

Truro Zoning Board of Appeals Agenda

Remote Zoom Meeting

Monday, August 19, 2024 – 5:30 pm

www.truro-ma.gov

Join the meeting from your computer, tablet or smartphone:

<https://us02web.zoom.us/j/89540971592>

Dial in: +1-646-931-3860

Meeting ID: 895 4097 1592

Passcode: 810536

Open Meeting

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

Citizens can join the meeting to listen and provide public comment by entering the meeting link; clicking on the agenda's highlighted link; clicking on the meeting date in the Event Calendar; or by calling in toll free. Citizens will be muted upon entering the meeting until the public comment portion of the hearing. If you are joining the meeting while watching the television broadcast/livestream, 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 comment via postal mail or by emailing Liz Sturdy, Planning Department Assistant, at esturdy@truro-ma.gov, one week prior to the meeting; or may instead speak during the Public Comment portion of the hearing.

Public Comment Period

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

Minutes – None

Board Action/Review

- ♦ 2023-005/ZBA 590 Shore Road – Special Permit Extension Request

Public Hearing – New

Withdrawn: 2024-007/ZBA – Lodi-Gruber Family Trust, for property located at 2 Meetinghouse Road (Atlas Map 50, Parcel 4, Unit 5) in the Residential District. Applicant seeks to amend the Special Permit Decision of December 10, 2009.

2024-006/ZBA – Christine M. Murphy, for property located at 9 Bay View Road (Atlas Map 39, Parcel 21). Christine M. Murphy appeals building permits issued by the Building Commissioner on June 10, 2024 for a project located at 9 Bay View Road in the Residential District.

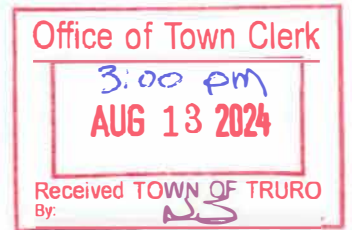
2024-008/ZBA – Steven J. Garvan and Caren L. Garvan, for property located at 274 Route 6 (Atlas Map 46, Parcel 386) in the Residential District. Applicant seeks to modify condition of special permit dated March 28, 2011 relating to in-law apartment.

Board Discussion

- ♦ Hybrid Meetings

Next Meetings Monday, September 23, 2024 at 5:30 p.m.

Adjourn



STAFF MEMORANDUM

To: Truro Zoning Board of Appeals

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: August 15, 2024

Re: Meeting August 19, 2024

Note- this memo does not include discussion of Case 2024-006/ZBA, Christine Murphy for property located at 9 Bay Road. I will provide this in a supplemental memo over the weekend.

2023-005/ZBA Ross Zachs for property located at 590 Shore Road – Special Permit Extension Request

The permittee in this case is requesting an extension of the special permit granted on August 9, 2023, which, under the Bylaw in effect at the time, expired after one year. (The Bylaw has since been amended to provide for a two-year term). Rather than requiring the permittee to undertake the full hearing process for amending the special permit (with attendant expense to the applicant and administrative cost to the Town), the Planning Department believes that the Board may grant this extension by Board action only, and recommended that the applicant apply for the same. A motion may be made to grant an extension of the special permit granted with respect to the property through August 9, 2025.

*

2024-008/ZBA (SP) Steven Garvan & Caren L. Garvan for property located at 274 Route 6 (Map 46, Parcel 386). Applicant seeks modification of conditions contained in a special permit issued in 2011 authorizing a kitchen in an “in-law apartment” on parcel in the Residential District.

Existing Conditions

In 2011 a residence was constructed on this property; it included living space over the attached garage. By decision dated April 7, 2011, the Board granted a special permit to allow a kitchen to be installed in this “in law apartment”:

“Move to grant to Steven and Caren Garvan a Special Permit (w/ref. To Sec. 40.1.C of the Zoning Bylaw¹) to put a kitchen in the ‘in law’ apartment, as per plans filed with the

¹ It appears from the reference to Section 40.1.C that this special permit was granted under Section 40.1 of the Zoning Bylaw, Duplex Houses and Apartments, in effect at the time the permit issued. This section provided:

Building Commissioner and ZBA. Conditions: 1) Use shall be limited to family members and guests; 2) Special permit shall expire upon transfer of ownership of the property; 3) The property shall not be used for a seasonal rental.”

Requested modifications to Special Permit

The applicant seeks to modify the first two conditions from the permit.

Existing Condition 1: Use shall be limited to family members and guests

Proposed Condition 1: Use shall be for family members, guests and potential renters

The applicant requests this change so that the apartment “can officially be used by renters in addition to guests and family members.” See Narrative (“Modification to Decision #2, 2nd Motion”).

At the time the apartment was approved by special permit in 2011, the Duplex Bylaw required that “the applicant shall demonstrate that the new construction or conversion is essential to provide needed housing.” See 40.1.D.3 of 2008 Zoning Bylaw. The narrative states that “[a]lthough our original intention was for our in-laws to use the apartment in their older age so they could be closer to us, they both died before ever getting the opportunity to use it.” This suggests the intended use of the apartment by the in-laws was presented to the Board to demonstrate that the apartment was “essential to provide needed housing” in compliance with Section 40.1.D.3. Conversely, use of the apartment by “potential renters” was a use not envisioned by the Board when it issued the permit, and the Board may be presumed to have included Condition 1 in the special permit so as to meet then-existing Bylaw requirements.

It would be advantageous to the applicant to expand use of the apartment to include potential renters, but on its own, that is not sufficient grounds to amend the condition. In Killorin v. Zoning Bd. of Appeals of Andover, 80 Mass.App. Ct. 655 (2011), the owner of an apartment building approved by special permit sought to remove a permit condition prohibiting further subdivision of the lot on which the building was constructed. The request was denied. In affirming, the Appeals Court stated

“it would be anomalous and unjust if the trustees were permitted to retain the benefit of the special permit that their predecessors received in 1940, that is, permission to maintain an apartment building in a single-family historic district, while discarding the

“C. Conversion. Conversion of single family dwellings in any zoning district except the Seashore District and the Water Resource Protection District *may be approved by special permit from the Board of Appeals*. Lots shall meet current minimum lot area requirements; no more than one apartment in addition to the primary dwelling unit may be created from any one single family dwelling; the floor area of the secondary dwelling unit shall not exceed 50% of that of the primary dwelling unit; the floor area of the secondary dwelling unit shall not exceed 600 sq ft.”

(emphasis added). The Duplex Bylaw was subsequently removed from permitted uses in the Zoning Bylaw. A new Duplex Bylaw was adopted at ATM 2024.

accompanying conditions the board has deemed necessary for the public interest or benefit of the town.”

Killorin v. Zoning Bd. of Appeals of Andover, 80 Mass.App.Ct.at 660. The Board may conclude that allowing the owners in this case to retain the benefit of the special permit they received – that is, permission to construct and use an apartment – while discarding the condition that restricts the apartment’s use to family members and guests - is likewise anomalous, unjust, or otherwise undesirable.

To the extent the Board wishes to consider a way to grant the requested relief – to amend Condition 1 to allow for use by potential renters – the Board could permissibly consider limitations on that use that would reflect the original basis of the special permit (that the apartment was “essential to provide needed housing), as well as be consistent with the current ADU Bylaw or Duplex Bylaw. Under the ADU Bylaw, either the principal dwelling or the ADU must be rented on a 12-month basis. See Section 40.2.C.6. The Duplex Bylaw requires that one of the two units be rented on a 12-month basis, and the second unit either owner-occupied or rented on a 12-month basis. See Section 40.1.E. It would be reasonable for the Board to amend the special permit to allow for use by potential renters, limiting such use to rentals on a 12-month basis.

Existing Condition 2: Special Permit shall expire upon transfer of ownership of the property.

Proposed Condition 2: removal of this condition

The applicant requests removal of Condition 2 on the grounds that this condition lessens the value of the home in that a potential buyer would not be able to rent the apartment without ZBA approval. Further grounds stated are that the applicant’s daughter will likely inherit the property and the applicant would like the “right to rent” to run with the property. See narrative.

The fact that expiration of the special permit may lessen the value of the home is not, by itself, sufficient grounds to remove the condition. There are many ways in which a regulatory board may condition a grant of discretionary relief (such as a special permit) such that market value is not maximized.

As with Condition 1 above, to the extent the Board wishes to consider a way to grant the requested relief – to allow for continued use of the apartment following any transfer of ownership – the Board could permissibly consider limitations on that use that would reflect the original basis of the special permit (that the apartment was “essential to provide needed housing), as well as be consistent with the current ADU Bylaw or Duplex Bylaw. As with Condition 1 above, it would be reasonable for the Board to amend the special permit to allow for continued use of the apartment following any transfer of ownership, limiting such use to rentals on a 12-month basis.

SUPPLEMENTAL STAFF MEMORANDUM

To: Truro Zoning Board of Appeals

From: Barbara Carboni, Town Planner and Land Use Counsel

Date: August 17, 2024

Re: Meeting August 19, 2024

2024-006/ZBA Christine M. Murphy for property located at 9 Bay View Road. Appeal of building permits issued on June 10, 2024 for a project located at 9 Bay View Road in the Residential District.

Property and Project

The subject property contains 13,939 square feet and has 74.97 feet of frontage on Bay View Road. Three cottages are located on the property, constructed around 1900 according to the Assessor's records. According to building permit applications, Cottage A contains 610 square feet (576 per Assessor); Cottage B contains 336 square feet (340 per Assessor); and Cottage C contains 1,049 square feet (888 per Assessor). All three cottages are within the setback to the northern lot line with 7 Bay View Road. The lot area, frontage, and encroachments in the setback render the lot and structures nonconforming. The location of three single-family dwellings (as they have been treated by the Building Commissioner) on the lot is an additional nonconformity.

The building permit application for each cottage identifies (by checking a box) the structure as a 1 or 2-family home, and states that the project:

"consists of a Gut remodel & Repair, replace or add components of the structure to comply with current building Codes. Scope: Replace windows & doors in kind, exterior siding, replace interior wall surfaces, replace plumbing fixtures, replace electrical fixtures. New Foundations will be installed under existing Cottage with a matching foot print."

Building permits were issued for work on the three cottages on June 10, 2024. The permits were appealed by Christine Murphy, who owns abutting property at 7 Bay View Road.

Appeal

The appeal raises two arguments that the building permits were impermissibly issued. Both arguments are premised on the assertion that the three cottages are not single-family homes, as stated by the applicant, but rather a "Cottage or Cabin Colony." The Bylaw defines this use as:

"Cottage or Cabin Colonies, or Motor Courts. A group of three or more detached dwellings under one ownership located on a single lot, which are customarily rented to the transient public by the day, week, month or season. Each dwelling shall be limited to one and one-half stories in height."

The Building Commissioner treated the three structures as single-family dwellings for purposes of issuing the building permits. On appeal, the category of the structures/use is a question of fact for the Board.

1. Special Permit

The appeal argues that because the premises and buildings are a Cottage Colony, which is a nonconforming use in the Residential District, a special permit under Section 30.7 of the Zoning Bylaw is required prior to issuance of a building permit. Section 30.7.A (as well as G.L. c. 40A, s. 6) requires a special permit from the Board for alterations to nonconforming structures/uses. However, such special permits (and the requisite "not substantially more detrimental" finding) are not required under the Zoning Bylaw where the Building Commissioner finds that the proposed alterations will not increase the existing nonconformity with respect to a single or two-family home:

B. Repairs, alterations. If the Building Commissioner determines and finds that the proposed repair, reconstruction, alteration, or structural change of a pre-existing, nonconforming, single or two-family residential structure *will not increase the nature or extent of the nonconformity*, then the Building Commissioner may approve and issue a building permit for the proposed repair, reconstruction, alteration, or structural change."¹

Section 30.7.B (emphasis added). In this case, the Building Commissioner (treating the cottages as single-family dwellings) found that the proposed work on the three cottages does not increase

¹ This is consistent with case law under G.L. c. 40A, s. 6. In Bjorklund v. Zoning Bd. of Appeals of Norwell, 450 Mass. 357(2008), the Court listed a sampling of alterations to nonconforming premises that would *not* increase existing nonconformities and would therefore not require a trip to the Board of Appeals for a special permit:

"Examples of such improvements could include the addition of a dormer; the addition, or enclosure, of a porch or sunroom; the addition of a one-story garage for no more than two motor vehicles; the conversion of a one-story garage for one motor vehicle to a one-story garage for two motor vehicles; and the addition of small-scale, proportional storage structures, such as sheds used to store gardening and lawn equipment, or sheds used to house swimming pool heaters and equipment. Because of their small-scale nature, the improvements mentioned could not reasonably be found to increase the nonconforming nature of a structure, and we conclude, as matter of law, that they would not constitute intensifications."

Bjorklund, 450 Mass. at 363-363.

the nature or extent of the existing nonconformities, and therefore that no special permit is required. On appeal, this (whether existing nonconformities are increased) is also a question of fact for the Board, based on a comparison of the existing and proposed structures.

2. Site Plan Review

The appeal argues that because the premises and buildings are a Cottage Colony, Site Plan Review by the Planning Board is required under Bylaw Section 70.3, which provides in part:

"A. Commercial Site Plan Review is required for:

1. Any construction, alteration, expansion or modification of any properties, structures, and uses other than that of single or two-family residences and their accessory uses and structures."

Again, as the Building Commissioner found the cottages to be single-family structures, he found Site Plan Review under Section 70.3 inapplicable.

Determinations by Board

As may be evident by now, the first determination the Board must make is whether it agrees with the Building Commissioner that the three cottages are single-family homes, or with the appellant that the cottages are a Cottage Colony. There is an affidavit in the record from the owner of 11 Bay View Road stating that the cottages were, prior to 2020, rented by the week, month or season, which is consistent with the definition of a Cottage Colony. The owners of 9 Bay View may put evidence in the record at the hearing regarding use of the cottages since the time of their purchase 2020, and perhaps prior to their purchase.

If the Board finds that the premises are a Cottage Colony:

Depending upon the evidence, the Board may find that the premises and dwellings are a Cottage Colony. If the Board makes this finding, then Section 30.7.B is not applicable (it is applicable only to single and two-family dwellings), and the alterations proposed to the nonconforming structures/use do require a special permit under Section 30.7A. If the Board finds that the premises and dwellings are a Cottage Colony, then Commercial Site Plan Review is required under Section 70.3.A.

If the Board finds that the premises are Single-Family dwellings:

Depending upon the evidence, the Board may find that the premises are not currently, and were never used as a Cottage Colony. Or, the Board may find that *prior* use of the premises was consistent with the Bylaw definition of "Cottage or Cabin Colony," but that the *current* use is not, and is instead single-family use of three cottages. (As discussed further below, this finding has implications under Section 40.3 of the Bylaw, Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel).

If the Board finds that current use of the property is single-family use of three cottages, it must next determine whether the proposed alterations increase the preexisting nonconformities

of the lot and structure. These are: lot area, lot frontage, encroachment of the three cottages into the side setback, and the existing of three dwellings on the property. If the Board finds that the proposed alterations *do not* increase the preexisting nonconformities, then no special permit is required. If the Board finds that the proposed alterations *do* increase the preexisting nonconformities, then a special permit is required. If the Board finds that the current use of the property is as three single-family dwellings, then Commercial Site Plan Review is not required.

Conversion of Cottage or Cabin Colony, Motor Court, Motel or Hotel

Depending upon the evidence, the Board may find that the premises were previously used as a Cottage or Cabin Colony, but are currently being used as three separate single-family dwellings - that is, that the Cottage Colony use has lapsed and the *de facto* use of each cottage is now single-family. (As discussed above, that *de facto* use is the *only* circumstance under which building permits could issue without a special permit or Site Plan Review). However, under Section 40.3 of the Zoning Bylaw, a Cottage Colony use may not simply lapse into single-family or multi-family use; this is a conversion requiring a special permit from the Board:

"A. Purpose. The Board of Appeals may grant a special permit for the conversion of a cottage colony, cabin colony, motor court, motel, or hotel to single family or multi-family use under any type of ownership, provided that the provisions of this section are met."

Section 40.3.A. Conversion may be to seasonal or year-round use. The focus of the Board's review is the adequacy of infrastructure to serve the converted premises; the Board of Health is consulted.

Conclusion

Depending on the facts it finds with respect to prior and current use of the property, the Board may uphold the issuance of the building permits, or it may find that a special permit and Commercial Site Plan Review were required prior to issuance, and reverse the Building Commissioner.

If the Board finds that the property was previously a Cottage Colony, but that its current use of the property is as three single-family dwellings, it may uphold the issuance of the building permits based on this *de facto* use - that is, the Board is not precluded from upholding the Building Commissioner by the fact that the property has not yet undergone the conversion process to single-family use pursuant to Section 40.3, if such process is required.

August 2, 2024

Chris Lucy
Chair – Zoning Board of Appeals
Town of Truro, MA

RECEIVED AUG 14 2024
ADMINISTRATIVE OFFICE
TOWN OF TRURO

RE: Special Permit Extension Request - Case Reference No.: 2023-005/ZBA –
590 Shore Rd, North Truro

Dear Chairman Lucy,

We wanted to let you know that due to financial challenges, we are unable to start the renovation of the cottage at 590 Shore Road right away. We are asking that the special permit that was issued in August 2023 be extended. The initial special permit was only for one year. We plan on beginning construction in September of 2025. We request an extension of permissions for this project until this time.

Thank you for your Consideration

Kind regards,



Ross Zachs
590 Shore Road
N Truro, MA 02652
Phone: 860-841-8866



Zoning Board of Appeals

Town of Truro

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

DECISION OF THE ZONING BOARD OF APPEALS

Special Permits

Case Reference No.: 2023-005/ZBA

Atlas Map 5, Parcel 19

Address: 590 Shore Road

Title Reference: Barnstable County Registry of Deeds Book 27056, Page 62

Owners and Applicants: Big Monkey, LLC, Ross Zachs, Manager

Hearing Dates: June 26, 2023

Decision Date: June 26, 2023

Motion to grant a Special Permit under G.L. c. 40A, §6 and §30.7 of the
Truro Zoning Bylaw to demolish existing dwelling and construct new
dwelling on nonconforming lot in the Beach Point Limited Business

District:

Vote: 5-0

Sitting: Chris Lucy, Vice Chair; Darrell Shedd; Heidi Townsend; Nancy Medoff;
Dave Crocker

Board Vote at the June 26, 2023 Hearing:

Motion by M. Crocker; Second by M. Medoff. Vote was 5-0 in favor.

In Favor of the Motion: Chris Lucy, Vice Chair; Darrell Shedd; Heidi Townsend;
Nancy Medoff; Dave Crocker

Following duly posted and noticed Truro Zoning Board of Appeals hearing held on June 26, 2023,
the Board voted to grant the Special Permit.

The following submitted materials were considered by the Board:

- Cover Letter from Ilana Quirk, Esq. dated May 23, 2023
- Application for Hearing dated May 22, 2023
- Certified Abutters List
- Narrative and Requested Findings with Exhibits A-E
- "Proposed Site Plan, Big Monkey, LLC, 590 Shore Road, Truro, MA" prepared by Kane Land Surveyors, dated April 21, 2023, Scale 1" = 20'

Trudi Brazil

The Board also received:

- Email dated May 31, 2023 from the Truro Building Commissioner
- Order of Conditions dated March 27, 2023 from the Truro Conservation Agent

SUPPLEMENTAL:

- “Exterior Elevations: (B) Back Elevation; and (L) Left Side Elevation; Miller/Zachs Residence Remodel/Addition, 590 Shore Road, Truro, Maine” prepared by Brian J. Beaudette Architect, dated February 5, 2023, Scale 1/4” = 1’-0”, Sheet A-2.1
- “Exterior Elevations: (F) Front Elevation; and (R) Right Side Elevation; Miller/Zachs Residence Remodel/Addition, 590 Shore Road, Truro, Maine” prepared by Brian J. Beaudette Architect, dated February 5, 2023, Scale 1/4” = 1’-0”, Sheet A-2.2
- “Floor Plans: (1) First Floor Plan; and (2) Second Floor Plan; Miller/Zachs Residence Remodel/Addition, 590 Shore Road, Truro, Maine” prepared by Brian J. Beaudette Architect, dated April 11, 2022, Scale 1/4” = 1’-0”, Sheet A-1

This Special Permit Decision is based on the following findings of fact:

1. The lot at 590 Shore Road contains 30,000 square feet (nonconforming) with 80 feet of frontage (nonconforming). Two cottages are located on the lot (nonconforming use).
2. Assessor's records and other documents submitted by the applicant indicate that the existence of two dwellings on the property is lawfully conforming.
3. One cottage - the subject of this application ("front cottage") is 16.4 feet in height, located 3.9 feet from Shore Road (nonconforming setback). The other is 18.1 feet in height, located approximately 15 feet behind the first, closer to the shore. Both dwellings encroach on neighboring property to the west (nonconforming setback).
4. The combined gross floor area of the existing two cottages is 2,594 square feet.
5. The applicant proposes to demolish the front cottage and replace it with a two-story dwelling at the same nonconforming setback from Shore Road (3.9 feet), and at a conforming distance of 10 feet from the westerly lot line. The dwelling will be 26.2 feet in height (conforming).
6. The new dwelling will contain approximately 896 additional square feet of gross floor area than the existing front cottage. The combined gross floor area of the two dwellings will be 3,490 square feet.
7. No new nonconformities will be created.
8. A determination has been made that the proposed demolition is not subject to Historical Commission jurisdiction.

Special Permit under G.L. c. 40A, §6 and Zoning Bylaw §30.7 and §30.8 (alteration or extension of nonconforming structure/lot)

1. The lot is nonconforming as to area and front setback. The lot is also nonconforming due to existence of two dwelling units on the property. Alteration, extension, or reconstruction of a dwelling on a nonconforming lot increases the existing nonconformity and requires a special permit under G.L. c. 40A, s. 6. Bjorklund v. Zoning Board of Appeals of Norwell, 450 Mass. 357(2008).
2. The Board may grant a special permit under G.L. c. 40A, §6 if it finds that the proposed alternation and reconstruction “shall not be substantially more detrimental than the existing nonconforming [structure and] use to the neighborhood.”
3. Likewise, the Board may grant a special permit under §30.7.A if it finds that:
“the alteration or extension will not be substantially more detrimental to the neighborhood than the existing nonconforming use or structure and that the alternation or extension will exist in harmony with the general purpose and intent of this bylaw.”
4. In this case, the proposed dwelling is larger than the existing cottage, adding 896 square feet of gross floor area. However, no new nonconformities are created, and the new dwelling is not inconsistent with the neighborhood context.
5. Based on the above, the Board finds under G.L. c. 40A, §6 that that the proposed new dwelling will not be substantially more detrimental to the neighborhood than the existing nonconforming structure.
6. Likewise, the Board finds under §30.7 of the Zoning Bylaw that the proposed new dwelling will not be substantially more detrimental to the neighborhood than the existing nonconforming dwelling, and that the new dwelling will exist in harmony with the general purpose and intent of the Zoning Bylaw.

Conditions

This Special Permit is granted subject to the following conditions:

1. The use of the Property shall be in strict conformance with the Town of Truro Zoning Bylaw.
2. All construction on the Property, including materials, shall conform to the plans referenced herein. No additional construction is permitted unless authorized by amendment to this Decision, or deemed by the Building Commissioner to be de minimis. The applicant or agent shall consult with the Building Commissioner regarding any field changes for a determination as to whether the applicant must return to this Board and/or to the Planning Board to seek amendment of this Decision and/or the Planning Board’s Decision.
3. Construction and use shall conform to all conditions imposed in the Conservation Commission's order of conditions issued March 27, 2023.

4. All lighting on the property shall conform to Truro General Bylaw Chapter IV Section 6, Outdoor Lighting, and no lighting on the property shall impact neighboring property or the night sky.
5. Prior to issuance of a Certificate of Occupancy for the new dwelling, applicant shall submit to the Building Commissioner complete, stamped As-Built Plans for that structure confirming that the dimensions of the dwelling conform to this Decision. No Certificate of Occupancy shall issue until the Building Commissioner finds that the residential structure as built conforms to the requirements of this Decision.

This Special Permit shall lapse after one year if substantial use is not commenced with that time. See Zoning Bylaw §30.8.


Chris Lucy, Chair

8/9/23
Date

Received, Office of the Town Clerk:


Signature

8-9-2023
Date

I hereby certify that this decision was filed with the Office of the Town Clerk on 8-9-2023 and 20 (twenty) days have elapsed since the date of filing, and:

☒ No Appeal has been filed.

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


Signature

8-30-2023
Date

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

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

LAW OFFICES OF
WILLIAM C. HENCHY, LLC

165 CRANBERRY HIGHWAY
ROUTE 6A
ORLEANS, MA 02653

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www.henchylaw.com

MEMORANDUM

To: Truro Zoning Board of Appeals
From: William C. Henchy
RE: Appeal No. 2024/006-ZBA; Christine M.
Murphy Date: August 19, 2024

This office represents “Sea Siblings Three, LLC”, which is the owner of the property that is the subject of this Appeal, located at 9 Bay View Road, North Truro.

The LLC is a business entity that owns the premises on behalf of the Wharton / Lessin family, who have been residents of North Truro since 1981. The family have been careful custodians of this beautiful corner of the world. Naida Wharton and her late husband Bob bought “Four Winds” at 8 Bayview Path in 1981. As the family has grown from children to children with children, the family has acquired other properties in the neighborhood over the years to accommodate the next generation. Naida and Bob’s children acquired the subject property in 2020.

The family believes that they are custodians of this wonderful neighborhood and have refrained from the sometimes-ostentatious redevelopment of old Cape Cod homes that has characterized so much of the real estate business on the Cape in the recent decades.

One can look at Edward Hopper’s “Cottages in North Truro” and see the families’ properties in the painting, still retaining the architecture and scale that is so characteristic of the Cape in general and Pond Village in particular.

To that end, the family proposes to maintain the three homes on the 9 Bay Path property as modest, single-family homes. The challenged Building Permit seeks only to repair the buildings in place and to install a proper foundation on exactly the same footprint as existing.

Pursuant to his authority, the Building Inspector granted a Building Permit to replace the rotting cedar post and cinder block foundations with concrete foundations on the same footprint, to replace the exterior siding, window, and decks, without any modification to the footprints, the height, or additions, or alterations to the interior spaces, whatsoever.

In short, the family proposes to do with this property what they have done in the past with others—to preserve it, as is, for the use of future generations as an exemplar of small, appropriate, Cape Cod architecture.

The next-door neighbor, Christine Murphy, objects. Ms. Murphy has substantially expanded her own property, and now rents out on a regular basis an apartment over the garage and the main house as separate units.

The basis upon which Ms. Murphy objects, as identified by her Counsel in her Appeal, is that in her view the subject property is a “cottage colony”. As such, the appeal states that the proposed work is first subject to commercial site plan review pursuant to Section 70.3 of the Zoning By-law.

The appeal is in error. On behalf of the property owner, I respectfully ask that the Building Inspector’s decision to issue the Building Permits be upheld and the Appeal dismissed.

A. The Arguments Made in the Appeal Are Wrong

1. Section 70.3—Commercial Site Plan Review

Commercial Site Plan review is required under Section 70.3 for “Any construction, alteration, expansion, or modification of any properties, structures, and uses other than that of single or two family residences and their accessory uses and structures”.

The appeal is wrong to assert that the property requires Commercial Site Plan review. However, even if it did, the appeal ignores Section 70.3(B), which states as follows:

B. Exemptions – Routine maintenance or repairs, including but not limited to: roofing, painting, window/door replacement, or any other changes, which are done in order to effect repairs, which do not alter the footprint or internal space of said building or structure, shall not require Commercial Site Plan Review.

Even if the property is a “cottage colony”—which it is not—the work proposed is exempt from Commercial Site Plan review because it constitutes routine (though certainly deferred) maintenance and repairs that do not alter the footprint of the internal space of the homes.

B. The Building Inspector Correctly Issued the Building Permit Both Under Section 30.7(B) and / or under Section 70.3(B)

The Building Inspector determined that the applications for building permit were for repairs to three non-conforming single family structures that would not alter the footprint or increase any non-conformity.

The application was therefore entitled to issuance under Section 30.7(B) of the Zoning By-law, which states as follows:

Repairs, alterations. If the Building Commissioner determines and finds that the proposed repair, reconstruction, alteration, or structural change of a pre-existing, nonconforming, single-family or two-family residential structure will not increase the nature or extent of the nonconformity, then the Building Commissioner may approve and issue a building permit for the proposed repair, reconstruction, alteration, or structural change.

This section of the By-law is consistent with Massachusetts case law dealing with alterations of pre-existing, non-conforming singles and two-family residential structures. See, e.g. *Bjorklund v. Zoning Board of Appeals of Norwell*, 450 Mass. 357 (2008)(certain small scale improvements to non-conforming structures such as the addition of a dormer; the addition, or enclosure, of a porch or sunroom; the addition of a one-story garage for no more than two motor vehicles; the conversion of a one-story garage for one motor vehicle to a one-story garage for two motor vehicles; and the addition of small-scale, proportional storage structures, such as sheds used to store gardening and lawn equipment or sheds used to house swimming pool heaters and equipment. do not require a Special Permit pursuant to G.L. c. 40A sec. 6).

The notion that the use of the property was used as a cottage colony at one time does not mean that the Building Inspector incorrectly issued the building permit, because the Section of the Zoning by-law that the Appeal rests on, Section 70.3 of the Zoning by-law, also exempts the work authorized by the Building Permit under Section 70.3(B), which states as follows:

B. Exemptions – Routine maintenance or repairs, including but not limited to: roofing, painting, window/door replacement, or any other changes, which are done in order to effect repairs, which do not alter the footprint or internal space of said building or structure, shall not require Commercial Site Plan Review.

The Building Commissioner has confirmed his opinion that this Section exempts Commercial Site Plan review for work under the present Building Permit in an email of today, a copy of which is attached for the Board.

Thus, the Building Permit was properly issued for repairs to the structures. The Board should affirm the decision of the Board.

C. The Issue of Use—Cottage Colony Conversion

The issue of the use of the premises—either as single-family residential use, or as a continued cottage colony, is not raised by this appeal and is not before the Board. The only matter before the Board is whether the Building Commissioner properly issued building

permits for the **repairs** to the property so that they may be rendered safe for occupation once more.

However, the Lessin family is aware that an affidavit from Ms. Urrichio has been re-filed in this case by the Appellant that is obviously intended to suggest that the property is a cottage colony in support of the Appellant's claim that Commercial Site Plan Review was required before the Building Permit issued. As noted above, the work authorized by the Building Permit is exempt from Commercial Site Plan review by virtue of Section 70.3(B).

When the work is complete, and prior to continued occupation, the Lessin family will address the issue of the use of the property with the Building Commissioner in a formal manner. The undersigned has already brought the issue to the attention of the Building Commissioner and will seek formal review by Mr. Stevens prior to occupation.

If the family elects to continue the use of the property as a Cottage Colony, no further zoning relief will be required, and with the approval of the Building Inspector, will be continued. The owner has not abandoned this use. If the Lessin family elects not to continue the use as a cottage colony, they will so notify the Building Commissioner for whatever action he rules is necessary. Whether or not a Special Permit under Section 40.3 will be necessary is complicated by the limitation in Section 40.3(5) which states as follows:

5. No application for conversion may be filed until the applicant has operated the facility as a cottage or cabin colony, motor court, motel or hotel, for at least three consecutive years.

Resolution of this question will be a matter for the Building Commissioner depending on which direction the family decides to go.

However—this question has nothing to do with the present appeal. The only question for the Board to decide is whether the Building Commissioner properly issued his Building permit for like kind, in place, repairs to the buildings.

On that question, the Building Inspector was correct. His decision should be affirmed by the Board.

THE REST OF THE STORY

Many years ago, the well-known Radio personality Paul Harvey used to do segments called "The Rest of the Story".

The Board may question why a neighbor, who has substantially upgraded her own property, and who now rents not one, but two separate units thereon, would object to a neighbor's proposal to replace in kind three modest cottages rather than follow her own

example and build, as that may as a matter of right, a large, valuable, 2 ½ story ocean-view single family home, utilizing the 6-bedroom septic system on the lot?

After all, don't most native Cape Codders prefer the modest scale and architecture of the old cottages in North Truro be preserved?

Well, that is the "rest of the story".

Ms. Murphy, while reconstructing her own home, requested Ms. Wharton give her permission to cut vegetation on the family land in order that Ms. Murphy's new home could have a beautiful view of Cape Cod Bay and Provincetown Harbor.

Being the good neighbor that she is, Ms. Wharton readily agreed to the request. Ms. Murphy cut down the vegetation, installed a walkway, a patio, a number of Adirondack chairs, and now enjoys a spectacular spot on her own rental property from which to enjoy the view, courtesy of the Lessin family's goodwill. Photos appears below:





Prior to filing this appeal, Ms. Murphy,s counsel made a proposal which, if agreed, would result in Ms. Murphy not filing this appeal.

The proposal suggested that the work not harm Ms. Murphy’s property, a condition to which she is obviously entitled.

Ms. Murphy also demanded (a) that no construction take place in the summer (for the benefit of her own summer tenants), and (b) that the prior permission to remove vegetation for a view of Cape Cod Bay from the Murphy property be “formalized for the future”.

Ms. Murphy stated that “if we can reach accommodation on these points, we are willing to forego any appeals from the permits when issued”.

In other words, “allow our tenants to be undisturbed with your construction and give us a view easement and we will not challenge your building permit”. In my business, the colloquial term for this approach is “stick-em-up”, a reference to the phrase used in old movies during bank robberies.

The “stick-em-up” email, sent directly to my clients on May 31, 2024, is attached.

This was not a proposal to settle a disputed claim, because it was sent before the Building Permit was issued. Instead, this was an attempt by Ms. Murphy to leverage my client’s neighborliness into a view easement Ms. Murphy has no right to demand, using the Board of Appeals as a cudgel if the offer were refused.

This episode also heightens another aspect of the present appeal—Ms. Murphy has no standing to appeal. Her concerns do not fall within the zone of interests that the Zoning by-law is intended to protect. In point of fact, what Ms. Murphy stated explicitly that “we are not trying to prevent (the) renovations”. Their goal was a view easement, having nothing whatsoever to do with the Truro Zoning by-law.

This is improper conduct. No neighbor has the right to use her status as an abutter to a proposal that she “is not trying to prevent” as a lever to demand a view easement or that her summer tenants not be bothered by construction next door. Ms. Wharton was a good neighbor and allowed Ms. Murphy her view. Her kindness has been repaid with litigation.

This case has no business before the Board. Mr. Stevens properly approved the building permit, and Ms. Murphy does not actually object to what is proposed.

Ms. Murphy just wants a view easement that she is not entitled to.

And that’s the “Rest of the Story”.

Mr. Stevens’ decision to issue the building permit should be affirmed, and the property owner will address the question of the use of the repaired properties once those repairs are complete and prior to occupation.

Rich Stevens <rstevens@truro-ma.gov>

RE: 9 Bayview Path--ZBA

To: Bill Henchy <whenchy@henchylaw.com> Cc: Barbara Carboni <bcarboni@truro-ma.gov>

Good Morning Bill.

Hope you are well. Summer is regrettably winding down.

My answer is yes to both questions.

Regards,

Richard Stevens

Building Commissioner

From: Bill Henchy <whenchy@henchylaw.com>

Sent: Monday, August 19, 2024 10:29 AM

To: Rich Stevens <rstevens@truro-ma.gov>

Cc: Barbara Carboni <bcarboni@truro-ma.gov>

Subject: 9 Bayview Path--ZBA

Good morning Rich—

As you probably know, there is a ZBA hearing tonight on the Building Permit you issued for 9 Bayview Path.

David Reid, representing the Abutters, claims that the property is a “Cottage Colony” and that Commercial Site Plan review is therefore required pursuant to Section 70.3(A) which applies to "Any construction, alteration, expansion, or modification of any properties, structures, and uses other than that of single or two family residences and their accessory uses and structures."

You issued the Building Permit pursuant to Section 30.7(B) which states as follows:

B. Repairs, alterations. If the Building Commissioner determines and finds that the proposed repair, reconstruction, alteration, or structural change of a pre-existing, nonconforming, single-family or two-family residential structure

will not increase the nature or extent of the nonconformity, then the Building Commissioner may approve and issue a building permit for the proposed repair, reconstruction, alteration,

or structural change.

My view is this decision was correct.

However, if the Board decides that the site is in fact a cottage colony, my view is that Commercial Site Plan review is still not required, pursuant to Section 70.3(B), which states as follows:

B. Exemptions – Routine maintenance or repairs, including but not limited to: roofing, painting, window/door replacement, or any other changes, which are done in order to effect repairs, which do not alter the footprint

or internal space of said building or structure, shall not require Commercial Site Plan Review.

My view is that this exemption exactly applies to this Building Permit.

Barbara Carboni and I were discussing this issue today, and Barbara suggested (and I agree she is correct) that the interpretation of 70.3(B) to the building permit you issued is your call in the first instance.

I am certain this will come up in tonight's hearing.

So—my question is, do you agree that the exemption in 70.3(B) means that Commercial Site Plan Review applies to this building permit as well?

Thanks—please call with any questions, and I'd appreciate it if you could get back to me prior to this evening.

Bill Henchy

William C. Henchy
165 Cranberry Highway
Orleans, MA 02653
508-255-1636 (w)
508-246-6776(cell)
508-255-1325—fax
whenchy@henchylaw.com

www.henchylaw.com

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may be subject to disclosure under the Massachusetts Public Records Law (M.G.L. Chapter 66, Section 10) and the Federal Freedom of Information Act

From: David S. Reid dsreid@verizon.net
Subject: Lessin project , Truro
Date: May 31, 2024 at 11:03 AM
To: Carl Savitz carl@silverldb.com, Bill Henchy whenchy@henchylaw.com, mkinnane@capeassociates.com

DR

Dear Carl, Mark and Bill,

We are aware that the building permits for the renovations to the cottages at 9 Bay View Road may be issued at any time. I have received Carl's responses to our concerns, but frankly, we remain concerned about the impacts on my client's property. We do appreciate that the present plan is to renovate the cottages, in kind, and appreciate your willingness to work with us and address our concerns. We are not trying to prevent such renovations, but are compelled to make sure that the Murphy's property is protected in the process.

I have advised Mrs. Murphy of the option to appeal the Building Permits to the Board of Appeals (if and when issued). I believe that would be a valid appeal and would result in the revocation of the permits and a finding that you first need to secure Special Permits from the Board of Appeals, as well as Site Plan approval from the Planning Board. I'd be happy to discuss the legal basis for this opinion with Bill if you'd wish. However, ultimately we'd prefer to work with you on your project. After meeting again with Mrs. Murphy, we have a proposal to make this work for you and her. We propose the following:

- 1) We need specific information about how the project would proceed, in particular as to the construction of the new foundations, and how that would impact Mrs. Murphy's property. Specifically, we are looking for foundation plans drawn by an engineer along with details on how the foundation will be poured given that the cottages are not being demolished. Will the cottages be raised or physically removed from the property while the foundation is poured? Currently, we do not believe the proposed foundations can be poured and installed without damaging Mrs. Murphy's property and the vegetation along the common boundary (her screening and buffer), given the close proximity of the 9 Bay View Road cottages to the lot line with the Murphy's property. Depending on the severity of the impact, we nevertheless would be willing to grant you permission to use the edge of the Murphy's property during this construction, within certain

defined limits, if you will agree to certain terms in exchange.
Specifically, the following:

- a. We want the construction to occur outside of the summer season. Exterior construction should not commence until after Labor Day weekend and should be done before the next Memorial Day weekend.
- b. Any damage to the Murphy's property and its vegetation shall be repaired or replaced at the expense of the Lessin's (details to be agreed upon once we know the scope of the work area) before certificates of occupancy can be granted for the cottages.
- c. The propane gas tank (on the Murphy's property) and rear deck on cottage 1 (Cottage C in the permits) (right on the property line) are to be removed.
- d. Mrs. Wharton has previously given Mrs. Murphy permission to trim vegetation from Mrs. Wharton's property out by Mrs. Murphy's patio, along their common boundary line between 7 Bay View Road and 3 Bay View Road, to preserve Mrs. Murphy's view of Cape Cod Bay. We would want that permission to be formalized for the future.
- e. We still observe that there are discrepancies within the plans and permit applications as the configuration of cottages A and C. The stated bedroom counts in each application do not match the rooms shown in the respective floor plans, nor the assessors records. That needs to be clarified.

If we can reach an accommodation on these points, we are willing to forego filing any appeals from the permits when issued. As you likely are aware, any such appeal would need to be filed within 30 days of the issuance of the permits, so we will need to know soon if this proposed cooperation is going to work, or not.

Thank you and your client/customer for your attention and efforts to cooperate with your neighbor on this project.

David S. Reid, Esq.
1292 Rte. 28
South Yarmouth, MA 02664-4452
508-394-5648 FAX 508-398-1699

- - Confidentiality Notice & Disclaimer- -

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Affidavit of MaryEllen Coyne-Gordon

I am an adult residing in Concord, Massachusetts and have personal knowledge of the following information:

- 1.) Prior to the sale of 9 Bay View Road to Steve Corkin in December 2009, I along with my husband, David Gordon, rented at least one (1) of the cottages from Douglas Frank for a one-week rental period for two summer seasons.
- 2.) After the sale of 9 Bay View Road to Steve Corkin in December 2009, I along with my husband, David Gordon, rented all three (3) cottages from Steve Corkin for a one-week rental period for one summer.

Signed under the pains and penalties of perjury this 08th of October 2022.


MaryEllen Coyne-Gordon

State of Massachusetts
County of Middlesex

On this 8th [day] of October, 2022, before me, the undersigned notary public, MaryEllen Coyne-Gordon [name of document signer] personally appeared, MaryEllen Coyne-Gordon, proved to me through satisfactory evidence of identification, which were HA DL [type of identification], to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.


[Notary Public Signature]

My commission expires: 05/02/2025



IVETTE A. ALVAREZ
Notary Public
Commonwealth of Massachusetts
My Commission Expires May 2, 2025



AFFIDAVIT OF SUSAN URICCHIO

I am an adult residing in Ridgefield, Connecticut and have personal knowledge of the following information:

- I along with my husband, Marc Uricchio, have owned the property at 11 Bay View Road, which is immediately adjacent to the property at 9 Bay View Road, since 1975 and my husband's family owned adjoining properties at 6 Bay View Path and 6/A Bay View Path since the 1940's.
- I had occasion to observe on a regular basis the use of the property at 9 Bay View Road, which since it was owned by the Marin family contained three small single family cottages.
- The Marin's sold this property to Charles Pintchman and Laurence S. Baker in 1968 and it was subsequently sold to Doug G. Frank and three others in 1982. The Franks owned the property from 1982 to 2009 when it was sold to Steve Corkin.
- Steve Corkin sold the property to the present owner, the Lessin Family in January 2020.

During all the time from even before my first involvement with 11 Bay View Road until the time of its sale in 2020, I observed that the three cottages on the property were rented on a seasonal basis by the week, month or season.

I had numerous interactions with the owners of the property over the last 40 years, and I am personally aware of the seasonal rental of the three cottages both from personal observations and discussions with the property owners.

Signed under the pains and penalties of perjury this 19 of September 2022.



Susan Uricchio

State of Connecticut

County of Fairfield

On this 19th [day] of September, 2022, before me, the undersigned notary public, Susan Uricchio [name of document signer] personally appeared, Susan Uricchio, proved to me through satisfactory evidence of identification, which were CT. license [type of identification], to be the person who signed the preceding or attached document in my presence, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of her knowledge and belief.


[Notary Public Signature]

JAMES O. WHITMORE
NOTARY PUBLIC - CONNECTICUT
MY COMM. EXPIRES 05/31/2025

My commission expires: 16921 2





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 _____

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

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) 6/10/2024 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 § _____ of the Truro Zoning Bylaw concerning (describe) _____

☐ **APPLICATION FOR SPECIAL PERMIT**

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

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

Property Address 9 Bay View Road Map(s) and Parcel(s) 39-21-0

Registry of Deeds title reference: Book 32595, Page 147, or Certificate of Title

Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name Christine M. Murphy

Applicant's Legal Mailing Address P O Box 497, E. Dennis MA 02641

Applicant's Phone(s), Fax and Email c/o David S> Reid, Esq. 508-394-5648 DSReid@verizon.net

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 Sea Siblings Three, LLC, c/o NKSFB LLC, 400 Garden City Plaze, Ste 510 Garden City, NJ 11530

Representative's Name and Address David S. Reid, Esq. 1292 RT. 28, S. Yarmouth MA 02664

Representative's Phone(s), Fax and Email 508-394-5648 DSReid@verizon.net

- 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)

DAVID S REID ESQ.
Applicant(s)/Representative Printed Name(s)

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

[Signature]
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

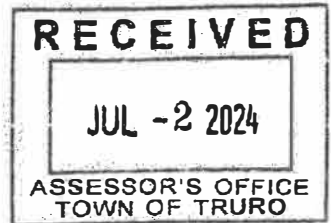


TOWN OF TRURO

Assessors Office

Certified Abutters List

Request Form



DATE: 7-2-24

NAME OF APPLICANT: Christine M. Murphy

NAME OF AGENT (if any): David S. Reid, Esq.

MAILING ADDRESS: 1292 Rt. 28, S. Yarmouth MA 02664

CONTACT: HOME/CELL 508-394-5648 EMAIL DSReid@verizon.net

PROPERTY LOCATION: 9 Bay View Road
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 39 PARCEL 21 EXT. 0
(if condominium)

ABUTTERS LIST NEEDED FOR:

FEE: \$15.00 per checked item

(please check all applicable)

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

<input type="checkbox"/> Board of Health ⁵	<input type="checkbox"/> Planning Board (PB)	<input type="checkbox"/> Zoning Board of Appeals (ZBA)
<input type="checkbox"/> Cape Cod Commission	<input type="checkbox"/> Special Permit ¹	<input 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: <u> </u>	<input type="checkbox"/> Definitive Subdivision ³	
<input checked="" type="checkbox"/> Other <u>ZBA - Appeal from decision of Building Commissioner</u> (Fee: Inquire with Assessors)		

(Please Specify)

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

THIS SECTION FOR ASSESSORS OFFICE USE ONLY

Date request received by Assessors: 7/2/24 Date completed: 7/2/24
List completed by: Laura Geiges Date paid: 7/2/24 Cash/Check 6413

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 2, 2024

To: David S. Reid, Esq.

From: Assessors Department

Certified Abutters List: 8 Bay View Road (Map 39 Parcel 21)

ZBA Appeal

Attached is a combined list of abutters for 8 Bay View Road (Map 39 Parcel 21). The current owner is Sea Siblings Three LLC

The names and addresses of the abutters are as of June 28, 2024 according to the most recent documents received from the Barnstable County Registry of Deeds.

Certified by: \

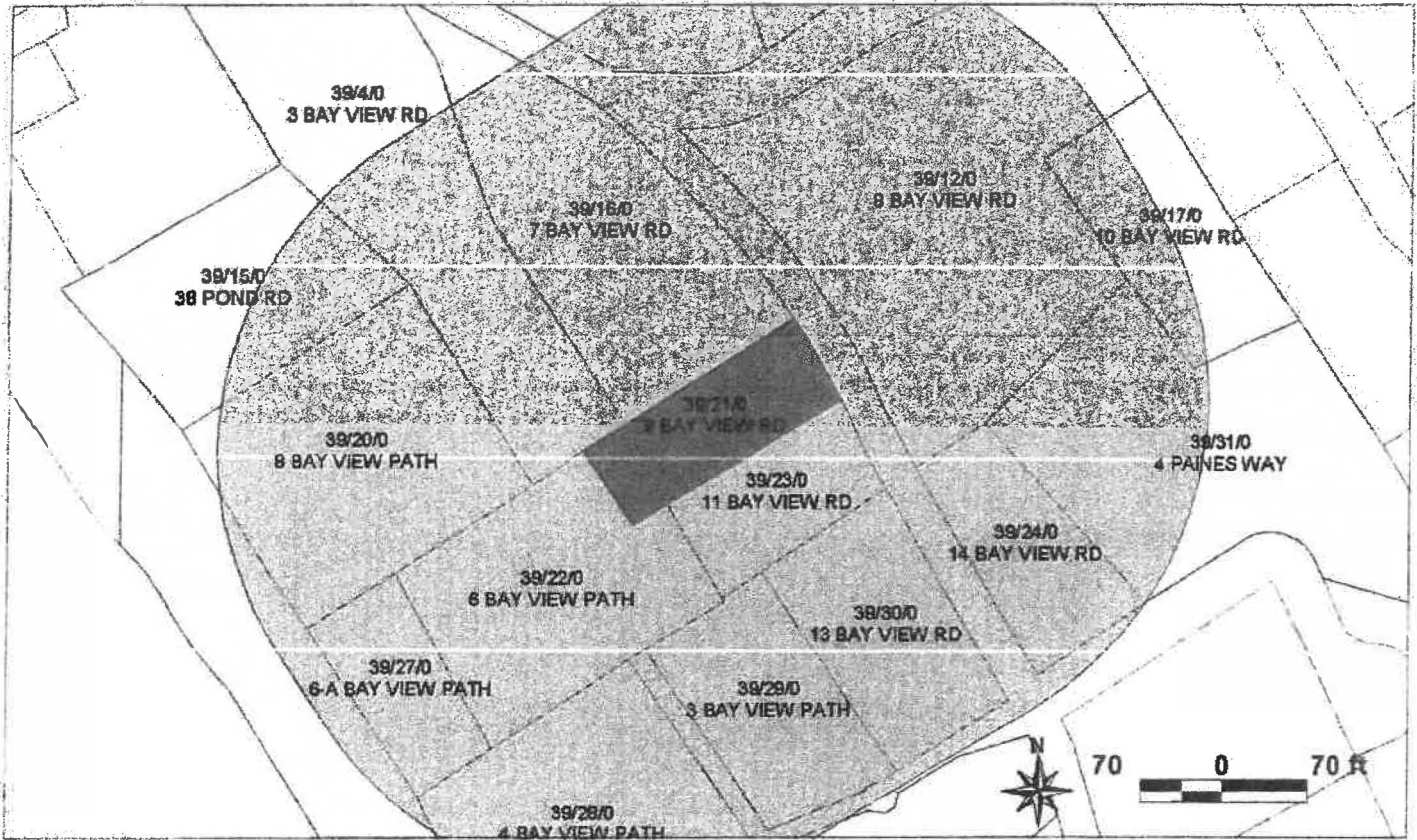
Laura Geiges

Assistant Assessor / Data Collector

9 Bay View Road
Map 39 Parcel 21
ZBA Appeal

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

Abutters List Within 300 feet of Parcel 39/21/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
1139	39-4-0-R	LESSIN NAIDA S W	3 BAY VIEW RD	C/O NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510	GARDEN CITY	NY	11530-3322
1140	39-5-0-R	RUYMANN KAREN M	2 BAY VIEW DR	PO BOX 283	NO TRURO	MA	02652
1141	39-6-0-R	DAIGLE FAMILY NOMINEE TRUST TRS: DAIGLE THERESA	4 BAY VIEW DR	PO BOX 765	NO TRURO	MA	02652-0765
5945	39-12-0-R	CZYOSKI MICHAEL W & JUDITH A	8 BAY VIEW RD	PO BOX 132	NO TRURO	MA	02652-0132
1150	39-15-0-R	ROEMLEIN CHRISTOPHER & FAYE	38 POND RD	73 HIGH HILL RD	TIVERTON	RI	02878
1151	39-16-0-R	MURPHY CHRISTINE M	7 BAY VIEW RD	PO BOX 497	E DENNIS	MA	02641-0497
1152	38-17-0-R	JACOBS FREDERICK D & JACOBS JENNIFER WILE	10 BAY VIEW RD	10 AUBURN ST	CLINTON	MA	01510
1155	39-20-0-R	LESSIN NAIDA WHARTON FAM TRUST TRS: MILTON CHRISTOPHER H	8 BAY VIEW PATH	C/O NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510	GARDEN CITY	NY	11530-3322
1156	39-21-0-R	SEA SIBLINGS THREE LLC MGR: CHRISTOPHER H MILTON	9 BAY VIEW RD	C/O NKSFB LLC 400 GARDEN CITY PLAZA, STE 510	GARDEN CITY	NY	11530
1157	39-22-0-R	KDS TRIUMVIRATE LLC MGR: NAIDA S WHARTON	6 BAY VIEW PATH	care of: NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510	GARDEN CITY	NY	11530
1158	39-23-0-R	URICCHIO MARC J	11 BAY VIEW RD	27 POWDERHORN DR	RIDGEFIELD	CT	06877
1159	39-24-0-R	JAMES H BROWN REVOC TRUST & JULIE M BROWN REVOC TRUST	14 BAY VIEW RD	PO BOX 453	NO TRURO	MA	02652
1162	39-27-0-R	KDS TRIUMVIRATE LLC MGR: NAIDA S WHARTON	6-A BAY VIEW PATH	care of: NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510	GARDEN CITY	NY	11530
1163	39-28-0-R	504 GRAFTON, LLC REG AGT: REG AGT SOLUTIONS INC	4 BAY VIEW PATH	557 GRAFTON ST	SHREWSBURY	MA	01545
1164	39-29-0-R	MARIN FAMILY CAPE TRUST TRS: ARTHUR N MARIN	3 BAY VIEW PATH	78 TEA PARTY CIRCLE	HOLDEN	MA	01520

LG 7/2/24

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
1165	39-30-0-R	ROSE LOIS IRREVOCABLE TRUST TRS: ROSE-MUIR CLAUDIA ET AL	13 BAY VIEW RD	2430 LONGVIEW DR	COATESVILLE	PA	19320-2220
1166	39-31-0-R	POTTS STEVEN E	4 PAINES WAY	PO BOX 6	NO TRURO	MA	02652-0295
1189	39-34-0-R	SHARPLESS KATHY G 2003 FAM TR TRS: SHARPLESS KATHY & GARRETT	2 BAY VIEW PATH	58 COMMERCIAL WHARF EAST	BOSTON	MA	02110

LG 7/2/24

7/2/2024

Page

2

<p>39-4-0-R</p> <p>LESSIN NAIDA S W C/O NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530-3322</p>	<p>39-5-0-R</p> <p>RUYMANN KAREN M PO BOX 283 NO TRURO, MA 02652</p>	<p>39-6-0-R</p> <p>DAIGLE FAMILY NOMINEE TRUST TRS: DAIGLE THERESA PO BOX 765 NO TRURO, MA 02652-0765</p>
<p>39-12-0-R</p> <p>CZYOSKI MICHAEL W & JUDITH A PO BOX 132 NO TRURO, MA 02652-0132</p>	<p>39-15-0-R</p> <p>ROEMLEIN CHRISTOPHER & FAYE 73 HIGH HILL RD TIVERTON, RI 02878</p>	<p>39-16-0-R</p> <p>MURPHY CHRISTINE M PO BOX 497 E DENNIS, MA 02641-0497</p>
<p>39-17-0-R</p> <p>JACOBS FREDERICK D & JACOBS JENNIFER WILE 10 AUBURN ST CLINTON, MA 01510</p>	<p>39-20-0-R</p> <p>LESSIN NAIDA WHARTON FAM TRUST TRS: MILTON CHRISTOPHER H C/O NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530-3322</p>	<p>39-21-0-R</p> <p>SEA SIBLINGS THREE LLC MGR: CHRISTOPHER H MILTON C/O NKSFB LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530</p>
<p>39-22-0-R</p> <p>KDS TRIUMVIRATE LLC MGR: NAIDA S WHARTON care of: NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530</p>	<p>39-23-0-R</p> <p>URICCHIO MARC J 27 POWDERHORN DR RIDGEFIELD, CT 06877</p>	<p>39-24-0-R</p> <p>JAMES H BROWN REVOC TRUST & JULIE M BROWN REVOC TRUST PO BOX 453 NO TRURO, MA 02652</p>
<p>39-27-0-R</p> <p>KDS TRIUMVIRATE LLC MGR: NAIDA S WHARTON care of: NKSFB, LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530</p>	<p>39-28-0-R</p> <p>504 GRAFTON, LLC REG AGT: REG AGT SOLUTIONS INC 557 GRAFTON ST SHREWSBURY, MA 01545</p>	<p>39-29-0-R</p> <p>MARIN FAMILY CAPE TRUST TRS: ARTHUR N MARIN 76 TEA PARTY CIRCLE HOLDEN, MA 01520</p>
<p>39-30-0-R</p> <p>ROSE LOIS IRREVOCABLE TRUST TRS: ROSE-MUIR CLAUDIA ET AL 2430 LONGVIEW DR COATESVILLE, PA 19320-2220</p>	<p>39-31-0-R</p> <p>POTTS STEVEN E PO BOX 6 NO TRURO, MA 02652-0295</p>	<p>39-34-0-R</p> <p>SHARPLESS KATHY G 2003 FAM TR TRS: SHARPLESS KATHY & GARRETT 58 COMMERCIAL WHARF EAST BOSTON, MA 02110</p>

Christine M. Murphy
Appeal from Decision of Building Commissioner
RE: 9 Bay View Road

Continuation Sheet:

The Applicant (Murphy) Appeals pursuant to Mass General Laws c. 40A section 8 & 15, from the June 10, 2024 decision of the Truro Building Commissioner whereby building permits were granted to the owner of the property at 9 Bay View Road for alterations and renovations to three seasonal cottages on the premises. The permits authorized, among other things, the construction of poured concrete foundations beneath all three cottages, where no foundations currently exist, which constitute exterior structural alterations, and the almost complete gutting and renovation of the cottages. The Applicant contends that the permits were not properly issued because:

- The premises and cottages are not independent single-family homes, as indicated in the application and permits, but are in fact a “Cottage or Cabin Colony”, as defined in the Truro Zoning Bylaw, which is a “Not Permitted” use in the residential zone, and the structures themselves are and will remain substantially non-conforming. As such, they are not entitled to be treated as if they were three separate existing single-family homes, and are not entitled to “by right” alteration under Bylaw section 30.7(B), but must first secure a Special Permit from the Board of Appeals under section 30.7(A).
- As the current use is not as three independent single-family homes, the alteration of the “Cottage or Cabin Colony” use and structures may not proceed without satisfaction of the Site Plan Review procedures before the Planning Board, pursuant to Bylaw section 70.3.

As the Owner did not secure either a Special Permit or Site Plan Review, the applications for Building Permits were not eligible for issuance, and their issuance on June 10, 2024 violated the zoning Bylaw.

The Applicant is the owner of the property at 7 Bay View Road, the immediate abutter to the north of the premises at 9 Bay View Road. The premises in question contain something less than 12,000 square feet of land, with three seasonal cottages, all served by a single on-site septic system. The cottages have been present for many years, and were traditionally rented for short term seasonal occupancy. As shown on the applicants plan, the cottages are respectively 3.8’,

2.3' and 3.5' from the Applicant's property line. The first cottage's rear deck/porch is virtually on the property line. The first cottage is also located only 4 feet from Bay View Road. The Applicant has grave concern that the proposal to raise the cottages and construct four foot tall foundations beneath them cannot be accomplished without trespassing on or undermining the adjoining land, including her abutting property located less than one yard from the proposed foundation walls and footings. The Applicant raised these and other concerns to the Building Commissioner by letter of April 10, 2024, but received no reply to date. Given the congested development of the site and potential impact on the neighborhood, the applicant believes that Site Plan Review would be particularly appropriate and productive, and that review of the potential adverse impact on the neighborhood by the Board of Appeals is required and warranted.

Materials attached and incorporated into this application:

Building Permit Applications and Permits # 24-245, 24-246 and 24-247.

Owner's Existing and Proposed Site Plans

Owner's proposed Foundation Plans

Assessors Cards for 9 Bay View Road

Owner's previously filed Site Plan (portion including this property only)

Applicant's letter to Building Commissioner April 4, 2024



Town of Truro Building Permit

24 Town Hall Rd, Truro MA 02666
P: 508-349-7004 x131 F: 508-349-5508

Building Permit #: 24-246 Map: 39 Parcel: 21
Street Location: 9 BATVIEW ROAD Cottage "B"
Owner: LESSIN
Type of Work: CRAWL/COMPLETE REMODEL HIC: 100110
Builder: CAPE ASSOCIATES CSL: 026665
Date of Issue: 5-28-24 RGS
6.10.24

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

BUILDING OFFICIAL: [Signature]

REQUIRED INSPECTIONS

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

Building Permit Application

Massachusetts State Building Code, 780 CMR, 9th Edition



TOWN OF TRURO

Building Department

24 Town Hall Rd.

PO Box 2030

Truro, MA 02666

Tel (508) 349-7004 x131 Fax (508) 349-5508

Permit #:

24-246

Fee:

\$168.00

SITE INFORMATION

Project Site: 9 Bay View Rd, Truro MA 02666

Assessors Map & Parcel: 39-21-0

Zoning District: Residential

☒ Outside Flood Zone

☐ Inside Flood Zone - Specify:

Setbacks: Front:

Left Side:

Right Side:

Rear:

Lot Area (sq. ft.) 13,939 SF

Frontage: 74

Water Supply: ☒ Private

☐ Public

Subject to Policy 28: Curb Cut? ☐ Y ☒ N

If Yes, please attach a copy of the approval to this application.

SUBJECT TO NHESP/MESA REVIEW? ☐ Y ☒ N

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

PROPERTY OWNERSHIP

Owner of Record: Sam Lessin

Mailing Address: 400 Garden City Plaza, Ste 510, Garden City, NY 11530

Phone: 617.213.0123

E-mail: lessin@gmail.com

Property Owner Authorization

Signature: See Attached

Date: 2/28/24

PROJECT INFORMATION

☒ 1 & 2 Family Home

☐ Commercial / Other than 1 & 2 Family Home*

☐ Change of Use

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

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

☒ New Dwelling: # of units 1

☐ Commercial Building

☐ Addition

☒ Alteration

☐ Mechanical

☐ Accessory Structure: (type)

Other:

Detailed Description of Proposed Work: Cottage "B" 336 sqft

The project consists of a gut remodel & Repair, replace or add Components of the structure to comply with current building code.

Scope: Replace windows & doors in kind, exterior siding, replace interior wall surfaces, replace plumbing fixtures, replace electrical fixtures.

New Foundations will be installed under existing Cottage with a matching foot print.



Town of Truro Building Permit

24 Town Hall Rd, Truro MA 02666

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

Building Permit #: 24-247 Map: 39 Parcel: 21
Street Location: 9 BAYVIEW ROAD CONAGE 'C'
Owner: LESSIN
Type of Work: CRAW/TOTAL Remodel HIC: 100110
Builder: CAPE ASSOCIATES CSL: 026665
Date of Issue: 5.28.24 RG
6.10.24

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

BUILDING OFFICIAL:

REQUIRED INSPECTIONS

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

Building Permit Application

Massachusetts State Building Code, 780 CMR, 9th Edition



TOWN OF TRURO

Building Department

24 Town Hall Rd.

PO Box 2030

Truro, MA 02666

Tel (508) 349-7004 x131 Fax (508) 349-5508

Permit #:

24-247

Fee:

\$257.00

23302
\$50.00 Application Fee

SITE INFORMATION

Project Site: 9 Bay View Rd, Truro MA 02666

Assessors Map & Parcel: 39-21-0

Zoning District: Residential

☒ Outside Flood Zone

☐ Inside Flood Zone - Specify:

Setbacks: Front:

Left Side:

Right Side:

Rear:

Lot Area (sq. ft.) 13,939 SF

Frontage: 74

Water Supply: ☒ Private

☐ Public

Subject to Policy 28: Curb Cut? ☐ Y ☒ N

If Yes, please attach a copy of the approval to this application.

SUBJECT TO NHESP/MESA REVIEW? ☐ Y ☒ N

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

PROPERTY OWNERSHIP

Owner of Record: Sam Lessin

Mailing Address: 400 Garden City Plaza, Ste 510, Garden City NY 11530

Phone: 617.213.0123

E-mail: lessin@gmail.com

Property Owner Authorization

Signature: See Attached

Date: 2/28/2024

PROJECT INFORMATION

☒ 1 & 2 Family Home

☐ Commercial / Other than
1 & 2 Family Home*

☐ Change of
Use

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

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

☒ New Dwelling: # of units 1

☐ Commercial Building

☐ Addition

☒ Alteration

☐ Mechanical

☐ Accessory Structure: (type) _____

Other: _____

Detailed Description of Proposed Work: Cottage "C" 1,049 sqft

This project consists of a Gut remodel & Repair, replace or add components of the structure to comply with current building Codes.

Scope: Replace windows & doors in kind, exterior siding, replace interior wall surfaces, replace plumbing fixtures, replace electrical fixtures.

New Foundations will be installed under existing Cottage with a matching foot print.



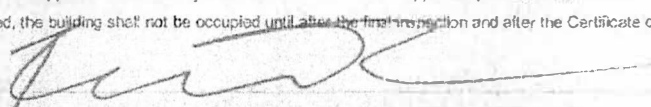
Town of Truro Building Permit

24 Town Hall Rd, Truro MA 02666

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

Building Permit #: 24-245 Map: 39 Parcel: 214A
Street Location: 9 BAY VIEW ROAD - COTTAGE A
Owner: LESSIN
Type of Work: NEW GARAGE/complete Remodel HIC: 100110
Builder: CARE ASSOCIATES CSL: 02666.5
Date of Issue: 5-28-24
6-10-24

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BUILDING OFFICIAL: 

REQUIRED INSPECTIONS

Footing - Rebar

Inspector _____ Date _____

Foundation - Rebar

Inspector _____ Date _____

Final Foundation

Inspector _____ Date _____

Cert. Foundation Plan

Inspector _____ Date _____

Wind Connections

Inspector _____ Date _____

Frame

Inspector _____ Date _____

Insulation

Inspector _____ Date _____

Air Barrier

Inspector _____ Date _____

Chimney/Woodstove

Inspector _____ Date _____

Electrical Service

Inspector _____ Date _____

Rough Wiring

Inspector _____ Date _____

Final Wiring

Inspector _____ Date _____

Low Voltage Rough

Inspector _____ Date _____

Low Voltage Final

Inspector _____ Date _____

Underground Plumbing

Inspector _____ Date _____

Rough Plumbing

Inspector _____ Date _____

Final Plumbing

Inspector _____ Date _____

Rough Gas

Inspector _____ Date _____

Final Gas

Inspector _____ Date _____

Smoke/Fire Alarm

Inspector _____ Date _____

Oil Furnace

Inspector _____ Date _____

Sprinkler System

Pressure _____ Date _____

Alarm _____ Date _____

Energy

Duct Test _____ Date _____

Blower Door _____ Date _____

Final Building

Inspector _____ Date _____

Cert. Of Occupancy

Inspector _____ Date _____

Special Conditions: _____

Building Permit Application

Massachusetts State Building Code, 780 CMR, 9th Edition



TOWN OF TRURO
Building Department

24 Town Hall Rd.
PO Box 2030
Truro, MA 02666
Tel (508) 349-7004 x131 Fax (508) 349-5508

Permit #:

24-245

Fee:

\$305.00

App Fee

SITE INFORMATION

Project Site: 9 Bay View Rd, Truro MA 02666

Assessors Map & Parcel: 39-21-0

Zoning District: Residential

☒ Outside Flood Zone

☐ Inside Flood Zone - Specify:

Setbacks: Front:

Left Side:

Right Side:

Rear:

Lot Area (sq. ft.) 13,939 SF

Frontage: 74

Water Supply: ☒ Private

☐ Public

Subject to Policy 28: Curb Cut? ☐ Y ☒ N

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Use

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ADDENDUM TO PERMIT APPLICATION AVAILABLE IN BUILDING DEPARTMENT.

☒ New Dwelling: # of units 1

☐ Commercial Building

☐ Addition

☒ Alteration

☐ Mechanical

☐ Accessory Structure: (type) _____

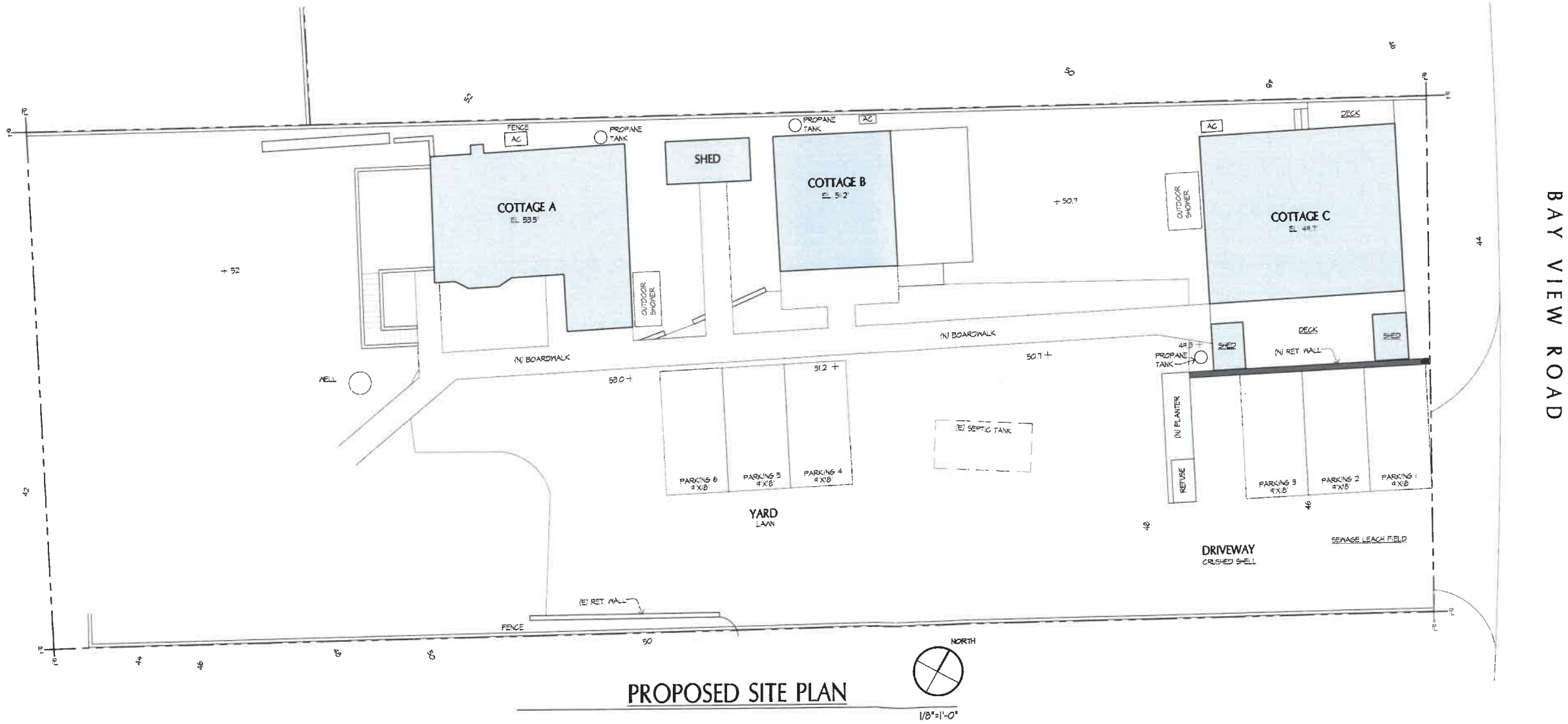
Other: _____

Detailed Description of Proposed Work: Cottage "A" 610 sqft

This project consists of a Gut remodel & Repair, replace or add components of the structure to comply with current building Codes.

Scope: Replace windows & doors in kind,
exterior siding, replace interior wall surfaces, replace plumbing
fixtures, replace electrical fixtures.

New Foundations will be installed under existing Cottage
with a matching foot print.



PROPOSED SITE PLAN



1/8"=1'-0"

BAY VIEW ROAD

THE LESSIN FAMILY
9 BAYVIEW ROAD
NORTH TRURO, MA 02652

SHEET NAME
PROPOSED SITE PLAN
DRAWING SCALE
1/8"=1'-0"
DRAWN:
KK
DATE
6/6/2024
STATUS:
PERMIT

A0.1

"A"

PERMIT SUBMITTAL

9 BAYVIEW ROAD
NORTH TRURO, MA 02652



VICINITY MAP

DRAWING LIST

A0	COVER SHEET & EXISTING SITE PLAN
A0.1	PROPOSED SITE PLAN
A1	COTTAGE A FLOOR PLAN & ELEVATIONS
A2	COTTAGE B FLOOR PLAN & ELEVATIONS
A3	COTTAGE C FLOOR PLAN & ELEVATIONS
A4	FOUNDATION PLANS
A5	SCHEDULES

SQUARE FOOTAGE CALCULATIONS

	EXISTING S.F.	PROPOSED S.F.
COTTAGE A	610 S.F.	610 S.F.
COTTAGE B	336 S.F.	336 S.F.
COTTAGE C	1,049 S.F.	1,049 S.F.

NO CHANGE IN SQUARE FOOTAGE.

ABBREVIATIONS

BM	BEAM
C.H.	CEILING HEIGHT
CL	CLOSET
DR	DOOR
(E)	EXISTING
F.C.	FINISHED CEILING
F.F.	FINISHED FLOOR
(N)	NEW
PL	PROPERTY LINE
R/WALL	RETAINING WALL
REF	REFRIGERATOR
S.S.D.	TYPICAL
TYP.	WITH

PROJECT NOTES

OWNERS:	THE LESSIN FAMILY 9 BAY VIEW PATH PHONE: 415-100-1000
APN#:	ASSESSOR MAP 34 PARCEL 21
CODES USED:	IBC, IRC AND MASS BUILDING CODE
OCCUPANCY TYPE:	RESIDENTIAL, R3
CONSTRUCTION TYPE:	TYPE 5B
PROJECT DESCRIPTION:	REPAIR AND REPLACE SOME ELEMENTS OF COTTAGES IN KIND. NO NEW CONSTRUCTION OR ALTERATION OF STRUCTURES IS PROPOSED.



EXISTING SITE PLAN

BAY VIEW ROAD

THE LESSIN FAMILY
9 BAYVIEW ROAD
NORTH TRURO, MA 02652

SHEET NAME
COVER SHEET &
SITE PLAN

DRAWING SCALE
1/8"=1'-0"

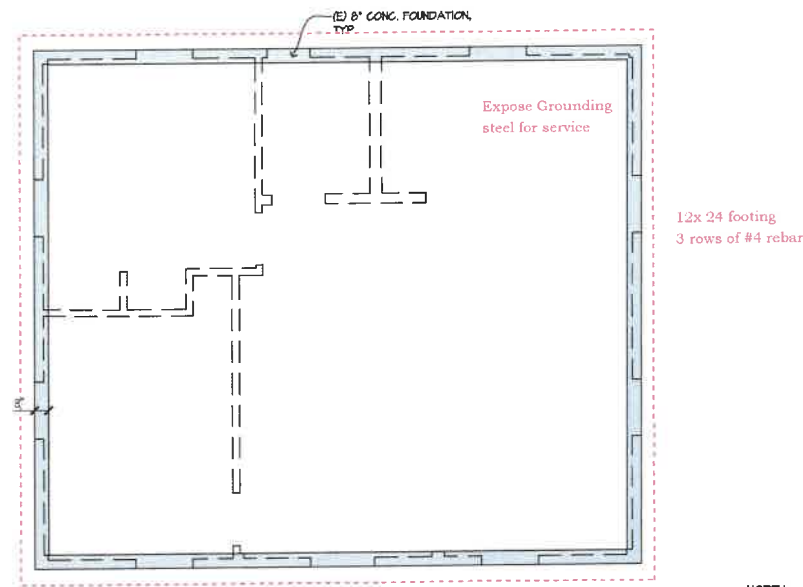
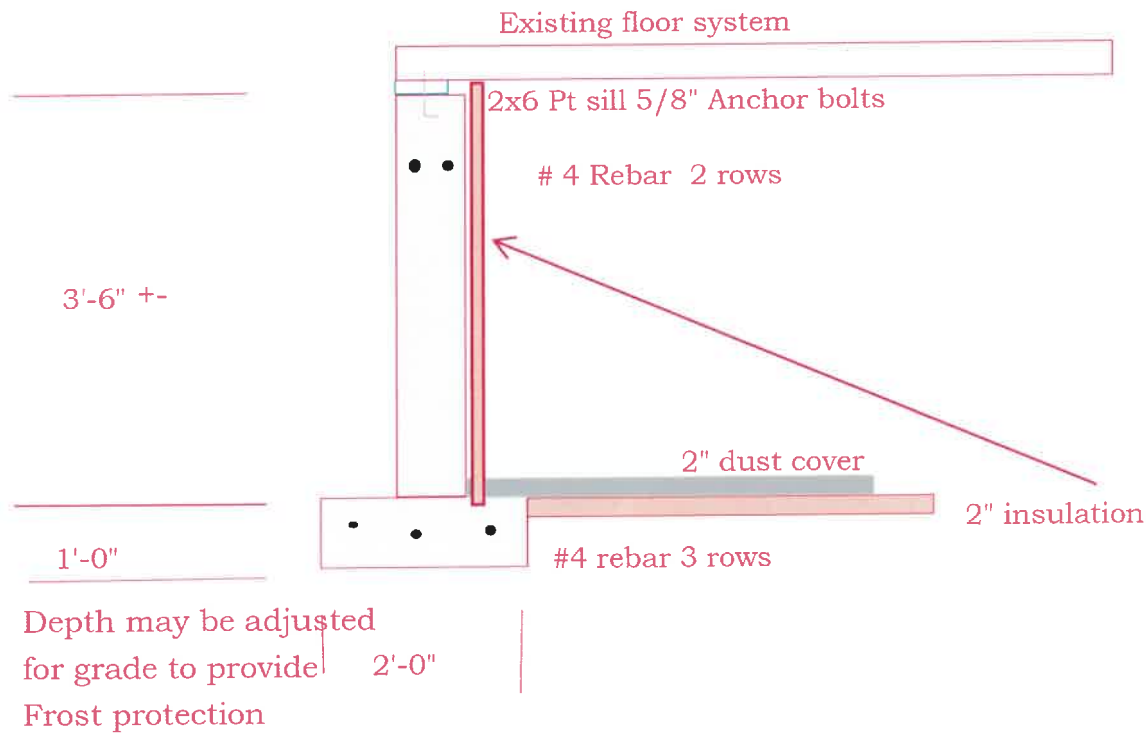
DRAWN:
KK

DATE:
6/6/2024

STATUS: PERMIT

A0

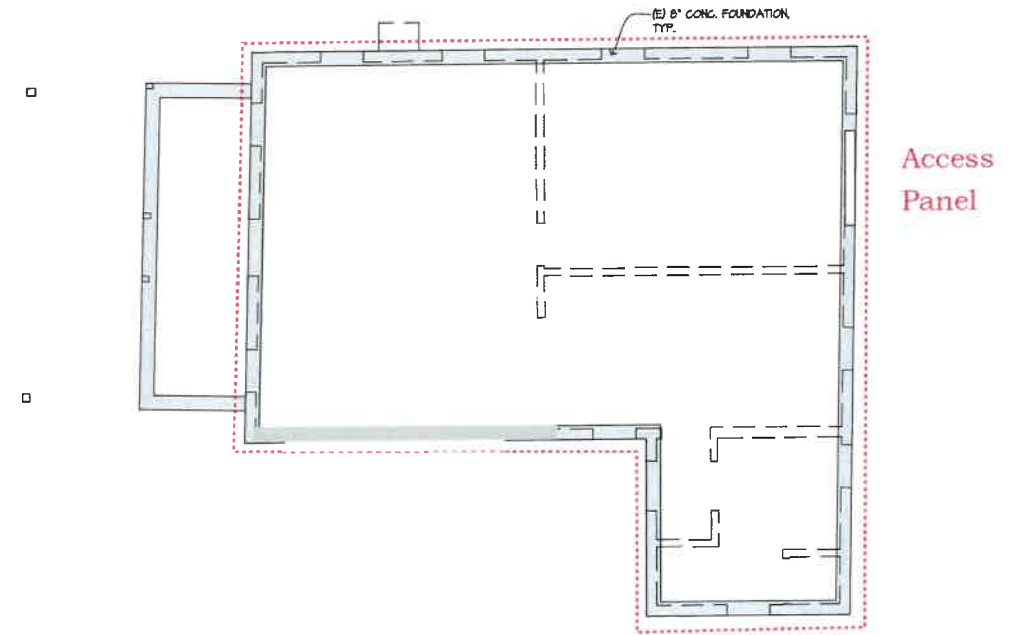
DESIGN || BUILD Co.
SILVER LINING
Intelligent design. Conscious Construction.
Carl Savitz
License #1024590
303.819.3086



COTTAGE C - FOUNDATION PLAN

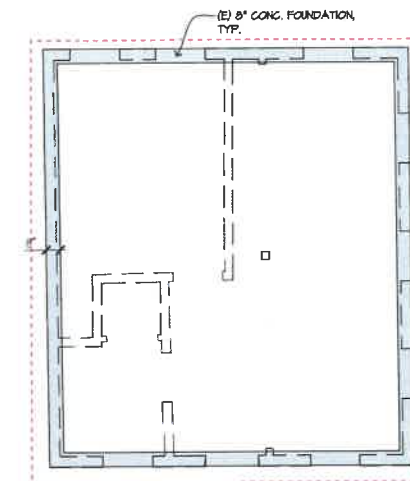


1/4"=1'-0"



COTTAGE A - FOUNDATION PLAN

1/4"=1'-0"



COTTAGE B - FOUNDATION PLAN

1/4"=1'-0"

THE LESSIN FAMILY
9 BAYVIEW PATH
NORTH TRURO, MA 02652

SHEET NAME **A, B+**
COTTAGE C
FLOOR PLAN
& ELEVATIONS

DRAWING SCALE
1/4"=1'-0"

DRAWN:
KK


DATE:
1/31/2024

STATUS: PERMIT

A3

BUILDING

9/27/2023 7:11 pm SEQ #: 1,135

CURRENT OWNER										PARCEL ID			LOCATION			CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD		
SEA SIBLINGS THREE LLC MGR: CHRISTOPHER H MILTON C/O NKSFB LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530										39-21-0			9 BAY VIEW RD			1090	100	MULTIPLE HSES					1	1 of 3	
										TRANSFER HISTORY			DOS	T	SALE PRICE	BK-PG (Cert)	PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
										SEA SIBLINGS THREE LLC			01/02/2020	U	1,000,000	32595-147	CYC	05/16/2023	30	CHECK DATA		11/29/2022	LG	100	100
CORKIN STEVEN			10/28/2009	QS	800,000	24123-315	12-020	02/10/2012	3	REPAIR/REMOD	5,500	01/14/2013	FC	100	100										
FRANK DOUGLAS G & ELAINE			10/08/2003	J	100,000	17767-336+	10-010	02/02/2010	3	REPAIR/REMOD	25,000	05/02/2011	MR	100	100										
							10-011	02/02/2010	3	REPAIR/REMOD		05/02/2011	MR	100	100										
							10-012	02/02/2010	90	BP NVC		05/02/2011	MR	100	100										
CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	Lpi	VC	CREDIT AMT	ADJ VALUE													
100	A	0.320	11	1.00	1	1.00	1	1.00	V15	3.60		766,120													
TOTAL		13,939 SF		ZONING	RES	FRNT	74		ASSESSED		CURRENT	PREVIOUS													
Nbhd		NORTH TRURO		N		SHED IS BETWEEN BLDGS 2 & 3, has water svc		LAND		766,100		592,100													
Infl1		NO ADJ		O		(laundry).		BUILDING		234,100		186,100													
Infl2		NO ADJ		T				DETACHED		900		800													
				E				OTHER		201,700		155,400													
								TOTAL		1,202,800		934,400													
TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD	PHOTO 11/29/2022																	
SHF	A	1.00	A 0.75 6*12	2002	72	16.47	900																		
BUILDING								BLDG COMMENTS																	
MODEL 1								Bldg 1 marked as EL-LIN. Per Nov 2009 List, USF is Bedroom & Loft.																	
STYLE 4																									
QUALITY A																									
FRAME 1																									
MEASURE 11/29/2022								LG																	
LIST 11/24/2009								FC																	
REVIEW 5/25/2011								MR																	
YEAR BLT	1900	SIZE ADJ	1.050	ELEMENT		CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	339,226							
NET AREA	888	DETAIL ADJ	1.000	FOUNDATION				1.00	+	BAS	L	BAS AREA	672	1900	350.84	235,763	CONDITION ELEM		CD						
\$NLA(RCN)	\$382	OVERALL	1.100	EXT. COVER		1	WOOD SHINGLES	1.00	A	USU	N	UPPER STORY UNF	120		153.62	18,434									
CAPACITY		UNITS	ADJ	ROOF SHAPE		1	GABLE	1.00	+	WDK	N	ATT WOOD DECK	258		62.47	16,118									
STORIES(FAR)		1	1.00	ROOF COVER		1	ASPHALT SHINGLE	1.00	+	ASH	N	ATT SHED	70		48.39	3,388									
ROOMS		5	1.00	FLOOR COVER		5	VINYL	1.00	F	USF	L	UP-STRY FIN	216	1900	277.54	59,948									
BEDROOMS		3	1.00	INT. FINISH		4	WALL BOARD	1.00	MST	O	MASONRY STACK	1			3,475.40	3,475									
BATHROOMS		1	1.00	HEATING/COOLING		18	MINISPLIT	1.00	ODS	O	OUT DOOR SHOWER	1			0.00										
FIXTURES		3	\$2,100	FUEL SOURCE		3	ELECTRIC	1.00																	
UNITS		0	1.00																						
EFF_YR/AGE																		1983 / 39							
COND																		31 31 %							
FUNC																		0							
ECON																		0							
DEPR																		31 % GD 69							
RCNLD																		\$234,100							

Key: 1156

Town of TRURO - Fiscal Year 2024


9/27/2023 7:11 pm SEQ #: 1,136


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CURRENT OWNER				PARCEL ID				LOCATION										
SEA SIBLINGS THREE LLC MGR: CHRISTOPHER H MILTON C/O NKSFB LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530				39-21-0				9 BAY VIEW RD										
				TRANSFER HISTORY		DOS	T	SALE PRICE	BK-PG (Cert)									
CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	Lpi	VC	CREDIT AMT	ADJ VALUE						
TOTAL																		
Nbhd		ZONING		FRNT		ASSESSED		CURRENT		PREVIOUS								
Infl1		NOTE				LAND		65,600										
Infl2						BUILDING												
						DETACHED												
						OTHER												
						TOTAL												
TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD	PHOTO 11/29/2022										
																		
BUILDING								BLDG COMMENTS										
MODEL	CD	ADJ	DESC		MEASURE	11/29/2022	LG	Bldg 2 marked as Unit 9A, Two Sisters.										
STYLE	6	0.90	RESIDENTIAL		LIST	11/24/2009	FC											
QUALITY	A	1.00	COTTAGE/BUNG (100%)		REVIEW	11/15/2010	MR											
FRAME	1	1.00	AVERAGE (100%)															
		WOOD FRAME (100%)																
YEAR BLT	1900	SIZE ADJ	1,000	ELEMENT		CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	95,049
NET AREA	340	DETAIL ADJ	1,000	FOUNDATION				1.00	A	BAS	L	BAS AREA	340	1900	273.38	92,949	CONDITION ELEM	CD
\$NLA(RCN)	\$280	OVERALL	0.900	EXT. COVER		1	WOOD SHINGLES	1.00										
CAPACITY		UNITS	ADJ	ROOF SHAPE		1	GABLE	1.00										
STORIES(FAR)		1	1.00	ROOF COVER		1	ASPHALT SHINGLE	1.00										
ROOMS		3	1.00	FLOOR COVER		5	VINYL	1.00										
BEDROOMS		1	1.00	INT. FINISH		4	WALL BOARD	1.00										
BATHROOMS		1	1.00	HEATING/COOLING		18	MINISPLIT	1.00										
FIXTURES		3	\$2,100	FUEL SOURCE		3	ELECTRIC	1.00										
UNITS		0	1.00															

CLASS	CLASS%	DESCRIPTION			BN ID	BN	CARD	
1090	100	MULTIPLE HSES				2	2 of 3	
PMT NO	PMT DT	TY	DESC	AMOUNT	INSP	BY	1st	%
								
UNIT 9A ("TWO SISTERS")=MIDDLE COTTAGE								
EFF.YR/AGE 1983 / 39								
COND		31 31 %						
FUNC		0						
ECON		0						
DEPR		31 % GD		69				
RCNLD		\$65,600						

Key: 1156

Town of TRURO - Fiscal Year 2024


9/27/2023 7:11 pm SEQ #: 1,137

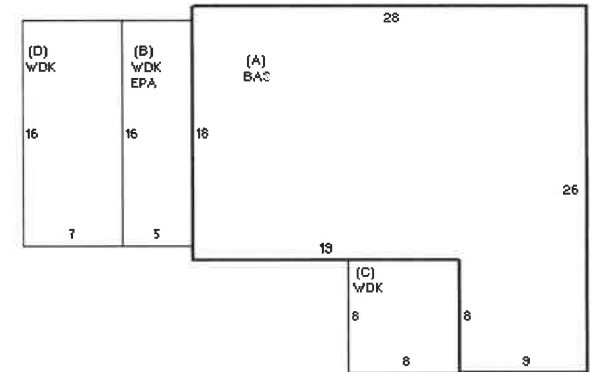
LEGAL

LAND

DETACHED

BUILDING

CURRENT OWNER				PARCEL ID				LOCATION									
SEA SIBLINGS THREE LLC MGR: CHRISTOPHER H MILTON C/O NKSFB LLC 400 GARDEN CITY PLAZA, STE 510 GARDEN CITY, NY 11530				39-21-0				9 BAY VIEW RD									
				TRANSFER HISTORY		DOS	T	SALE PRICE	BK-PG (Cert)								
CD	T	AC/SF/UN	Nbhd	Infl1	Infl2	ADJ BASE	SAF	Infl3	Lpi	VC	CREDIT AMT	ADJ VALUE					
TOTAL																	
Nbhd		ZONING		FRNT		ASSESSED		CURRENT		PREVIOUS							
Infl1		NOTE		LAND BUILDING DETACHED OTHER		TOTAL		136,100									
Infl2																	
TY	QUAL	COND	DIM/NOTE	YB	UNITS	ADJ PRICE	RCNLD	PHOTO 11/29/2022									
																	
BUILDING								BLDG COMMENTS									
MODEL	CD	ADJ	DESC	MEASURE	11/29/2022	LG	Bldg 3 marked as BER-DEE.										
STYLE	6	0.90	RESIDENTIAL	LIST	11/24/2009	FC											
QUALITY	A	1.00	COTTAGE/BUNG [100%]	REVIEW	11/15/2010	MR											
FRAME	1	1.00	AVERAGE [100%]														
			WOOD FRAME [100%]														
YEAR BLT	1900	SIZE ADJ	1.060	ELEMENT	CD	DESCRIPTION	ADJ	S	BAT	T	DESCRIPTION	UNITS	YB	ADJ PRICE	RCN	TOTAL RCN	197,268
NET AREA	576	DETAIL ADJ	1.000	FOUNDATION			1.00	A	BAS	L	BAS AREA	576	1900	289.78	166,915	CONDITION ELEM	CD
SNLA(RCN)	\$342	OVERALL	0.900	EXT. COVER	1	WOOD SHINGLES	1.00	B	EPA	N	ENCL PORCH	80		152.16	12,173		
				ROOF SHAPE	1	GABLE	1.00	+	WDK	N	ATT WOOD DECK	256		51.60	13,210		
				ROOF COVER	1	ASPHALT SHINGLE	1.00		MST	O	MASONRY STACK	1		2,870.60	2,871		
				FLOOR COVER	2	SOFTWOOD	1.00										
				INT. FINISH	4	WALL BOARD	1.00										
				HEATING/COOLING	18	MINISPLIT	1.00										
				FUEL SOURCE	3	ELECTRIC	1.00										
CAPACITY			UNITS	ADJ													
STORIES(FAR)			1	1.00													
ROOMS			4	1.00													
BEDROOMS			2	1.00													
BATHROOMS			1	1.00													
FIXTURES			3	\$2,100													
UNITS			0	1.00													



EFF.YR/AGE	1983 / 39
COND	31 31 %
FUNC	0
ECON	0
DEPR	31 % GD 69
RCNLD	\$136,100

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

APR 10 2024

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

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

April 4, 2024

Truro Building Commissioner
24 Town Hall Road
P O Box 2030
Truro MA 02666

RE: 9 Bay View Road – Parcel 39-21-0

Dear Commissioner Stevens,

I represent Christine Murphy, of 7 Bay View Road, Truro. It has come to our attention that our immediate abutter, Sam Lessin (named applicant – the assessed owner of record is Sea Siblings Three LLC), of 9 Bay View Road, has filed applications to undertake construction on the three cottages located on this abutting property. We would like to comment on these applications for your consideration while reviewing the requests.

First, the applications each characterize the project as a remodeling and repair of the existing cottages. However, these repairs include new foundations, new exterior siding, windows, doors, new plumbing and wiring, new interior walls, etc. Given that each of these cottages is presently around 100 years old (the assessors card lists their date of construction as 1900), sitting on cinderblock piers, we question whether this will in fact become a complete replacement of the structures. Given the extreme non-conformity of the structures, and the fact that the new foundations are exterior structural additions, and if the work may well be a *de facto* replacement, should not the project be subject to ZBA review as an alteration of the non-conforming structures and use necessitating a special permit? It would seem appropriate to undertake that review before the work is commenced rather than after the extent of any hidden structural deterioration is uncovered.

Second, we seriously question as to whether the applicant will be able to do

* Each Attorney in this office is an independent practitioner
who is not responsible for the practice or liabilities of any
other attorney in the office. Rule 7.5 (d)

what their plans propose to do, given the existing conditions on the site. For example, we note that the first building, labeled Cottage C in the applications and plans, is located only 3.8 feet from my client's property, and its rear Deck is directly on that property line. How would the contractor propose to dig and construct a new "foundation" under this house without undermining my client's property? Similarly, the front of that cottage is located only 4 feet from the street line. Given the topography at that location (see photo enclosed), how would the foundation and construction occur without disturbing the town road and its immediately abutting layout? We have similar concerns for the rear two cottages, which in turn sit 2.3 feet and 3.5 feet from my client's property line, respectively.

We note that the plans provided with the applications appear to have been prepared by the contractor, not by a land surveyor or civil engineer, and are lacking in significant detail. The above references setbacks are gleaned from plans previously provided in an earlier iteration of the project (copy enclosed). We also note that the plan of existing conditions and the proposed site plan confirm that the Propane Tank for Cottage C is located on my client's property, not on the locus. They have no permission from my client to allow the tank to remain on her property.

We also note various inconsistencies in the plans. The application for Cottage C states that it contains 2 bedrooms and one bath and is proposed to have 2 bedrooms and 1.5 bathrooms. However, the Floor plan provided on sheet A3 shows 4 bedrooms and only 1 bathroom. The assessors' card for the first cottage lists only 3 bedrooms. Similarly, the application for Cottage A lists 3 existing bedrooms and 3 proposed bedrooms. But the Floor plan shows only 1 bedroom. How can one rely on such plans and application representations?

The proposed site plan shows 6 parking spaces heading in toward Cottage C and its yard. However, there presently exists concrete "retaining walls", between 2-3 feet tall, at that location. (See photo enclosed). The Existing Conditions plan does indicate that some of the "retaining walls" are to be removed, but no topographic conditions are shown as to how, if at all, this might be achieved, and whether the resulting parking spaces would in fact be functional. Not knowing the history of the topography, it is difficult to determine if these are indeed retaining walls rather than sustaining walls, or how their removal might affect the stability or determination of the height of the adjoining cottages. In the same light, will the removal of the walls and soil they retain affect the septic system components beneath this parking area?

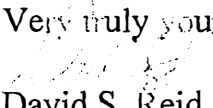
In sum, we have dire concerns about this project, and its true scope of work.

* Each Attorney in this office is an independent practitioner who is not responsible for the practice or liabilities of any other attorney in the office. Rule 7.5 (d)

We urge caution in reviewing these applications and that proper documentation be provided to support all the intended work and result. Again, given the severe non-conformity of these cottages, we are concerned for unanticipated consequences.

Thank you for your diligence in handling this situation.

Very truly yours,

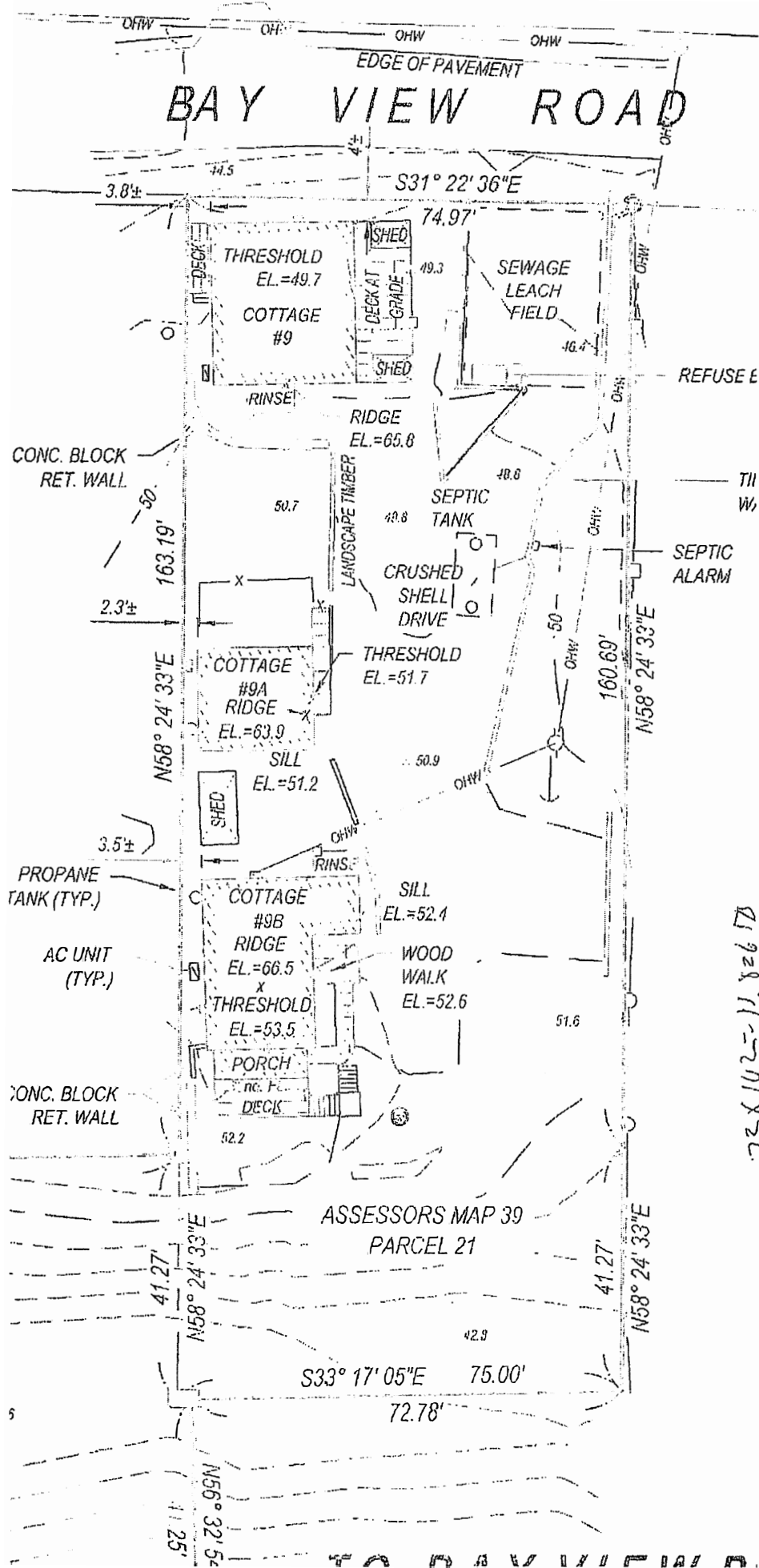

David S. Reid

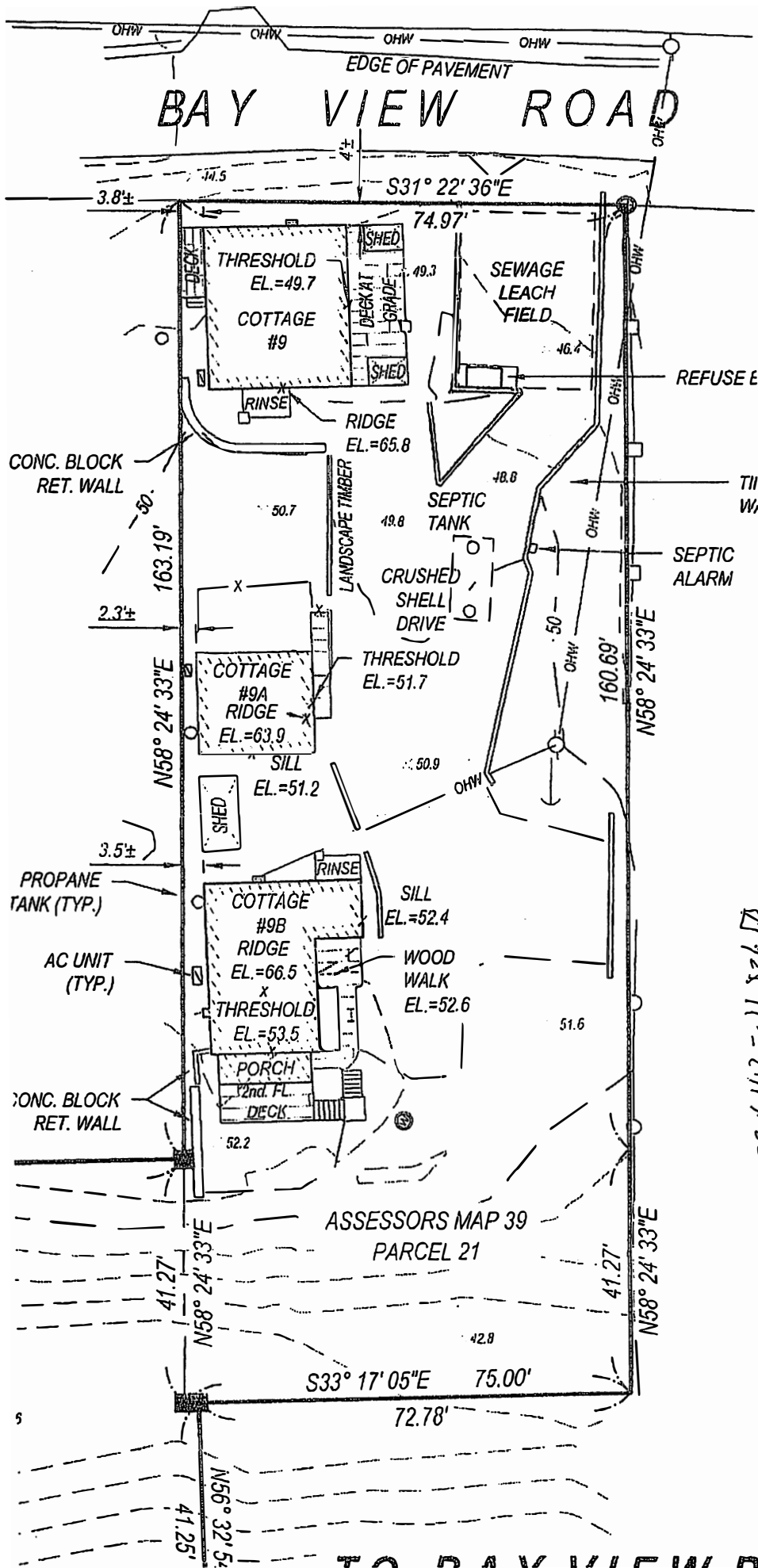
Encl(3)

CC: Sam Lessin (applicant)









73X102-11, 826 D

TO DAWVIDA

From: [Emily Beebe](#)
To: [Elizabeth Sturdy](#); [Rich Stevens](#); [Arozana Davis](#); [Jarrod Cabral](#)
Cc: [Barbara Carboni](#); [Chris Lucy](#); [Darrell Shedd](#)
Subject: RE: 2024-008/ZBA 274 Route 6 (Modification)
Date: Wednesday, August 14, 2024 3:29:17 PM

Good afternoon,

The property at 274 Route 6 seeks modification to conditions of SP, in part, by adding rental of the property.

The septic system capacity would not necessarily change if the property would be rented, but the use as a “single family” residence would change, and this triggers the requirement for an additional septic tank (per title 5 --310 CMR 15.221.b), or replacement of the existing tank with a 2 compartment tank that meets the requirement of the code.

Thank you for the opportunity to comment.

Best,

Emily Beebe

From: Elizabeth Sturdy <ESturdy@truro-ma.gov>
Sent: Wednesday, July 24, 2024 9:46 AM
To: Emily Beebe <EBeeBe@truro-ma.gov>; Rich Stevens <rstevens@truro-ma.gov>; Arozana Davis <ADavis@truro-ma.gov>; Jarrod Cabral <jcabral@truro-ma.gov>
Cc: Barbara Carboni <bcarboni@truro-ma.gov>; Chris Lucy <CLucy@truro-ma.gov>; Darrell Shedd <dsheddd@truro-ma.gov>
Subject: 2024-008/ZBA 274 Route 6 (Modification)

Emily, Rich, Zana, Jarrod:

The attached ZBA Application has also been added for review at the August 19, 2024 ZBA meeting at 5:30 pm.

Please respond with any comments you may have, **or not**. Appreciate any and all input.

Let me know if you have any questions. Thanks,

Elizabeth A. Sturdy (Liz)

Planning Department Assistant
Truro Town Hall
24 Town Hall Road, P.O. Box 2030
Truro, MA 02666
Main : (508) 349-7004, x121
Direct: (508) 214-0935
Fax: (508) 349-5505

esturdy@truro-ma.gov



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 17, 2024

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

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 § _____ of the Truro Zoning Bylaw concerning (describe) _____.

☒ APPLICATION FOR SPECIAL PERMIT

☒ Applicant seeks approval and authorization of uses under § _____ of the Truro Zoning Bylaw concerning (describe) Modification of 2011-003 ZBA Decision.

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

Property Address 274 Route 6, Truro, MA 02666 Map(s) and Parcel(s) _____

Registry of Deeds title reference: Book 24485, Page 288, or Certificate of Title Number _____ and Land Ct. Lot # _____ and Plan # _____

Applicant's Name Steven J. Garvan & Caren L. Garvan

Applicant's Legal Mailing Address P.O. Box 398, North Truro, MA 02652

Applicant's Phone(s), Fax and Email (860) 803-9175 captgarvan@aol.com

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

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

☒ Owner ☐ Prospective Buyer* ☐ Other*

Owner's Name and Address Steven J. Garvan & Caren L. Garvan

Representative's Name and Address _____

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

- 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)

Applicant(s)/Representative Printed Name(s)

Steven J. Garvan / Caren L. Garvan

Applicant(s)/Representative Signature

Owner(s) Signature or written permission

Steven J. Garvan / Caren L. Garvan

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

DECISIONS/MOTIONS OF THE BOARD OF APPEALS OF TRURO, MASSACHUSETTS

Property Owner(s) and/or Applicant(s): Steven and Caren Garvan

Property Location: 274 Route 6

Atlas Sheet: 46 Parcel(s): 386 (2011-003/ZBA)
(Deed Ref: Book 24485, Page 288)

Hearing Date: Monday, March 28, 2011

Decision #1

Special Permit	<input type="checkbox"/>	Vote: <u>5</u>	Approve	<input checked="" type="checkbox"/>
Variance	<input type="checkbox"/>	<u>0</u>	Disapprove	<input type="checkbox"/>
Building Commissioner Decision	<input type="checkbox"/>		Abstain	<input type="checkbox"/>
& Other	<input checked="" type="checkbox"/>		Request for a Variance withdrawn without prejudice (approved withdrawal)	

1st Motion (Pope; 2nd Matricardi): Move to allow the withdrawal of the request for a Variance without prejudice.

Decision #2

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

2nd Motion (Pope; 2nd Perkel): Move to grant to Steven and Caren Garvan a Special Permit (w/ref. To Sec. 40.1.C of the Zoning Bylaw) to put a kitchen in the "in-law" apartment, as per plans filed with the Building Commissioner and the ZBA. Conditions: 1) Use shall be limited to family members and guests; 2) Special Permit shall expire upon transfer of ownership of the property; 3) The property shall not be used for a seasonal rental.

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

Signature: [Signature] Date: 4/7/11
Chairman ZBA

Received Office of the Town Clerk:

Signature: [Signature] Date: APRIL 7, 2011

I hereby certify that this decision was filed with the Office of the Town Clerk on

APRIL 7, 2011 and 20 (twenty) days have elapsed since the date of filing, and:

☒ No Appeal has been filed.

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

Signature: [Signature] Date: MAY 17, 2011

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

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

MODIFICATION TO DECISION #2, 2nd MOTION

We would like the special wording changed as follows:

- 1. Use shall be for family members, guests and potential renters;**

Although our original intention was for our in-laws to use the apartment in their older age so they could be closer to us, they both died before ever getting the opportunity to use it. Consequently, we would like No. 1 to reflect that it can officially also be used by renters in addition to guests and family members.

- 2. Special Permit shall expire upon transfer of the Property. We would like this statement removed as we feel it lessens the value of our home to have an apartment available and a potential buyer (if we were to ever sell) would not be able to rent it without going before the Board to get it approved. Additionally, our daughter will most likely inherit the property and we'd like the right to rent to run with the premises for purposes of convenience.**

- 3. The property shall not be used for a seasonal rental. This statement will remain. We understand the Town's need for housing as well as their position on not wanting individual homeowners to rent their property on a seasonal basis and take away business owner's sources of income.**