of constructed width, rather than the 9 feet of width as approved by the Planning Board in 1991 and that still exists today.

The frontage approved and endorsed by the Planning Board in 1991 for Parcel 6 is the 9 feet of width that was in existence at the subject property in 1991 and that is in existence today and is as shown on the Existing Conditions Plan as submitted herewith and as enumerated below.

The current physical access conforms to all of the current ZBL requirements for frontage for a Type A Road (a road that serves 1-4 lots) (with construction waived) and conforms to all of the current Planning Board Subdivision Requirements, except with the current requirement that was added after the 1991 subdivision approval, that now requires a Type A Road (serving 1-4 lots, but in this case only a single lot) to be constructed to a width of 14 feet, rather than 9 feet.

So, to the extent necessary, the Applicant seeks a 5-foot variance from the 14-foot width requirement; however, as appropriate the ZBA may determine, of course, that the variance relief is not necessary.

C. Documents/Exhibits Provided for Review.

Exhibit 1. March 2022 Existing Conditions Plan for Parcel 6.

The Parcel 6 Plan is entitled, "Existing Conditions Plan, 4 Phats Valley Road, Truro, MA," and is dated March 25, 2022, as revised through July 15, 2022. The Parcel 6 Plan was prepared by J.M. O'Reilly & Associates, Inc. of Brewster, MA and is duly signed, stamped and sealed by Professional Land Surveyor John M. Reilly.

Exhibit 2. June 5, 1991 Subdivision Certificate of Approval for Parcel 6.

The Subdivision Certificate of Approval by the Truro Planning Board voted by the Planning Board on June 5, 1991 and filed by the Planning Board with the Truro Town Clerk on June 6, 1991, which approved the definitive subdivision plan that was submitted by Jenny Kaufman to the Planning Board to create frontage for Parcel 6 on March 26, 1991.

Exhibit 3. July 10, 1991 Subdivision Covenant and Vote for Parcel 6.

Exhibit 3. Page 1. The Subdivision Form D Covenant for Parcel 6.

The Covenant was duly executed by the owner of Parcel 6 on July 5, 1991 and was duly executed by the Planning Board on July 10, 1991. The July 1991 Covenant is recorded at the Barnstable Registry of Deeds at Book 7626, Page 113.

Exhibit 3. Page 2. PB Vote to waive subdivision way construction for Parcel 6.

The Planning Board's vote to waive construction of the approved subdivision way shown on the approved subdivision plan for Parcel C was duly voted on July 10, 1991 and is recorded at the Barnstable Registry of Deeds at Book 7626, Page 114.

The July 10, 1991 Vote provides that:

We the undersigned, being a majority of the members of the Truro Planning Board present at a meeting held July 10, 1991, hereby agree to waive the construction requirements, as set forth in Section IV, Design Standards, of our regulations for the way as shown the aforementioned plan. This waiver is granted in accordance with Section IV(g) of our regulations.

Exhibit 4. July 10, 1991 Endorsed Subdivision Plan for Parcel 6.

The Approved Subdivision Plan for Parcel 6 was duly endorsed by the Planning Board on July 10, 1991 (after the Planning Board voted to waive construction of the subdivision way) and is duly recorded at the Barnstable Registry of Deeds at Book 481, Page 12.

Exhibit 5. July 26, 1991. Deed for Parcel 6 in reliance on the endorsed plan.

The Deed from Jenny Kaufman to the Truro Old County Road Trust for \$230,000 for Parcel 6, in reliance upon the approved and endorsed subdivision plan recorded at Book 481, Page 12. The Deed was duly recorded on July 26, 1991 at the Barnstable Registry of Deeds at Book 726, Pages 110-111.

Exhibit 6. January 1989-1991 Truro Planning Board Subdivision Regulations, as in effect on January 1, 1989 through 1991 (the "1989-1991 Subdivision Regulations").

The Truro Planning Board Subdivision Regulations, as produced by the Truro Town Clerk as being in effect on January 1, 1989 through 1991.

D. Explanation for the Relief Sought.

The subdivision way known as Phats Valley Road was approved as a definitive subdivision way during 1991 by the Truro Planning Board and the Board waived construction of the way so as to allow Parcel 6 to be developed for one single-family dwelling while using physical access that was on the ground in 1991, the access that is still in place today.

The 1991 subdivision way that was approved in 1991 satisfied all applicable subdivision requirements in 1991; however, construction of the way itself as shown and approved was waived.

The 1989-1991 Subdivision Regulations (Exhibit 6) expressly allowed the Planning Board to waive construction of the subdivision way under Section IV(g) to allow one lot to be built using the area for which construction was waived as legal frontage.

The area where the approved cul-de-sac and frontage created for Parcel 6 in 1991 is located over a long-standing right of way that existed on the ground and that was and is located in very close proximity to wetland resources (See Exhibit 1) that will be preserved through not requiring the cul-de-sac to be physically constructed. The Existing Conditions Plan depicts that the edge of bordering vegetated wetland is directly adjacent to the 9-foot wide way that is in place.

In addition, the 9-foot existing way on the ground that was approved in 1991 as frontage is located along an existing bank that also will be preserved – by not requiring the cul-de-sac to be physically constructed. The on the ground access that was approved in 1991 as frontage is part of way that has been on the ground for many years and is known as a proprietor’s road and its approximate 9 feet in width was determined in 1991 by the Planning Board to be sufficient to provide access to the one lot shown on the approved subdivision plan and still is sufficient for that purpose today..

Under the Truro ZBL, in order for a way to provide legal frontage for a building lot, the way must conform to the current definition of “Lot Frontage,” as set forth under ZBL §10.4. Under that definition, for a right-of- way to constitute “Lot Frontage,” the lot must front upon and have access to a “street.” (See ZBL 10.4, Definition of Lot Frontage.) The term “Street” is defined, under ZBL §10.4, as a “public or private way which affords access to abutting property” and the term “Street” is defined as including a “road,” way,” and “road right-of-way.” In order for a “Street” to be used as “Lot Frontage,” however, the “Street” must conform to the requirements of the Town of Truro Subdivision Regulations, Section IV, Design Standards, (b), (c) & (d) as they existed on January 1, 1989. (ZBL §10.4.)

On January 1, 1989, the Town of Truro Subdivision Regulations, Section IV, Design Standards, (b), (c) & (d) (See Exhibit 6) provided (in bold below) as follows:

- (b) **The minimum width of street right-of-ways shall be 40 feet.**
[Note: The right-of-way width is 50 feet as shown on the 1991 Subdivision Plan.]
- (c) **Property lines at streets intersections shall be rounded to provide for a curb radius of not less than 20 feet.**
[Note: As approved, the 1991 Subdivision Plan satisfied this requirement.]
- (d) **Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 80 feet.**
When ways requiring turnarounds may be extended in future

subdivision, the Board may require only an area equal to the above requirement to be shown and marked “Reserved for Turning.” Upon extension of the way through this turning Area, the portions not included in the way shall revert to their respective lots.

[Note: The cul-de-sac as approved satisfied this requirement, but with construction waived, there is no dead-end.]

On January 1, 1989 and through 1991, the Truro Subdivision Rules and Regulations (See Exhibit 6) provided at Section IV, Design Standards (g), that:

- (g) On land of single ownership where the intent is to subdivide into no more than two lots of legal area and a way is required for one lot, this [way] may be exempt[ed] from any or all of the requirements of the design standards, excepting for those requirements specified in the by-laws. It shall be at the discretion of the Board to grant these waivers and to set requirements for the way. Any such way established shall not be used to provide access to any lot other than the lot established by approval of the way. There shall be no further subdivision of the lot serviced by the way established. Any way established under this provision of waiver of design standards shall not be subject to acceptance by the Town as a public way.

Today, the Truro Subdivision Rules and Regulations still allow for a “Rural Road Alternative” under Regulation §3.7; however, under §3.8, if a right-of-way is to be used for access to a lot, then the road surface of the right-of-way is to be “constructed according to Appendix 2 Table 1 of the Rules which provides that the minimum constructed roadway width for a “Type A” Road or Street (which services only 1-4 lots) is 14 feet.

So, the current frontage, with construction waived, satisfies all of the current applicable ZBL requirements noted above and the current requirements do not incorporate the new requirement of Subdivision Regulation §3.8 for a 14-foot constructed width for a right-of-way. The Applicant, however, has been told by the Building Official that a frontage variance is needed from the ZBL’s provisions.

As a result, the Applicant respectfully requests that the ZBA please issue a variance decision that allows Parcel 6 to use the existing approximate 9-foot access as allowed under the 1991 Subdivision (Exhibits 2-4) and as shown on the Existing Conditions Plan (Exhibit 1) as lawful frontage for a single-family dwelling.

The Applicant understands that variance relief is sparingly granted and that the conditions set forth under G.L. c.40A, §10 for the grant of variance relief are rarely satisfied. However, the Applicant notes that it satisfies the technical language of the ZBL and only a strained interpretation that current Subdivision Regulation §3.8 applies and requires that the constructed width of the right-of-way shall be 14 feet would prevent an as of right permit from issuing. The Applicant requests that the ZBA determine either the requirements of §3.8 of the current Subdivision Regulations do not apply or that a variance from that requirement because each of the requirements of G.L.c.40A, §10 have been satisfied for the reasons set forth below.

The G.L.c.40A, §10 Variance Requirements.

1. The requested variance is needed and warranted “owing to circumstances relating to soil conditions, shape, or topography of such land.”

Response:

The physical access located on the ground has been there for many decades and was approved and endorsed under the Subdivision Control Law process as sufficient to constitute lawful frontage in 1991. The location of the physical access was created in an approximate 9-foot width in order to accommodate the wetland resources on one side of the access (which relates directly to the soil conditions at the property) and to accommodate the steep bank on the other side of the property (which relates directly to the topography of the land).

The statutory requirement noted above is satisfied because both soil conditions and topography of the land at the property dictate the location of the physical access.

2. The requested variance is needed and warranted due to circumstances relating to soil conditions, shape or topography that ‘especially affect’ the land involved - but do not affect, generally, the zoning district in which the property is located.

Response:

The physical conditions at the subject property, with wetlands on one side and a bank on the other side of long-existing access way which was found in 1991 by the Planning Board to satisfy the requirements for frontage under the Subdivision Control Law process are extremely unusual and likely even unique in nature, but, certainly, they are not circumstances that exist “generally” throughout the zoning district.

The statutory requirement noted above is satisfied.

3. A literal enforcement of the 14-foot width requirement of current Subdivision Regulation §3.8 would involve a substantial financial hardship to the Owner of Parcel 6.

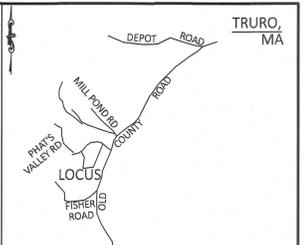
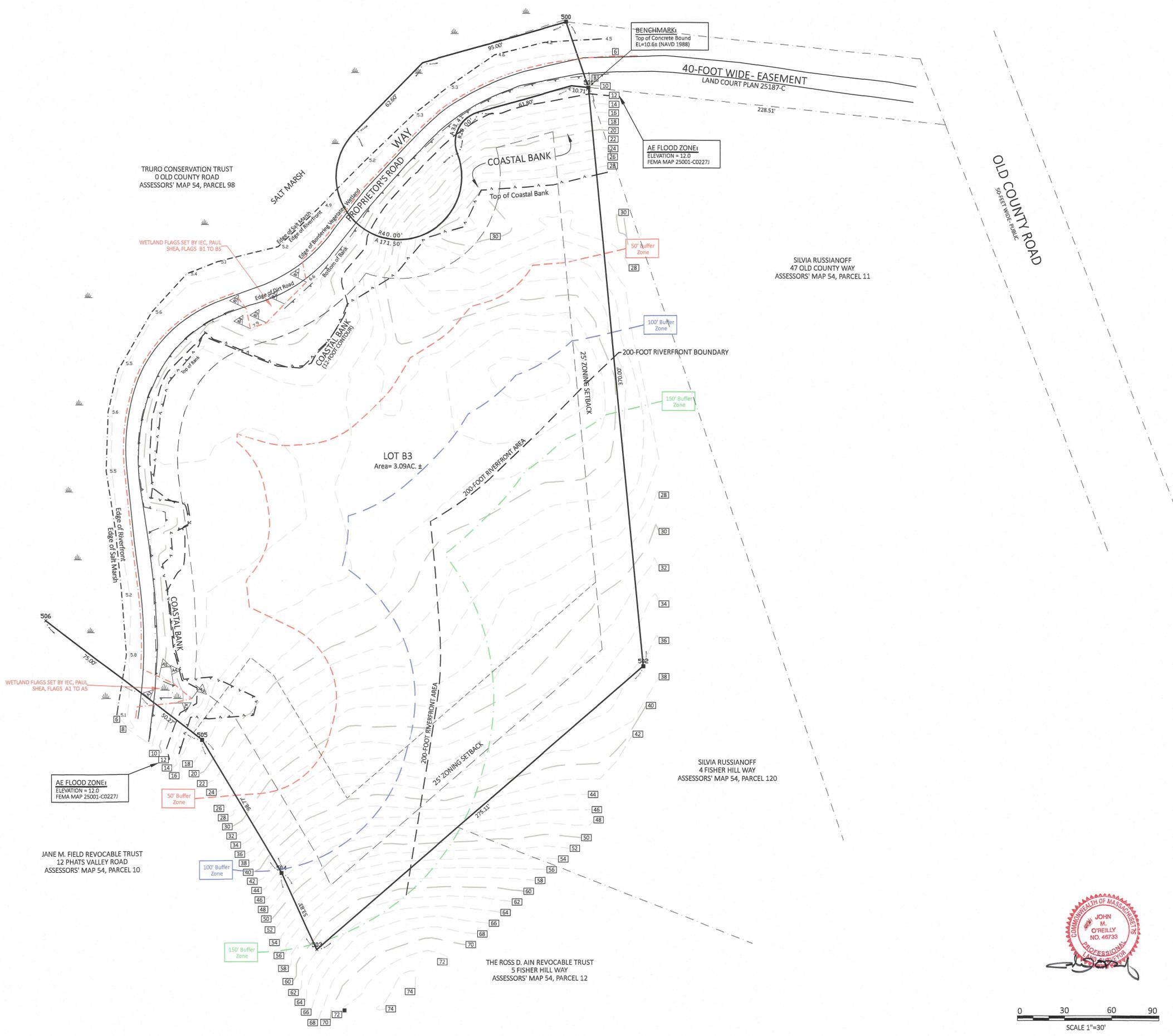
Response:

The Owner paid \$230,000 in 1991 for Parcel 6 based upon the 1991 Subdivision Plan that waived construction of a full subdivision way and determined that the existing physical access was adequate frontage to allow access to Parcel 6 for a single-family dwelling. Not granting the requested relief will render the Parcel 6 almost valueless and cause the Owner to suffer a financial hardship.

This statutory requirement is satisfied.

In summary, all the of the statutory requirements for variance relief are satisfied and the Applicant (and the Owner) respectfully request the ZBA to please vote to grant the necessary relief to allow the existing physical access shown on the Existing Conditions Plan (Exhibit 1) to be used as lawful frontage for a single-family dwelling on Parcel 6.

The Applicant and the Owner thank the ZBA and its staff for its time and consideration of this Application.



NOT TO SCALE

L.C. PLAN # 25187-C
DEED BOOK 7626 PAGE 110
ASSESSORS' MAP 54 PARCEL 6

LEGEND

- EXISTING CONTOUR
- PROPOSED CONTOUR
- EXISTING SPOT GRADE
- PROPOSED SPOT GRADE
- WATER SERVICE LINE
- OVERHEAD UTILITY SERVICE
- UNDERGROUND UTILITY SERVICE
- GAS SERVICE LINE
- TEST HOLE / BORING LOCATION
- SEPTIC TANK
- DISTRIBUTION BOX
- SOIL ABSORPTION SYSTEM
- RESERVED FOR FUTURE
- UTILITY POLE
- CATCH BASIN
- FIRE HYDRANT
- WELL
- DRAINAGE MANHOLE
- CONCRETE BOUND, FOUND
- TOP OF BANK
- LIMIT OF WORK
- FENCE
- EDGE OF CLEARING

ZONING TABLE

ZONE R (RESIDENTIAL)	PROPOSED
SETBACKS, MINIMUM	
FRONT 25 FEET	NA
SIDE 25 FEET	NA
REAR 25 FEET	NA
MINIMUM LOT FRONTAGE 150 FEET	EXISTING: 553 FEET
MINIMUM LOT SIZE 33,750 SQ. FT.	134,600 ±
BUILDING HEIGHT 30 FEET (AVG. MEAN GROUND LEVEL+30"=MAX EL.)	NA



0 30 60 90
SCALE 1"=30'

REVISED 7-15-2022: ADDED ABUTTING PROPERTY AND OWNER INFORMATION.

REVISED 4-1-2022: ADDED WETLAND FLAGS A1 TO A5 AND B1 TO B5. ALSO ADDED BORDERING VEGETATED WETLAND ADJACENT TO THE DIRT ROAD.

Marilyn Albert
6526 MONTROSE AVE., BALTIMORE, MD, 21212

EXISTING CONDITIONS PLAN
4 PHATS VALLEY ROAD, 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)898-6602 Fax

(508)898-6601 Office (508)898-6602 Fax

DATE: 3-25-2022 SCALE: As Noted BY: JMO/gb CHECK: JMO JOB NUMBER: JMO-9193



Truro Planning Board

TRURO, MASSACHUSETTS

**Office of Town Clerk
Treasurer - Tax Collector**

JUN - 6, 1991

Received TOWN OF TRURO

By *[Signature]*

Certificate of Approval
of
Definitive Subdivision Plan

*Subject to review
July 10, 1991
[Signature]*

Date: *6/6/91*

1. Name of Applicant: *Jenny Kaufman*
Address: *Off County Road, Truro*

2. Name of Surveyor or Engineer: *Slade Assoc Inc*
Address: *Rt 6 Wellfleet*

3. Deed of property recorded in the Truro Assessors' Atlas
Sheet: *54* Parcel: *6*

4. Location of property:
Off Old County Rd, Truro

This notice is to inform you that your subdivision plan submitted to this

Board on: *3/26/91*

has been approved on: *6/5/91*

subject to the following conditions:

- ✓ 1. An appeal period of 20 days.
- ✓ 2. Covenant to be filed with the Planning Board before endorsement of the plan.

3.

Betsy A. Brown
Secretary,
for Truro Planning Board

Copy to Town Clerk

The undersigned Stephen Albert
of 56 Valentine St., Newton, MA 02165, Middlesex County, Massachusetts,
hereinafter called the "Covenanter", having submitted to the Truro
. Planning Board, a definitive plan of a subdivision, entitled "Plan of Land in
Truro, Made For Jenny Kaufmann"
dated Feb., 1991 made by Slade Associates, Inc., Reg. Land Surveyors,
does hereby covenant and agree with said Planning Board and the successors in office of
said Board, pursuant to G. L. (198A, Ed.) C. 41, Sec. 81U, as amended, that:-

See Plan Book 482 Page 113

1. The covenantor is to be owner of record of the premises shown on said plan before said plan is recorded.
2. This covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell any such lot, subject only to that portion of this Covenant which provides that no lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon the approval of said plan;
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.
7. See Attachment, Page 2.

The undersigned Marilyn Albert *Marilyn Albert*
wife husband,
of the covenantor hereby agree that such interest as I, we, may have in said premises
shall be subject to the provisions of this covenant and insofar as is necessary release all
rights of tenancy by the courtesy, dower, homestead and other interest therein.

EXECUTED as a sealed instrument this 5th ~~day~~ July 1991 .

[Signature]

COMMONWEALTH OF MASSACHUSETTS

Barnstable July 5th 1991

When personally appeared Stephen Albert
and acknowledged the foregoing instrument to be his, free act and deed.



[Signature]
Notary Public Edward A. Oswalt

My Commission Expires: 7/7/92
My Commission Expires August 7, 1992

-Truro Planning Board-

ATTACHMENT TO STEPHEN ALBERT COVENANT
(Plan made for Jenny Kaufmann)

We the undersigned, being a majority of the members of the Truro Planning Board present at a meeting held July 10, 1991, hereby agree to waive the construction requirements, as set forth in Section IV, Design Standards, of our regulations for the way as shown on the aforementioned plan. This waiver is granted in accordance with Section IV (g) of our regulations. The purpose of this covenant is to secure the installation of underground utilities before Lot B³ is built upon.

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]
 Dates: 7/10/91

-COMMONWEALTH OF MASSACHUSETTS-

Barnstable ss.

July 10, 1991

Then personally appeared KENNETH BROCK, one of the above-signed members of the Truro Planning Board and acknowledged the foregoing instrument to be his free act and deed, before me

[Signature]
 Notary Public
 My Commission Expires: Nov. 9, 1995



RECORDED JUL 26 91

OFFICIAL OF NOTARY PUBLIC
 OFFICIAL OF NOTARY PUBLIC

BOOK 482 PAGE 12

RECEIVED
 JUN 26 2 49 PM '91
 BARNSTABLE COUNTY
 REGISTERED DEEDS
 JOHN W. DEANE

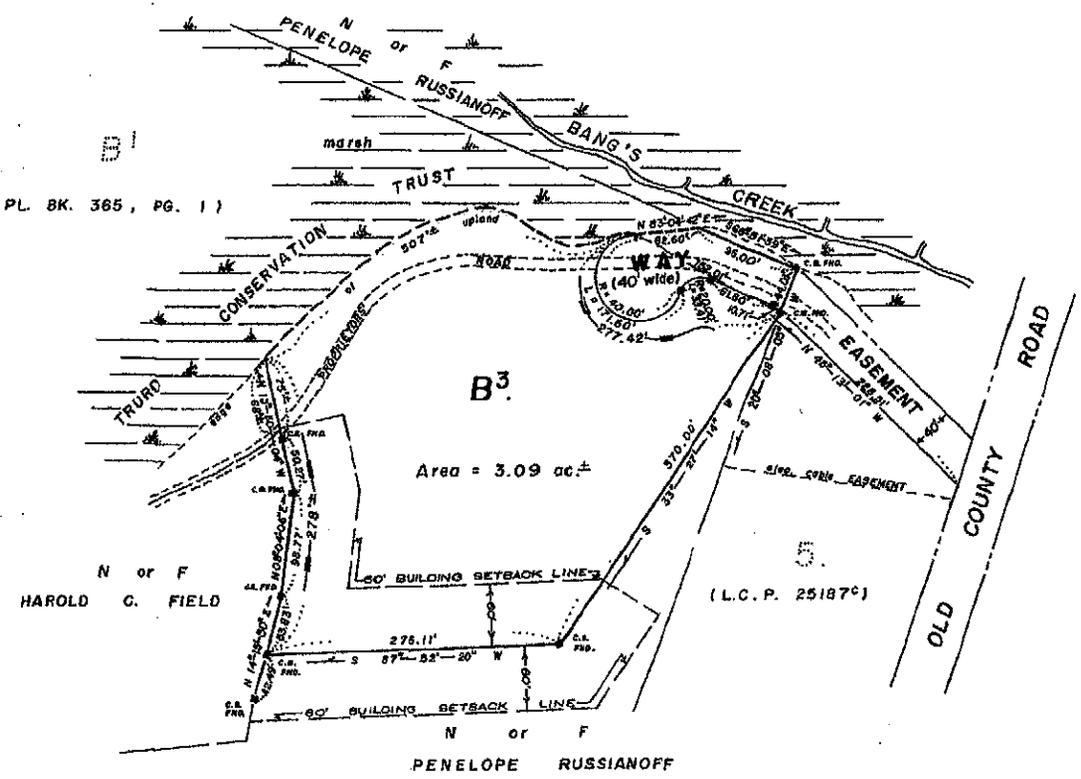


FOR REGISTRY USE

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS IN PREPARING THIS PLAN.
 DATE: 2/12/91
 REGISTERED LAND SURVEYOR



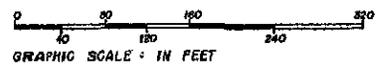
(PL. BK. 365, PG. 1)



482-12

PLAN OF LAND IN TRURO
 made for _____
JENNY KAUFMANN

SCALE: 1 IN. = 80 FT. FEB., 1991
 SLADE ASSOCIATES, INC. REG. LAND SURVEYORS
 RTE. 6 & PINE PT. RD., WELFLEET, MA. 02667



NOTE: ■ = C.B. SET, UNLESS OTHERWISE NOTED.



I, CYNTHIA SLADE, Clerk of the Town of Truro, hereby certify that the notice of approval of this plan by the Truro Planning Board has been received and recorded at this office and no appeal was received during the twenty days after such receipt and recording of said notice.
 Date: July 10, 1991
 Cynthia Slade
 Town Clerk

APPROVED:
 [Signature]
 [Signature]
 [Signature]
 [Signature]

TRURO PLANNING BOARD
 DATE: 7/12/91
 SEE COVENANT TO BE RECORDED HEREWITH
 1991-24

35516

DEED

I, JENNY KAUFMANN, of 470 West 24th Street, #18F, New York, New York 10011

in consideration of Two Hundred Thirty Thousand and 00/100 Dollars (\$230,000.00) paid

grant to Stephen Albert, Trustee of Truro Old County Road Trust, under Declaration of Trust dated July 23 1991, to be recorded herewith, having a mailing address of 56 Valentine Street, Newton, MA 02165

with quitclaim covenants

the vacant land situated in Truro in the County of Barnstable and Commonwealth of Massachusetts, bounded and described as follows:

Commencing at a concrete monument at the northeast corner of the premises, said monument being the northwest corner of Lot 5 as shown on Land Court Plan No. 25187C; thence

S 20°-08'-05" W by Lot 5, (by land now or formerly of Penelope P. Russianoff), a distance of forty-four and 01/100 (44.01) feet, to a concrete monument; thence

S 33°-27'-14" W still by land now or formerly of Russianoff, a distance of three hundred seventy and 00/100 (370.00) feet, to a concrete monument; thence

S 87°-52'-20" W by land now or formerly of Russianoff, a distance of two hundred seventy-five and 11/100 (275.11) feet, to a concrete monument at land now or formerly of Harold C. Field; thence

N 14°-15'-50" E by land of said Field, a distance of fifty-three and 83/100 (53.83) feet, to a concrete monument; thence

N 08°-04'-46" E by land of said Field, a distance of ninety-eight and 77/100 (98.77) feet, to a concrete monument thence

N 13°-50'-04" W by land of said Field, a distance of one hundred twenty-five and 00/100 (125) feet, more or less, to Lot B1, as shown on the hereafter mentioned plan; thence

Northeasterly and easterly by Lot B1 and by the edge of the marsh, a distance of five hundred seven and 00/100 (507) feet, more or less, thence;

N 83°-04'-42" E by said marsh a distance of sixty-two and 60/100 (62.60) feet; thence

PROPERTY ADDRESS: Lot B3, Truro, Barnstable County, Massachusetts 02666

HARVEY J. HOBBS
ATTORNEY AT LAW
HOBBS & BENNETT
3 FREDMAN STREET
PROVINCETOWN, MA 02697
(508) 487-6000

S 66°-51'-39" E by said marsh a distance of ninety-five and 00/100 (95.00) feet, to the point of commencement.

Said land contains an area of 3.09 acres, more or less, and is shown as Lot B3 on a plan entitled "Plan of Land in Truro, made for Jenny Kaufmann, Scale: 1 in. = 80 ft., Feb., 1991, Slade Associates, Inc., Registered Land Surveyors, Rte. 6 and Pine Pt. Rd., Wellfleet, MA 02667.", recorded herewith in the Barnstable Registry of Deeds. *Plan B. 24*

4th page 12
Together with an appurtenant easement dated July 2, 1991 and recorded herewith, from Penelope P. Russianoff as shown on the aforesaid Plan, being an easement in the 40-foot-wide easement shown at the northerly end of Lot 5 on Land Court Plan 25187C filed in the Land Court Registration Office in Boston, a copy of which is filed with the Barnstable Registry of Deeds, Land Court Division, and being for all purposes for which public ways are to be used in the Town of Truro, both now and hereafter.

Said land is subject to a sixty (60) foot setback restriction as shown on the aforesaid Plan recorded herewith and also has the benefit of a setback restriction as set forth in the deed of Harry Kahn and Penelope P. Russianoff to Harry Kahn dated August 11, 1977 recorded with said Registry in Book 2577 Page 305.

Being the same premises as set forth in my Deed from Harry Kahn recorded with said Registry in Book 5506 Page 212, to which reference should be made for my title, and as shown as Lot B2 on a prior plan of land entitled, "Division of Plan of Land in Truro made for Harry Kahn, Scale: 1 in. = 80 ft., June 1982, Slade Associates, Inc., Registered Land Surveyors, East Main Street at Route 6, Main Street at Route 6, Wellfleet, Massachusetts 02667" recorded with said Registry in Plan Book 365 Page 1.

Executed as a sealed instrument this 11th day of July, 1991.

Jenny Kaufmann
JENNY KAUFMANN

STATE OF NEW YORK

County: NEW YORK

July 11, 1991

Then personally appeared the above named JENNY KAUFMANN and acknowledged the foregoing instrument to be her free act and deed, before me,

David M. Phillips
Notary Public:
My Commission Expires: 4/30/93

SEAL:

DAVID M. PHILLIPS
Notary Public, State of New York
No. 31-4814377
Qualified in New York County
Commission Expires April 30, 1993

HARREY J. MORSE
ATTORNEY AT LAW
MORSE & BENNETT
3 FLEMING STREET
PROVINCETOWN, MA 02667
(508) 487-4200

RECEIVED & RECORDED
JUL 26 3 05 PM '91
BARNSTABLE COUNTY
REGISTRY DEEDS
JOHN F. WEADE

DEEDS REG. 01
CANCELED
726791
TAX
CHD
780.60
108.60
0698000
EXCISE TAX
145.14

DEEDS EXCISE
CANCELED
JUL 26
524.40

Rtn Gtee 5/5/91

RECORDED JUL 26 91

DAVID M. O'NEAL
Notary Public, State of New York
No. 31-08187
Qualified in New York County
Commission Expires April 30, 1991

TRURO PLANNING BOARD TRURO, MASSACHUSETTS SUBDIVISION REGULATIONS

Section I. Authority

Under the authority vested in the Planning Board of the Town of Truro by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these regulations governing the subdivision of land in the Town of Truro. Such regulations shall be effective October 18, 1978 as amended on December 20, 1983. *(12/55,9/71,6/78,12/83,3/88)*

Section II. General

A. Definitions:

For the purpose of these regulations terms and words shall have the meaning as defined in the Truro Zoning By-Law. Terms and words not defined therein but defined in the General Laws, Chapter 41, "The Subdivision Control Law," and amendments thereto, shall have the meaning given therein, unless a contrary intention clearly appears. Words not defined in either place shall have the meaning given in Webster's Unabridged Dictionary, Third Edition. *(12/55,9/71,6/78)*

"Board" shall mean the Planning Board of the Town of Truro. *(9/71)*

B. Plan Believed Not to Require Approval:

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval.

If the Board determines that the plan does not require approval, it shall without a public hearing and within twenty-one days of submission endorse on the plan the words "Planning Board Approval Under Subdivision Control Law Not Required." Said plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its action. *(9/71,3/88)*

If the Board determines that the Plan does require approval under the Subdivision Control Law, it shall within twenty-one days of submission of said plan so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its determination. The fee for plans not requiring approval under the subdivision law shall be fifty (50) dollars for the first lot and twenty-five (25) for each additional lot. *(9/71,8/72,6/78,3/82,3/88)*

C. Subdivision:

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within this Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a

Definitive Plan of such subdivision has been submitted to and approved by the Board as hereinafter provided.

D. Acceptance of private roads:

(9/71,3/88)

(a) Existing unimproved private way:

An existing unimproved private way shall be a way established prior to the adoption of this amendment which is not cleared, graded, drained, hardened or surfaced. Before the Board of Selectmen shall act on a petition for the acceptance by the Town of such a way, the petitioners shall have prepared by a registered engineer or a registered land surveyor, a clear and legibly drawn plan, to a suitable scale, in black India ink on tracing cloth. This plan shall contain the following information:

Location of road in respect to all adjacent or intersecting roads, public and private.

Layout of road showing all necessary dimensions to reproduce the road on the ground.

Drainage facilities and/or drainage easements.

Names and addresses of all abutters.

The petitioners shall install sufficient permanent concrete bounds to define the road. The petitioners shall also be required to post a performance bond with the Town of Truro assuring that if the road should be accepted by the voters of the Town of Truro, all the requirements specified by the design standards would be met. All costs of preparing plans, procurement of bonds and construction of road or way to meet the design standards shall be borne by the petitioners.

Design standards shall be those shown under Subdivision Regulations, Section IV. Design Standards.

(b) Existing improved private way:

An existing improved private way shall be a way established prior to the adoption of this amendment which has been constructed in accordance with Town of Truro standards existing at the time of construction including grading, clearing, hardening, black-topping and drainage. The Board of Selectmen may act on petition for the acceptance of such a way without requiring any or all of the requirements listed in paragraph (a) if the petition is approved by the Planning Board.

(c) New, improved private way shall be a way which was established after the adoption of (b) above and which was constructed in accordance with all contemporaneous Town of Truro standards for such matters as grading, clearing, hardening, black-topping, and drainage. If the petition for public takeover is the first approved by the Planning Board, then the Board of Selectmen may act on the petition for acceptance without requiring satisfaction of any or all of the requirements listed in paragraph (a). *(3/88)*

(d) Approval and acceptance:

Upon approval by the Board of Selectmen of a petition for Town acceptance of a private

way under the conditions stated in either (b) or (c), the Selectmen shall submit an article to the next annual Town Meeting to the voters of the Town for their action on the petition. (9/71,3/88)

(e) **Waiver:**

The Board of Selectmen may waive any requirements of the Design Standards listed in paragraph (a) or any deviation from Town Standards listed in paragraph (b) or (c) which, in their opinion, would not be detrimental to the Town of Truro, excepting requirements specified by by-law. If any such waiver will result in an expenditure of public monies to accomplish the requirements waived, the Board of Selectmen must present this cost to Town Meeting acting on the petition for acceptance of the private way. (9/71,12/83,3/88)

Section III. Procedure for the Submission and Approval of Plans:

A. Preliminary Plan:

- 1) **General:** A preliminary plan of a subdivision shall be submitted by the subdivider for the discussion and tentative approval by the Board.

Submission of the preliminary plan will enable the subdivider, the Board, other municipal agencies and owners of properties abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared.

- 2) **Contents:** The Preliminary Plan shall be drawn on tracing paper at suitable scale. Five prints shall be filed at the office of the Board. The Preliminary Plan should show sufficient information about the subdivision to form a clear basis for discussion of the problems and for the preparation of the Definitive Plan. Such information will include major site features such as existing stone walls, fences, buildings, large trees, rock ridges, and outcroppings, swamps and water bodies and existing topography as required, together with the information required for the Definitive Plan (Section III, B, 2, items (a) to (d) inclusive). During discussion of the Preliminary Plan, complete information required for the Definitive Plan (Section III, B, 2, Contents) will be developed. (9/71,12/83)
- 3) **Tentative Approval:** The Board may give the Preliminary Plan its tentative approval, with or without modification. Such tentative approval does not constitute approval of a subdivision, but does facilitate the procedure for review of the Definitive Plan.
- 4) **Fee:** The fee for submission of preliminary subdivision plans shall be \$25.00, payable on filing of the preliminary subdivision plan with the Planning Board. (7/90)

B. Definitive Plan:

- 1) General: Any person who submits a Definitive Plan of a subdivision to the Board for approval shall file with the Board the following:
 - (a) An original drawing of the Definitive Plan and five contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval. (9/71,12/83)
 - (b) A properly executed Application Form to be secured from the Town Clerk.
 - (c) A deposit of \$50.00 plus \$25.00 for each additional lot, to cover the cost of advertising and legal notices for all subdivision plans requiring a public hearing. (12/55,9/71,11/77,6/78,3/88)

The applicant shall file by Certified Mail, a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed Application Form. (9/71,12/83)

- 2) Contents:

The Definitive Plan shall be prepared by an engineer or surveyor and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be a scale of one inch equals forty feet or other such scale as the Board may accept, to show details clearly and adequately. Sheet size shall preferably not exceed 24" by 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information:

 - (a) Subdivision name, boundaries, north point, date and scale.
 - (b) Name and address of record owner, subdivider and engineer or surveyor.
 - (c) Names and addresses of all abutters as they appear in the most recent tax list.
 - (d) The applicant shall furnish the Board with a separate plan showing profiles of the proposed ways or streets. This plan shall be in such form as to provide full information satisfactory to the Board, but need not be in the same form as the Definitive Plan. It should include proposed street names.
 - (e) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. All bearings shall refer to Massachusetts prime meridian.
 - (f) Location of all permanent monuments properly identified as to whether existing or proposed.
 - (g) Location, names and present widths of streets bounding, or approaching or within reasonable proximity of the subdivision.
 - (h) Suitable space to record the action of the Board and the signatures of the members of the Board (or officially authorized person).
 - (i) Existing and proposed topography at a suitable contour interval as required by the Board.
 - (j) All surveys to be made with accuracy resulting in a minimum error of closure 1 to 10,000.

- 3) Review by Board of Health as to Suitability of Land: The Board shall within ten

days after submission of a plan consult with the Board of Health. If the Board of Health is in doubt as to whether any of the land in the subdivision can be used as building sites without injury to the public health, it shall so notify the Planning Board in writing within forty-five days. Any approval of the plan by the Board shall then only be given on condition that the lots of land as to which such doubt exists shall not be built upon without the prior consent of the Board of Health, and shall endorse on the plan such conditions, specifying the lots of land to which said condition applies. (9/71,3/88)

4) Public Hearings:

Before approval, modifications and approval, or disapproval of the Definitive Plan is given, a public hearing shall be held by the Board. Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be given by the Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing. A copy of said notice shall be mailed by certified mail to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list. (9/71,12/83)

5) Certificate of Approval:

The action of the Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by certified mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signature of the majority of the Board (or by the signature of the person officially authorized by the Board), but not until the statutory, twenty-day appeal period has elapsed following the filing of the Certificate of the Action of the Board with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Board with two prints thereof. Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision. (9/71,12/83,3/88)

Section IV. Design Standards.

(As amended by the Planning Board on November 12, 1986 by adoption of Sections (h) through (m))

- (a) The Board shall require a minimum lot size of 33,750 square feet, minimum frontage of 150 feet on a way and a 25 foot setback from all lot lines. (12/55,8/72)

The area of a lot when used for building purposes shall not be less than the minimum required herein. Said lot shall not be interpreted to include any areas below mean water on tidal water, areas of exposed ground water, or within the limits of any defined way. No less than 100% of the minimum area required shall consist of contiguous upland

exclusive of marsh, bog, swamp, beach, dune or wet meadows. (6/78,3/88)

The lot frontage shall be the distance along a straight line connecting the points of intersection of the side lot lines with the front lot line. (6/78,12/83,11/86)

(b) The minimum width of street right-of-ways shall be 40 feet. (12/55,9/71)

(c) Property lines at street intersections shall be rounded to provide for a curb radius of not less than 20 feet. (9/71)

(d) Dead-end streets shall be provided at the closed end with a turnaround having a property line diameter of at least 80 feet. When ways requiring turnarounds may be extended in future subdivision, the Board may require only an area equal to the above requirement to be shown and marked "Reserved For Turning." Upon extension of the way through this turning area, the portions not included in the way shall revert to their respective lots. (12/55,9/71)

(e) All streets in the subdivision shall be continuous wherever practicable. (12/55,9/71)

(f) 1. Provisions satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property not yet subdivided. (12/55,9/71,6/78)

At least one street in the new subdivision will connect with a road which will provide access to the new subdivision, and said road shall in the opinion of the Board be adequate to reduce the danger to persons and property and to secure safety in the case of emergency. (9/91,3/88)

2. The Board may disapprove a plan if it determines the access road to the subdivision is inadequate. (6/78,12/83,11/86)

3. Subdivisions of 30 or more lots will be required to have more than one access from an existing major street. This requirement for more than one access may be waived by the Board when in its opinion it is in the public interest and not inconsistent with the intent and purpose of the Subdivision Control Law. (6/78,3/88)

(g) On land of single ownership where the intent is to subdivide into no more than two lots of legal area and a way is required for one lot, this may be exempt from any or all of the requirements of the design standards, excepting for those requirements specified in the by-laws. It shall be at the discretion of the Board to grant these waivers and to set requirements for the way. Any such way established shall not be used to provide access to any lot other than the lot established by approval of the way. There shall be no further subdivision of the lot serviced by the way established. Any way established under this provision of waiver of design standards shall not be subject to acceptance by the Town as a public way. (9/71,12/83,11/86)

(h) No street shall intersect any other street at less than sixty (60) degrees. (11/86)

(i) Street construction

1. The width of the pavement and the shoulders (four (4) feet from each side of the pavement) shall be cleared of all stumps, brush, roots, boulders, trees and like material. All such material shall be disposed of outside the subdivision unless authorized by the Planning Board.
2. All materials not suitable for foundation shall be removed from an area eight (8) feet wider than the paved width (four (4) feet from each side of the pavement) and to a depth of at least six (6) inches below finished grade. Peat, silt, loam or similar yielding materials shall be removed to a firm foundation for the same width.
3. Grades of streets shall be a reasonable minimum, but not less than five tenths (0.5) of a percent nor more than ten (10) percent except that the Planning Board may grant approval of grades up to twelve (12) percent for a distance of less than one hundred (100) feet. The roadway is to be constructed in true cross section with a crown of one quarter (1/4) inch per foot from the center line.
4. No side slopes resulting from grading of the street shall exceed one (1) foot vertical to two (2) feet horizontal in fill and in cut. Land between the outside of the layout and the pavement shall be graded so as to prevent surface water on the street from draining on to private land except into designated areas.
5. Traveled ways and shoulders shall be provided with a foundation consisting either of at least six (6) inches compacted thickness of good binding gravel satisfactory to the Project Engineer, clean, free of organic matter, and without stones over three (3) inches in diameter, or of six (6) inches of clay hardening or the equivalent. Any depressions that occur, either during or after rolling, must be filled with additional gravel or hardening and rolled until the surface is true and even.
6. The wearing surface of the roadways within the right of ways shall be two (2) course Type I bituminous concrete pavement (native stone aggregate allowed), applied with a two (2) inch (after compaction) base course and a one (1) inch finished course, in accordance with Massachusetts Department of Public Works Standard Specification 460. Pavement shall be centered in the roadway layout, unless the Planning Board approves a variation.
7. The minimum pavement width, exclusive of curbing or berms, shall be as follows: for roads that will never be able to serve more than ten (10) lots: eighteen (18) feet; more than fifteen (15) lots: twenty (20) feet; all other roads: twenty-two (22) feet.
8. Molded bituminous berms, sixteen (16) inches in width, or paved gutters shall be installed wherever pavement grades exceed three (3) percent, and shall be installed over the same bituminous base as the paved surface.
9. Road drainage, including lines and structures, shall be constructed to meet storm characteristics acceptable to current engineering standards. Grates and frames shall be of Massachusetts Standard grate type and shall conform with Massachusetts Department of Public Works specifications. Catch basins, leaching basins or leaching fields shall be adequate for the conditions encountered. Catch basins shall be of a solid construction (masonry or precast concrete) with sump, overflow and grate located in the road to receive surface water. Leaching basins shall be of a masonry or pre-cast concrete construction, located off the road

a minimum of two (2) feet and connected to catch basins with concrete, asphalt-coated, corrugated aluminum or steel pipe with a minimum diameter of ten (10) inches. All leaching basins shall have a two (2) foot minimum width of one and a half (1 and 1/2) inch stone around the circumference and for the full depth of the leaching portion of the basin. Covers shall be precast concrete.

Swales shall be constructed of the same material and specifications as the road surface and shall direct surface water away from the road pavement a minimum distance of five (5) feet to an area of suitable drainage so as not to cause erosion or puddling.

10. All utility lines and cables shall be underground.
 11. Topsoil removed during the course of construction shall be redistributed so as to provide at least four (4) inches of cover to all areas of the subdivision and shall be stabilized by seeding and planting. At no time shall topsoil be removed from the site or tract without obtaining the required permit.
 12. The subdivider shall clean up all debris caused by street construction and installation of utilities, drainage or other services; prior to release of security, the street right of way shall be similarly cleaned.
 13. Street signs of a design and material approved by the Planning Board shall be furnished and installed to identify each street at each intersection.
 14. Guard rails of a design and material approved by the Planning Board shall be required at points along the roads where necessary for safety in the opinion of the Board.
- (11/86)*
- (j) Monuments shall be installed at all angle points and points of curvature of all lot lines and all ways, and at other points, where, in the opinion of the Board, permanent monuments are necessary. Such monuments shall be at least five (5) inches by five (5) inches by thirty (30) inches of concrete or granite. No permanent monuments shall be installed until all construction which would disturb the monuments is completed. This rule shall not apply to any corner, as herein defined, which is permanently marked as a result of proceedings in the Land Court. *(9/71,11/86)*
- (k) The project engineer or surveyor shall inspect each step in the construction of the roads, drainage, monuments and installation of utilities and upon completion of same shall submit an affidavit to the Planning Board, signed and sealed by him, certifying that the work has been done, in accordance with the subdivision design standards of the Town of Truro. *(11/86)*
- (l) Road construction and drainage shall be completed within two (2) years of plan approval or shall be required to meet the standards in place at the time of completion. *(11/86)*
- (m) Prior to the issuance by the Building Commissioner of an occupancy certificate for any structure in any subdivision approved subsequent to the adoption of this By-law, streets serving the lot, or lots, for which the permit is desired must meet all requirements of subdivision design standards. *(11/86)*

- (n) 1. Performance guarantee: Before endorsement of the Board's approval of a Definitive Plan of a subdivision the applicant shall secure the completion of the required improvements specified in Section IV for all of the lots in the subdivision by one, or in part by one and in part by the other, of the methods described in a. and b. below, which method may be selected by the applicant.
- a. Approval with bonds or surety: The applicant shall either file a surety company performance bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements specified in Section IV. In case of negotiable securities, the value required shall be 100 percent greater than a bond. Such bond or security shall be approved as to form and manner of execution by the Town Counsel and sureties approved by the Town Treasurer, and shall be contingent upon completion of such improvements within two years of the date of endorsement of the plan.
 - b. Approval with covenant: The applicant shall file with the Planning Board, and properly record along with the plan, a properly executed covenant running with the land whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed other than by mortgage deed. Such covenant shall be executed in the form provided by the Planning Board and approved by Town Counsel, and shall be contingent upon the completion of all required improvements within two years of the date of endorsement of the plan. At the discretion of the Board a time extension may be granted.
2. Later alternate method of guaranteeing performance: After sufficient improvements have been made by the applicant to give the Board reason to release one or more lots from a performance guarantee and following the recording of a mortgage or mortgages on a lot or lots in the subdivision given as security for advances to the subdivider by a lender, the Board may, at its option, release lots from the operation guarantee without receipt of a bond or deposit of money upon delivery to the Board of an agreement with the Board, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of sufficient funds otherwise due the applicant to secure the construction of ways and installation of utilities. Said agreement shall provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion.
3. Release of performance guarantee: Upon the completion of improvements required under Section IV, security for the performance of which was given by bond, deposit, or upon the performance guarantee with respect to any lot, the applicant shall send by registered or certified mail to the Town Clerk and to the Board a written statement in duplicate that the said construction or installation in connection with which such bond, or deposit has been given has been completed in accordance with requirements contained under Section IV, such statement to contain the address of the applicant. If the Board determines that said

construction or installation has not been completed, it shall specify to the applicant in writing the details wherein said construction and installation fails to comply with the requirements contained under Section IV. Upon failure of the Board to act on such application within 45 days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, and any deposit shall be returned. In the event that said 45 day period expires without such specifications, or without the release and return of the bond or return of the deposit as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded. (9/71,6/78,11/86)

In the event the developer fails to perform satisfactorily, the requirements set forth in the bond within the specified period of time, if any, the then outstanding principal amount (penal sum) of the bond shall be payable to the Town as provided by law, to the extent of the reasonable cost to the Town of the completion of the improvements required under the bond. (9/71,11/86)

In such case the approval of the Board of the Definitive Plan of the subdivision may be rescinded. (9/71,11/86)

- (o) No permit will be issued for building on any lot for which a plan is required until such plan has been recorded at the Registry of Deeds (Plan Book and page numbers are evidence of recording). In the case of registered land evidence must be presented to the Board that such plan has been duly recorded with the Massachusetts Land Court and approved. (9/71,6/78,11/86)
- (p) All lots established under the provisions of the Subdivision Code must be of sufficient depth to permit the erection of a building thereon. This requirement shall not apply to a lot which, after approval of the subdivision plan, will be conveyed to the owner of an adjoining lot and thence become an integral part of said adjoining lot. This intention of conveyance shall be noted on the Definitive Plan. (9/71,12/83,11/86)
- (q) Protection of natural features. Due regard shall be shown for all natural features such as large trees, water courses, scenic points, historic points and similar community assets which, if preserved, will add attractiveness and value to the subdivision.

To the fullest extent possible, existing trees shall be preserved by the developer. Special consideration shall be given to the layout of lots and the position of dwellings on the lots to insure that existing trees shall be preserved during the process of grading. Where there is a question as to the desirability of removing trees or a group of trees which serve to add interest and variety to the proposed subdivision, in order to allow for use of the land for a lot or lots, the Planning Board may impose such conditions and terms which in the opinion of the Board are necessary to insure compliance herewith. (6/78,12/83,11/86,3/88)

Section V. Administration:

- A. Waiver:
Strict compliance with the requirements of these rules and regulations may be waived,

when in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

B. Notice of Waiver:

Notice of waiver of any of these laws or regulations by the Board shall be made in writing to the Board of Selectmen and to the Board of Appeals.

C. Reference:

For matters not covered by these rules and regulations, reference is made to Section 81K to 81GG inclusive of Chapter 41 of the General Laws. (12/55, 9/71, 6/78)

Elizabeth Sturdy

From: Emily Beebe
Sent: Thursday, August 4, 2022 1:57 PM
To: Barbara Carboni; Elizabeth Sturdy
Subject: 2 Moses Way- condominium conversion
Attachments: step 1 and 2 conversion forms and RS signoff.pdf

Regarding the condominium application pending before the TZBA:

This property is located at the corner of Moses Way and South Highland Road in an area that is outside the jurisdiction of the Conservation Commission.

It is developed as a multi-family property, with a main dwelling and 2 cottages.

The septic system at this location failed in 2018, and was upgraded in 2019.

The area of the property is 23,878 sf and it is located within the zone II of the municipal water supply wells; for both reasons, the Board of Health required the system upgrade to provide additional treatment for the removal of nitrate nitrogen.

The septic design plans were approved by the Truro Board of Health on December 18, 2018. The system is designed for 3-2 bedroom apts and 1- 450 sf office (design flow = 694 gpd). The new septic system was installed and certified in February 2019.

This location was permitted for 3 units of cottage rental by the Board of Health 1999 thru 2006, and it operated under a cabins/motels permit. It was listed as operating annually, which likely means year-round, as that is the use I have observed within the past 3 years. [The use/permitting may pre-date 1999, I did not find the electronic records before 1999.] It was approved for condominium conversion by the Board of Health in October 2010 .

They have completed both step 1 and 2 year-round conversion paperwork; step 2 inspection found considerable violations, some of which have been corrected, and only to the unit which is currently occupied. Our office has signed off on the application, with the understanding that substantial renovations are proposed which will address housing code issues observed during the inspections on the property as noted.

Thank you very much for the opportunity to comment.

-Emily Beebe

Emily Beebe, RS
Truro Health & Conservation Agent
24 Town Hall Road
Truro, MA 02666

Robin B. Reid
Mediator
Attorney at Law

Mailing address: Post Office Box 1713
Provincetown, Massachusetts 02657

Telephone: (508) 487-7445
E-mail: Robin@RobinBReidEsq.com

July 21, 2022

Barbara Carboni
Town Planner
bcarboni@truro-ma.gov

Liz Sturdy
Planning Department Administrator
esturdy@truro-ma.gov

Town of Truro
Truro Town Hall

BY HAND

RE: 2 Moses Way

Special Permit Application

Dear Barbara and Liz:

Enclosed/attached please find an application to convert the former 3 unit cottage colony located at 2 Moses Way into a 3 unit year round condominium.

Enclosed please find the application and 9 copies. Specifically:

- i. the ZBA Application for a Hearing;
- ii. full scale copies of plans for the proposed condominium; and
- iii. a copy of the deed for 2 Moses Way.

Enclosed also please find a check for the \$150 filing fee.

Barbara Carboni
Liz Sturdy
Town of Truro

Re: 2 Moses Way
page 2 of 2

Please schedule the hearing on this application for the Zoning Board of Appeals meeting of August 22, 2022.

I have today submitted a Request for the Certified Abutters List to the Assessors Office.

And Barbara, would you be so kind as to add some notes to the application file, with respect to the pre-application inspection results, and the applicant's willingness to accept a condition in the Special Permit requiring compliance with building, health and safety codes through the planned renovations.

Thank you for your consideration in this matter. Please do not hesitate to call or email if you have any questions.

Yours truly,



Robin B. Reid, Esq.

cc. Lyn Plummer



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 21, 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)* _____ 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 40.3 of the Truro Zoning Bylaw concerning *(describe)* to convert a former 3 unit cottage colony to a 3 unit year round condominium

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 2 Moses Way Map(s) and Parcel(s) 40-14-0

Registry of Deeds title reference: Book 21691, Page 299, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name George M Shimko

Applicant's Legal Mailing Address POB 5118, Palm Springs, CA 92263

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

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 _____

Representative's Name and Address Robin B. Reid, Esq.

Representative's Phone(s), Fax and Email 508 487 7445; robin@RobinBReidEsq.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).

• 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)

Robin B. Reid, Esq.

George M. Shimko

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

Assessors Office Certified Abutters List Request Form



DATE: July 21, 2022

NAME OF APPLICANT: George M. Shimko

NAME OF AGENT (if any): Robin B. Reid, Esq.

MAILING ADDRESS: POB 1713, Provincetown, MA 02657

CONTACT: HOME/CELL _____ EMAIL robin@RobinBREidEsq.com

PROPERTY LOCATION: 2 Moses Way
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 40 PARCEL 14 EXT. 0
(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 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 | |
| <input type="checkbox"/> Other _____ | | |
- (Please Specify) (Fee: Inquire with Assessors)

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

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 7/22/2022 Date completed: 7/22/2022
List completed by: [Signature] Date paid: 7/22/2022 Cash/Check Check # 196

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: July 22, 2022

To: Robin B. Reid, Esq., Agent for George M. Shimko

From: Assessors Department

Certified Abutters List: 2 Moses Way (Map 40, Parcel 14)

ZBA/Variance

Attached is a combined list of abutters for the property located at 2 Moses Way.

The current owner is George M. Shimko.

The names and addresses of the abutters are as of July 15, 2022 according to the most recent documents received from the Barnstable County Registry of Deeds.

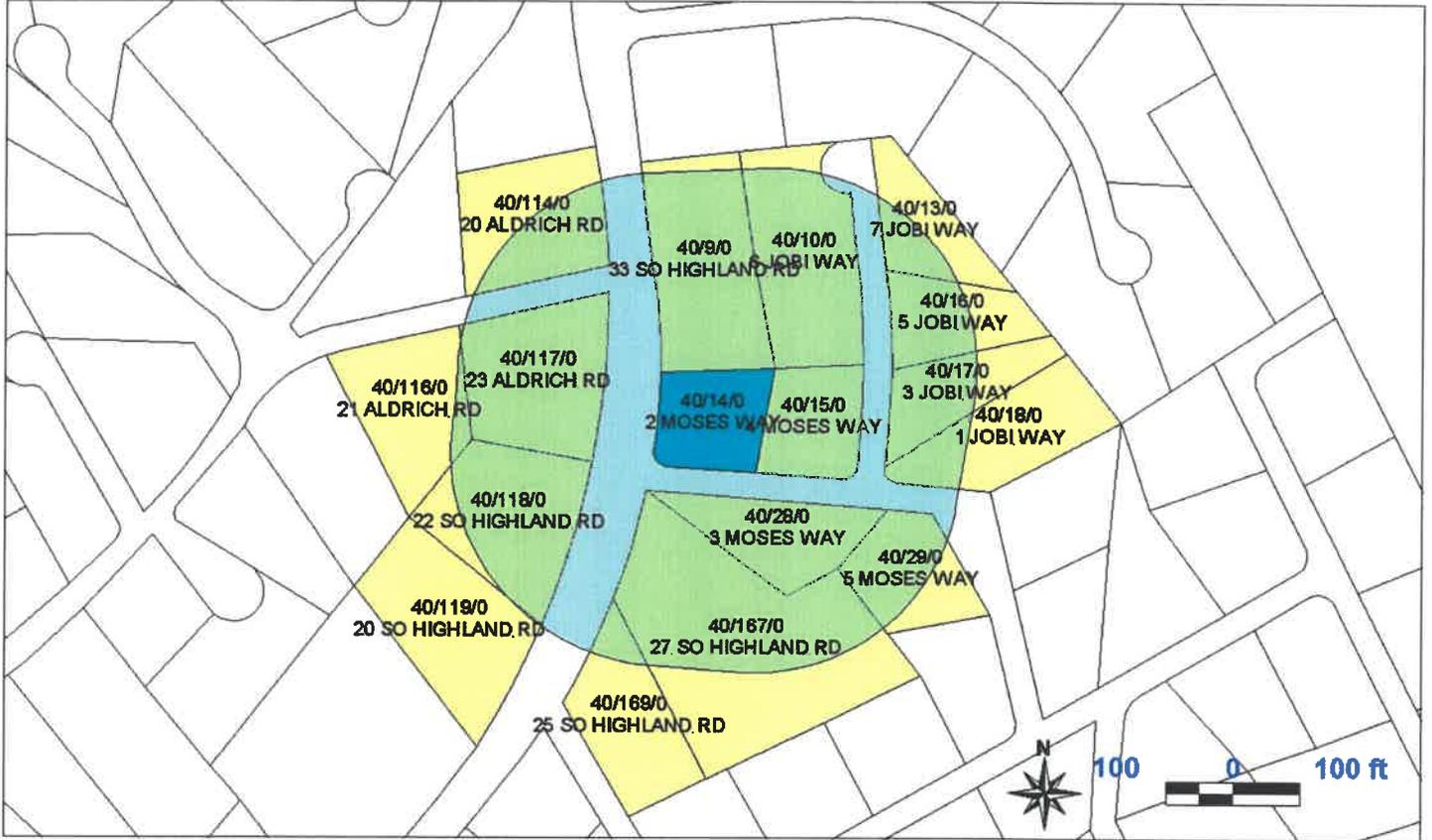
Certified by:

Olga Farrell
Assessing Clerk

2 Moses Way
 Map 40, Parcel 14
 ZBA/Special Permit

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

Abutters List Within 300 feet of Parcel 40/14/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
1435	40-9-0-R	THOMAS ROSENKAMPFF 2020 LIV TR KATHLEEN ROSENKAMPFF 2020 LIV	33 SO HIGHLAND RD	PO BOX 12	NO TRURO	MA	02652
1436	40-10-0-R	GOSHEN EDWARD JAMES & IRENE	6 JOBI WAY	PO BOX 616	NO TRURO	MA	02652
1438	40-13-0-R	MOTTA CAMILLE A & C/O CAMILLE MOTTA REVOCABLE TR	7 JOBI WAY	23 HALEY RD	MARBLEHEAD	MA	01945
1439	40-14-0-R	SHIMKO GEORGE M	2 MOSES WAY	PO BOX 5118	PALM SPRINGS	CA	92263
1440	40-15-0-R	DELGIZZI DANIEL R & DAVID J	4 MOSES WAY	3 BITTERSWEET LN	WESTON	MA	02493
1441	40-16-0-R	GROZIER JOEL L & LILLIAN A	5 JOBI WAY	PO BOX 408	NO TRURO	MA	02652-0408
1442	40-17-0-R	SAHAKIAN MICHAEL R	3 JOBI WAY	1280 BEAR ISLAND DRIVE	WEST PALM BEACH	FL	33409
1443	40-18-0-R	GOLDEN ERIN M	1 JOBI WAY	PO BOX 997	PROVINCETOWN	MA	02657
1453	40-28-0-R	SMITH WILLIAM C & KELLI L	3 MOSES WAY	PO BOX 739	NO TRURO	MA	02652-0739
1454	40-29-0-R	COUTU DEVIN C/O COUTU REVOCABLE TRUST	5 MOSES WAY	PO BOX 496	NO TRURO	MA	02652
1534	40-114-0-R	BERRY KAREN R & BARRETT CLARE ANGELA	20 ALDRICH RD	1 ROCK CREEK WOODS DRIVE	LAMBERTVILLE	NJ	08530
1536	40-116-0-R	GAVENDA LAURIE & HESS KAREN K	21 ALDRICH RD	70 BOSTON ST #305	SALEM	MA	01970
1537	40-117-0-R	HALE BRIAN R & MARIA	23 ALDRICH RD	270 HARDCRABBLE RD	NORTH SALEM	NY	10560
1538	40-118-0-R	DUARTE VINCENT A	22 SO HIGHLAND RD	PO BOX 157	PROVINCETOWN	MA	02657-0157
1539	40-119-0-R	MOTTA TODD H & CAROL A	20 SO HIGHLAND RD	PO BOX 262	NO TRURO	MA	02652-0262

Handwritten signature
 7/22/2022

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
5947	40-167-0-E	TOWN OF TRURO	27 SO HIGHLAND RD	PO BOX 2030	TRURO	MA	02666-2030
6578	40-169-0-E	TOWN OF TRURO	25 SO HIGHLAND RD	PO BOX 2030	TRURO	MA	02666-2030

OW Repoloz

<p>40-9-0-R</p> <p>THOMAS ROSENKAMPPFF 2020 LIV TR KATHLEEN ROSENKAMPPFF 2020 LIV PO BOX 12 NO TRURO, MA 02652</p>	<p>40-10-0-R</p> <p>GOSHEN EDWARD JAMES & IRENE PO BOX 616 NO TRURO, MA 02652</p>	<p>40-13-0-R</p> <p>MOTTA CAMILLE A & C/O CAMILLE MOTTA REVOCABLE TR 23 HALEY RD MARBLEHEAD, MA 01945</p>
<p>40-14-0-R</p> <p>SHIMKO GEORGE M PO BOX 5118 PALM SPRINGS, CA 92263</p>	<p>40-15-0-R</p> <p>DELGIZZI DANIEL R & DAVID J 3 BITTERSWEET LN WESTON, MA 02493</p>	<p>40-16-0-R</p> <p>GROZIER JOEL L & LILLIAN A PO BOX 408 NO TRURO, MA 02652-0408</p>
<p>40-17-0-R</p> <p>SAHAKIAN MICHAEL R 1280 BEAR ISLAND DRIVE WEST PALM BEACH, FL 33409</p>	<p>40-18-0-R</p> <p>GOLDEN ERIN M PO BOX 997 PROVINCETOWN, MA 02657</p>	<p>40-28-0-R</p> <p>SMITH WILLIAM C & KELLI L PO BOX 739 NO TRURO, MA 02652-0739</p>
<p>40-29-0-R</p> <p>COUTU DEVIN C/O COUTU REVOCABLE TRUST PO BOX 496 NO TRURO, MA 02652</p>	<p>40-114-0-R</p> <p>BERRY KAREN R & BARRETT CLARE ANGELA 1 ROCK CREEK WOODS DRIVE LAMBERTVILLE, NJ 08530</p>	<p>40-116-0-R</p> <p>GAVENDA LAURIE & HESS KAREN K 70 BOSTON ST #305 SALEM, MA 01970</p>
<p>40-117-0-R</p> <p>HALE BRIAN R & MARIA 270 HARDCRABBLE RD NORTH SALEM, NY 10560</p>	<p>40-118-0-R</p> <p>DUARTE VINCENT A PO BOX 157 PROVINCETOWN, MA 02657-0157</p>	<p>40-119-0-R</p> <p>MOTTA TODD H & CAROL A PO BOX 262 NO TRURO, MA 02652-0262</p>
<p>40-167-0-E</p> <p>TOWN OF TRURO PO BOX 2030 TRURO, MA 02666-2030</p>	<p>40-169-0-E</p> <p>TOWN OF TRURO PO BOX 2030 TRURO, MA 02666-2030</p>	

FOR REGISTRY USE

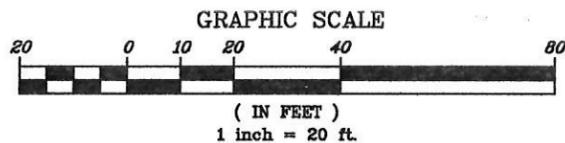
I CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS THE LOCATION AND DIMENSIONS OF THE BUILDING AS BUILT, AND FULLY LISTS THE UNITS CONTAINED THEREIN.

REGISTERED LAND SURVEYOR DATE

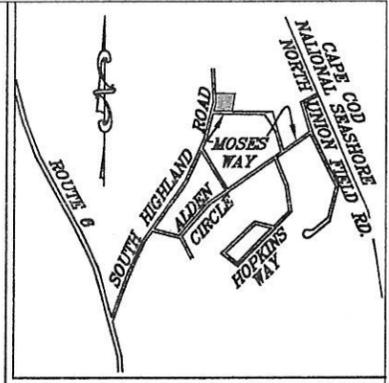
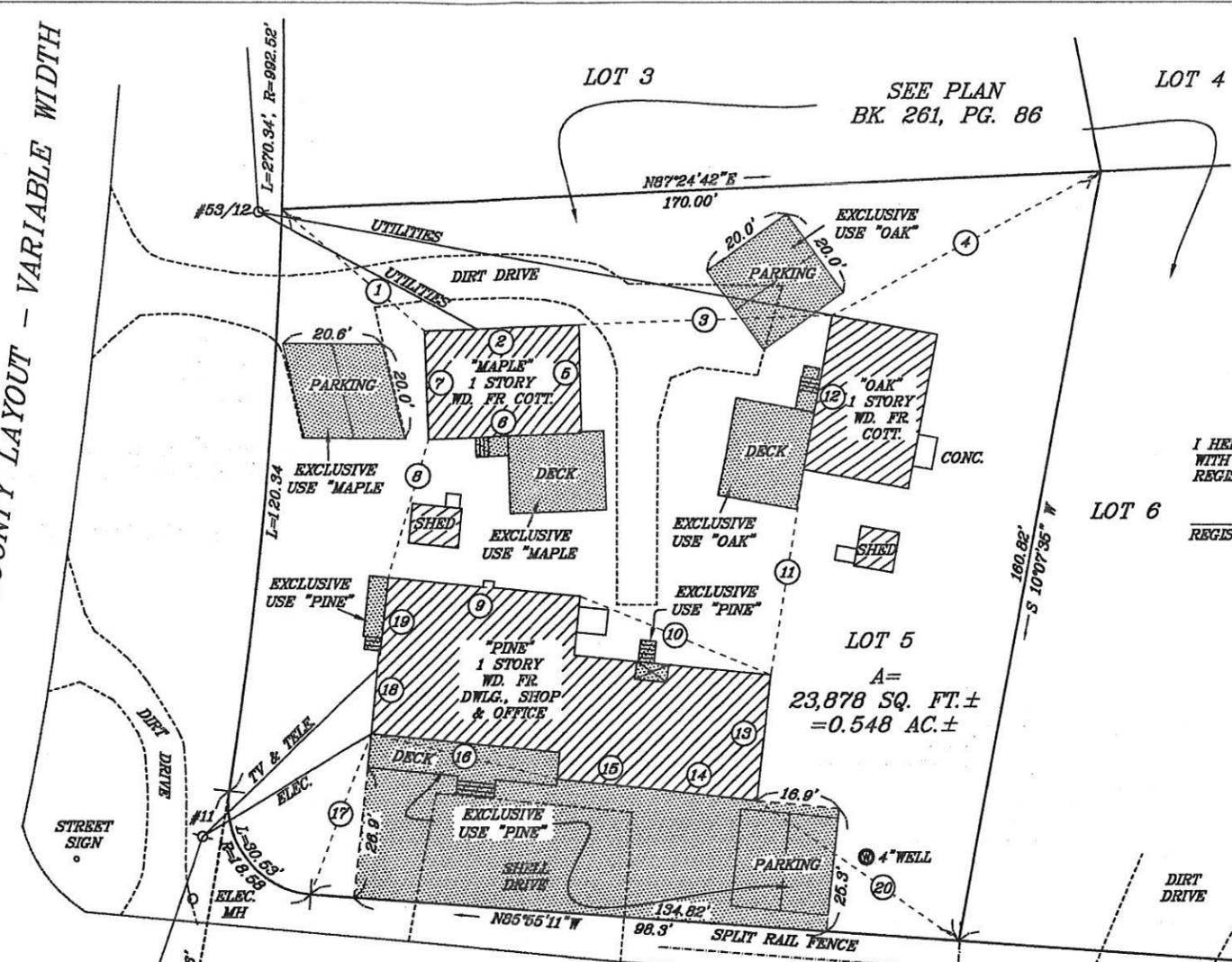
I HEREBY CERTIFY THAT THE PROPERTY LINES SHOWN ON THIS PLAN ARE THE LINES DIVIDING EXISTING OWNERSHIPS, AND THE LINES OF THE STREETS AND WAYS ARE THOSE OF PUBLIC OR PRIVATE STREETS OR WAYS ALREADY ESTABLISHED, AND THAT NO NEW LINES FOR THE DIVISION OF EXISTING OWNERSHIPS OR FOR NEW WAYS ARE SHOWN.

DATE REGISTERED LAND SURVEYOR

LINE	LENGTH	BEARING
1	38.79'	S49°50'26"E
2	32.40'	N87°53'22"E
3	52.36'	N87°56'20"E
4	62.89'	N61°54'28"E
5	22.27'	S01°47'30"E
6	32.09'	S87°45'40"W
7	22.34'	N02°35'09"W
8	29.89'	N18°00'00"E
9	40.27'	S84°31'11"E
10	42.79'	S87°36'26"E
11	42.85'	S08°38'34"W
12	32.25'	S10°23'45"W
13	25.97'	S05°44'18"W
14	20.25'	N83°38'25"W
15	21.43'	N84°11'39"W
16	39.85'	N76°26'41"W
17	35.15'	S20°25'06"W
18	16.28'	N04°44'48"E
19	16.10'	N08°21'15"E
20	50.94'	N55°36'23"W



SOUTH HIGHLAND ROAD - 1952 COUNTY LAYOUT - VARIABLE WIDTH



LOCUS IS SHOWN AS PARCEL 14 ON SHEET 40 OF THE TRURO ASSESSORS' ATLAS.

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS IN PREPARING THIS PLAN.

REGISTERED LAND SURVEYOR DATE

MOSES WAY - PRIVATE - VARIABLE WIDTH

WOODS CROSSING CONDOMINIUM
PLAN OF LAND IN TRURO
MADE FOR
GEORGE M. SHIMKO

SCALE: 1"=20'
SLADE ASSOCIATES, INC.,
10 PINE POINT ROAD,

JULY 31, 2009
REGISTERED LAND SURVEYORS
WELLFLEET, MA 02867

- SHEET 1 OF 3 -

PLAN #2009-72A

■ DENOTES DRILL HOLE IN CONCRETE MONUMENT FOUND UNLESS OTHERWISE INDICATED.

SEE PLAN BK. 174, PG. 145

SEE PLAN BK 261, PG. 86

LOT 5
A=
23,878 SQ. FT. ±
=0.548 AC. ±

I HEREBY CERTIFY THAT I HAVE CONFORMED WITH THE RULES AND REGULATIONS OF THE REGISTER OF DEEDS IN PREPARING THIS PLAN.

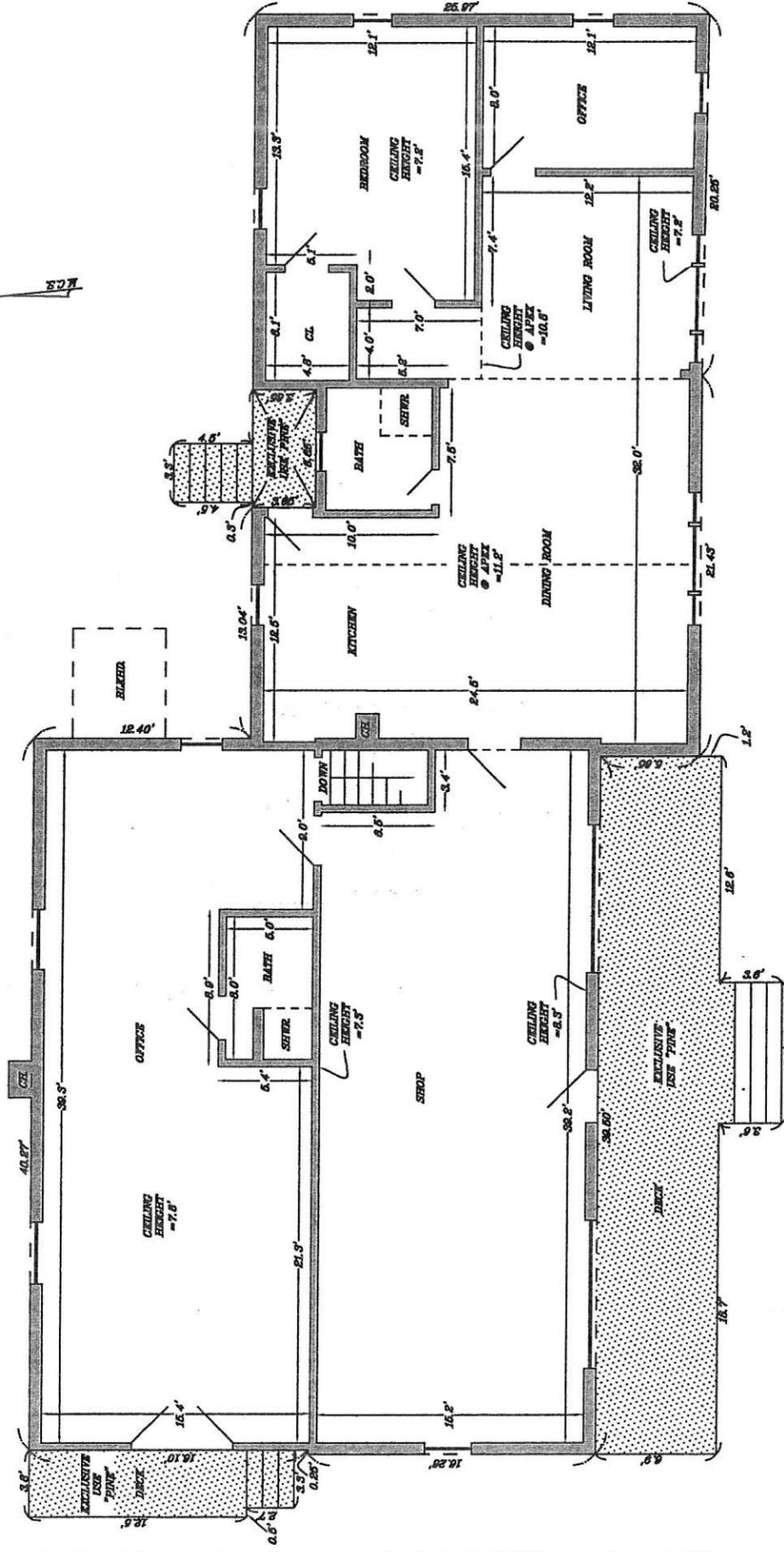
REGISTERED LAND SURVEYOR DATE _____

I CERTIFY THAT THIS PLAN FULLY AND ACCURATELY DEPICTS THE LAYOUT, LOCATION, UNIT NUMBER AND DIMENSIONS OF "PINE" IN "WOODS CROSSING CONDOMINIUM" AS BUILT.

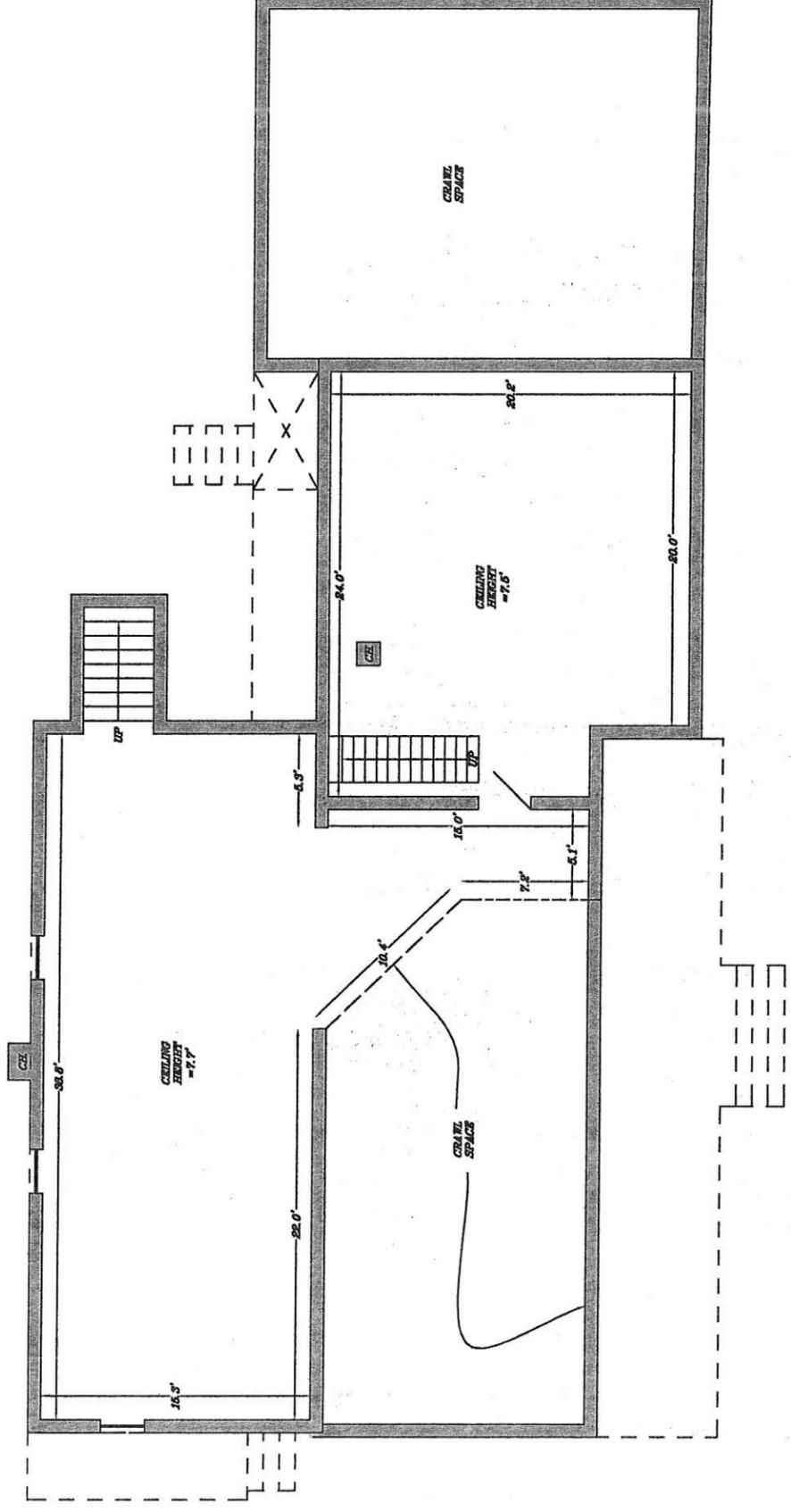
REGISTERED LAND SURVEYOR DATE _____



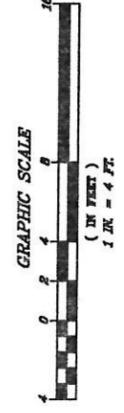
FOR REGISTERY USE



"PINE"
A=
2,335 SQ. FT. ±



"PINE"
BASEMENT
A=
1,352 SQ. FT. ±



WOODS CROSSING
CONDOMINIUMTM
PLAN OF LAND IN TRURO
MADE FOR

GEORGE M. SHIMKO

SCALE 1"=4'
SEALD ASSOCIATES, INC.
REGISTERED LAND SURVEYORS
10 PINE POINT ROAD
WELLFLEET, MA 02787

QUITCLAIM DEED

We, **STEPHEN O. LOCKE a/k/a STEPHEN H. LOCKE** of 5 Pamela Way, East Harwich, MA 02645 and **GARY L. LOCKE** of 29 South Highland Road, Truro, MA 02666, as Tenants in Common

For the full consideration of **SIX HUNDRED THOUSAND and no/100 (\$600,000.00) DOLLARS**, paid

grant to **GEORGE M. SHIMKO**, as an Individual, of 598 Grenfall Road, P.O. Box 5118, Palm Springs, CA 92263

WITH QUITCLAIM COVENANTS

A parcel of land in Truro, Barnstable County, Massachusetts in that part of Truro known as North Truro and shown as Lot #5 on plan hereinafter mentioned together with all buildings thereon and bounded and described as follows:

- NORTHERLY By Lot #3 as shown on said plan one hundred and seventy (170) feet;
- EASTERLY By Lot #6 as shown on said plan one hundred sixty and 82/100 (160.82) feet;
- SOUTHERLY By Moses Way, a private way 40 feet wide, one hundred thirty-four and 815/100 (134.815) feet;
- SOUTHWESTERLY By said Moses Way an arc distance of thirty and 54/100 (30.54) feet; and
- WESTERLY By South Highland Road, a Town Way, an arc distance of one hundred twenty and 34/100 (120.34) feet.

Containing .548 acre, more or less, and shown as Lot #5 on plan entitled "Jobi Hollow Subdivision plan of Land in North Truro made for Joseph A. Colliano and Willis C. Hastings, Scale 1 in. = 40 ft. June 1972, W. G. Slade, Surveyor Truro and Main Street, Wellfleet, Mass. 02667." recorded Barnstable Deeds Plan Book 261 Page 86.

Together with the use of all roads and ways as shown on said plan for all purposes for which roads and rights of way are commonly used in the Town of Truro.

Being a portion of premises conveyed by Richard H. Woodward to Joseph A. Colliano et al., dated April 17, 1972 and recorded Barnstable Deeds Book 1634, Page 242.

For Grantors' Title see the deed of Stephen H. Locke et al Executors dated May 13, 2005, recorded with the Barnstable County Registry of Deeds in Book 19844, Page 308. See also the deed of Joseph A. Colliano et al dated January 3, 1975, recorded with said Registry in Book 2140, Page 206. See also the Death Certificate for Levon Edmund Locke recorded with said Registry in Book 12555, Page 130, and the Estate of Elizabeth H. Locke, Barnstable Probate No. 03P1560EP-1.

Property Address: 2 Moses Way
Truro, MA 02666

WITNESS our hands and seals this *11th* day of *January*, 2007.

MASSACHUSETTS STATE EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 01-12-2007 @ 11:33am
Ct1#: 644 Doc#: 2502
Fee: \$2,052.00 Cons: \$600,000.00

Stephen O. Locke

STEPHEN O. LOCKE
a/k/a STEPHEN H. LOCKE

BARNSTABLE COUNTY EXCISE TAX
BARNSTABLE COUNTY REGISTRY OF DEEDS
Date: 01-12-2007 @ 11:33am
Ct1#: 644 Doc#: 2502
Fee: \$1,368.00 Cons: \$600,000.00

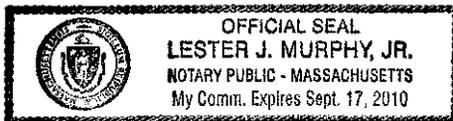
Gary L. Locke

GARY L. LOCKE

COMMONWEALTH OF MASSACHUSETTS

BARNSTABLE, ss.

On this *11th* day of *January*, 2007, before me, the undersigned notary public, personally appeared **STEPHEN O. LOCKE a/k/a STEPHEN H. LOCKE and GARY L. LOCKE**, proved to me through satisfactory evidence of identification, which were *personal knowledge*, to be the persons whose names are signed on the preceding or attached document; and acknowledged to me that they signed it voluntarily for its started purposes.



Lester J. Murphy, Jr.
Lester J. Murphy, Jr., Notary Public

My commission expires: September 17, 2010

C:\clients\Locke, Stephen\Quitclaim_Deed



TOWN OF TRURO

ZONING BOARD OF APPEALS

Meeting Minutes

June 27, 2022 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING

Members Present (Quorum): Art Hultin (Chair); Chris Lucy (Vice Chair); Darrell Shedd; Virginia Frazier (Alt.); Curtis Hartman (Alt.)

Members Absent: Heidi Townsend

Other Participants: Barbara Carboni – Town Planner/Land Use Counsel; Liz Sturdy – Planning Department Administrator; Select Board Liaison John Dundas; Ben Zehnder (Attorney for Thomas and Kathleen Dennis – Applicants); Ian Henchy (Attorney representing Ms. Clyde Watson – Plaintiff); Clyde Watson (Plaintiff); Ben Zehnder (Attorney for Benoit Allehaut and Elizabeth Allehaut – Applicants); Jeffrey Katz (Architect for Benoit Allehaut and Elizabeth Allehaut – Applicants); Shane O’Brien (Architect for Benoit Allehaut and Elizabeth Allehaut – Applicants); Ben Zehnder (Attorney for Rachel Kalin – Trustee/Applicant); Ben Zehnder (Attorney for Douglas Ambrose – Applicant); Michelle Jaffe and Barbara Grasso (Applicants); Susan J. Goldstein (Applicant); Ben Zehnder (Attorney for Susan J. Goldstein and Jonathan A. Curtis – Applicants); Sam Basta (Leblanc Jones Landscape Architects and Representative for Susan J. Goldstein and Jonathan A. Curtis – Applicants)

Remote meeting convened at 5:32 pm, Monday, June 27, 2022, 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. Town Planner/Land Use Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Chair Hultin introduced the Members.

Public Comment Period

No public comments were made.

Public Hearings (Continued)

2022-005/ZBA (SP) – Benoit Allehaut and Elizabeth Allehaut for property located at 40 South Pamet Road (Atlas Map 51, Parcel 40, Registry of Deeds title reference: Book 33897, Page 73). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7.A of the Truro Zoning Bylaw for alteration and addition to existing dwelling, and relocation and renovation of shed on nonconforming lot (lot area) in the Seashore District.

Attorney Zehnder updated the Members on the project. Members and the Applicants’ representatives discussed certain aspects of the project to include the reconfiguration of a dormer, the removal of a screen porch, and the Planning Board’s approval of the Site Plan Review.

Mr. Richard Larkin, an Abutter to the property, commented that he had not received an Abutter's notice. Town Planner/Land Use Counsel Carboni responded that she will investigate his situation but added that this was a continuance of a matter that started several months ago.

Mr. Larkin and Mr. Chuck Steinman, another member of the public, asked a series of questions regarding the project which were answered by the Applicants' representatives.

When asked by Vice Chair Lucy, Attorney Zehnder noted that he would be supportive of a continuance in this matter until July 25, 2022. Attorney Zehnder added that he would like to receive any other questions or concerns prior to next month's hearing so the Applicant may respond ahead of the hearing.

Member Shedd made a motion to continue the matter of 2022-005/ZBA (SP) until July 25, 2022.

Member Hartman seconded the motion.

So voted, 5-0, motion carries.

2022-006/ZBA (SP's) – Outer Shore Nominee Trust, Rachel Kalin, Trustee for property located at 17 Coast Guard Road (Atlas Map 34, Parcel 3, Registry of Deeds title reference: Book 34387, Page 1). Applicant seeks: (1) a Special Permit under M.G.L. Ch. 40A §6 and §30.3.(A)2 of the Truro Zoning Bylaw to exceed total Gross Floor Area limit in the Seashore District; and (2) a Special Permit under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw to demolish 5 of 6 pre-existing, non-conforming cottages; construct new single-family dwelling; convert nonconforming cottage into accessory pool structure in the Seashore District.

Town Planner/Land Use Counsel Carboni said that the Applicant's attorney had requested a continuance so the Applicant could consider options to modify the project based upon the Planning Board's disinterest in what had been proposed by the Applicant.

Chair Hultin made a motion to continue the matter of 2022-006/ZBA (SP's) until July 25, 2022.

Member Frazier seconded the motion.

So voted, 5-0, motion carries.

2022-007/ZBA (Appeal) – Clyde Watson for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #IC, Plan #16182-E and Land Ct. Lot #ID, Plan #16182-F). The Applicant is aggrieved by the grant of a building permit, #22-105 dated March 8, 2022, to relocate a structure from 133 South Pamet Road onto 127 South Pamet Road.

Attorney Henchy stated that this was a joint request for a continuance by Ms. Watson and Attorney Zehnder (who was not present yet for the hearing) for this matter and the matter of **2022-010/ZBA (Appeal)** until July 25, 2022, as both matters are tied together. Vice Chair Lucy recused himself from both matters.

Chair Hultin made a motion continue the matter of 2022-007/ZBA (Appeal) and 2022-010/ZBA (Appeal) until July 25, 2022.

Member Frazier seconded the motion.

So voted, 4-0, motion carries.

2022-008/ZBA (SP/VAR) – Douglas Ambrose for property located at 49 Fisher Road (Atlas Map 53, Parcel 24, Registry of Deeds title reference: Book 21922/32678, Page 177/75). Applicant seeks a Special

Permit under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw concerning demolition and reconstruction of dwelling on pre-existing, non-conforming lot (minimum lot size). Applicant also seeks a Variance under M.G.L. Ch. 40A, §10 and §50.I(A) of the Truro Zoning Bylaw for minimum side yard setback distances to locate a replacement dwelling 18.1 feet from easterly property line, where 25 ft. are required.

Town Planner/Land Use Counsel Carboni stated that the Applicant's attorney had requested a continuance until July 25, 2022, so the Applicant may consider whatever relief may be needed in this matter.

Chair Hultin made a motion to continue the matter of 2022-008/ZBA (SP/VAR) until July 25, 2022.

Member Shedd seconded the motion.

So voted, 5-0, motion carries.

2022-009/ZBA (SP) – Michelle Jaffe for property located at 9A Francis Road (Atlas Map 36, Parcel 191, Registry of Deeds title reference: Book 41209, Page 315). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7 of the Truro Zoning Bylaw to increase existing nonconformity (side setback) for construction of a deck on an existing dwelling within 1.8 feet of the lot line, where 25 feet are required.

Ms. Jaffe provided an update to the Members regarding her project. There was a brief discussion regarding the issued order of conditions by the Conservation Commission for the project. There was no opposition to the project.

Member Shedd made a motion to approve the special permit and to grant the withdrawal of the variance request for 2022-004/ZBA.

Member Hartman seconded the motion.

So voted, 5-0, motion carries.

Public Hearings

2022-010/ZBA (Appeal) – Thomas P. Dennis, Jr. and Kathleen C. Dennis, Individually and as Trustees for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #IC, Plan #16182-E and Land Ct. Lot #ID, Plan #16182- F) and 133 South Pamet Road (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). The Applicant is aggrieved by order or decision of the Building Commissioner on April 5, 2022, revoking a building permit issued March 8, 2022. Vice Chair Lucy recused himself from this matter as well as **2022-007/ZBA (Appeal)**.

Chair Hultin made a motion continue the matter of 2022-007/ZBA (Appeal) and 2022-010/ZBA (Appeal) until July 25, 2022.

Member Frazier seconded the motion.

So voted, 4-0, motion carries.

2022-011/ZBA (SP) – Susan J. Goldstein and Jonathan A. Curtis for property located at 40 Corn Hill Road (Atlas Map 45, Parcel 118, Registry of Deeds title reference: Book 33478, Page 176). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7 and §50.2.B.2 of the Truro Zoning Bylaw to exceed Gross Floor Area limit to renovate a garage to create a guest house/studio in the Residential District.

Mr. Basta presented to the Members. Members discussed the project with Ms. Goldstein and Mr. Basta regarding habitable space, gross floor area, and a kitchen (later clarified as a kitchenette without a stove).

Several members of the public, Mr. Chuck Steinman, and Ms. Amy Wolff, commented in support for the project.

Member Hartman made a motion to approve the matter of 2022-011/ZBA (SP) along with the included findings.

Chair Hultin seconded the motion.

So voted, 5-0, motion carries.

Member Hartman made a motion to adjourn at 7:36 pm.

Member Shedd seconded the motion.

So voted, 5-0, motion carries.

Respectfully submitted,

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

Alexander O. Powers
Board/Committee/Commission Support Staff