

CLOVERLEAF

APPENDIX B – DECISION ON WAIVERS

The Board GRANTS and DENIES the requested waivers as follows:

Board of Health Regulations

Applicant's request: Relief from specific requirements of Article 14 of the Truro Board of Health regulations in excess of MA DEP Title 5 regulations. Article 14 provides:

Article 14: Nitrogen Loading Requirements

“The Truro Board of Health hereby requires that all properties within the Town of Truro meet the loading restrictions set forth in 310 CMR 15.214 and contain at least ten thousand (10,000) square feet of Buildable Upland (as defined in Article 1 hereunder) for every 110 gallons per day of design flow and that all systems designed to serve said facilities meet the same restrictions and requirements contained in Title 5 as the “Nitrogen Sensitive Areas” defined in 310 CMR 15.215 irrespective of whether the properties are located within Nitrogen Sensitive Areas as so defined.”

The Board's peer reviewer, Mark Nelson of Horsley Witten Group, has noted that this regulation limits wastewater flow to 440 gallons per day per acre. The Cloverleaf site contains a total of 3.91 acres or 170,320 square feet. Under Article 14, the maximum wastewater discharge permitted would be 1,874 gallons per day. The proposed system for this project has a design flow of 7,480 gallons per day. Waiver of Article 14 is required to allow this discharge in excess of the 1,874 gpd limit for a parcel of this size.

Mr. Nelson found that the Applicant's original wastewater disposal system did not comply with Title 5 or Article 14 of the Truro Board of Health regulations. The Applicant then submitted a revised proposal utilizing the BioMicrobics treatment system, an Innovative/ Alternative technology system. Mr. Nelson reviewed the system in several reports to the Board.

In his November 30, 2020 letter, Mr. Nelson recommended that the Board require the Applicant to adjust design of wastewater treatment system to achieve higher level of nitrogen removal, in particular, to meet goal of achieving average nitrogen concentration of 5 mg/L and should not, after first six months of operation, exceed a nitrogen concentration of 10 mg/L. Designing the system to meet a 5 mg/L average concentration and setting a maximum threshold of 10 mg/L provides added protection to downgradient private wells.

Mr. Nelson concluded that where the enhanced BioMicrobics system treatment is anticipated to reduce nitrogen concentration to these levels, waiver of Article 14 is appropriate, conditioned on an Operation and Maintenance Agreement; monthly sampling of wastewater effluent for one year (reduced to quarterly if warranted); a contingency plan; and groundwater monitoring downgradient of the leaching field.

The Board GRANTS/DENIES this waiver.

Article 9: Innovative/Alternative Technology

The proposed BioMicrobics treatment system for the project is an Innovative/Alternative technology certified for enhanced nutrient removal by the Department of Environmental Protection. Article 9 limits the use of I/A Technology treatment systems to “Remedial Use Situations” arising from failed or nonconforming systems:

“(2) Standards. Innovative/alternative (hereinafter, “I/A”) technologies, as defined herein, will only be permitted in Remedial Use situations, and as defined herein (see article 3). I/A technology will not be permitted in any other situations.”

Use of the I/A BioMicrobics system for the project, which is not a Remedial Use Situation, requires a waiver from this Bylaw.

The Board GRANTS/ this waiver

Zoning Bylaw

Section 30: Use Regulations

30.1(A): General Requirements

Allows “single-family dwelling or single-family dwelling with accessory apartment use” only. Waiver required to allow multi-family and two-family use.

30.2 Use Table. Does not allow two-family or multi-family use. Waiver required to allow these as principal uses.

30.2. Use Table. Does not allow on-site management office, community room or storage as accessory uses. Waiver required to allow these uses as accessory uses in conjunction with multi-family use.

The Board GRANTS the above waivers.

Section 40.6: Growth Management

B. Residential Development Limitation

“1. There shall be no more than forty (40) building permits for new single family dwelling units authorized within any calendar year, beginning January 1 and ending December 31. . .”

Other portions of Section 40.6 limit the issuance of permits to any one applicant during a single month or year.

This section limits residential building permits issued within any calendar year to 40, and further limits the total number to any one applicant to 4.

The Board GRANTS the above waivers.

Section 50: Area and Height Regulations

50.1 Regulations

A. Table: Dimensional Requirements: Minimum Lot size

Minimum lot size is a limit on density; only five lots/dwelling units would be permitted on a parcel of 170,320 square feet. A waiver is required to construct 39 dwelling units on the project parcel.

The Board GRANTS this waiver.

50.1.A. Table: Dimensional Requirements: Side Setbacks and Height

<u>Dimensional Requirements</u>	<u>Required</u>	<u>Provided</u>
Minimum Sideyard Setback	25 feet	see chart for buildings requiring waivers**
Maximum Building Height	2 stories; 30'/23' flat	see chart for buildings requiring waivers**

Relief Required Building Number	Minimum Sideyard Setback – 25 feet Required	Maximum Building Height (definition of building height to ridge above existing grade) – 30' max	number of stories – two story maximum
1-3	conforming at 40.8 feet	conforming at 21.7 feet	conforming at two stories
5-7	**waiver required for setback at 12.3 feet	conforming at 24 feet	conforming at two stories
2-4	conforming at 91.2 feet	conforming at 28 feet	conforming at two stories
6-8	conforming at 34.2 feet	conforming at 28.5 feet	conforming at two stories
9-11	conforming at 33.3 feet	conforming at 25.25 feet	conforming at two stories
13-15	**waiver required at 24 feet to foundation excl. egress porch	conforming at 23.75 feet	conforming at two stories

10-12, 14-16, 18-20	**waiver required at 20' to foundation excl. egress porch	conforming at 27.25 feet conforming at 26.5 feet conforming at 28.5 feet	conforming at two stories conforming at two stories conforming at two stories
17-19	**waiver required at 14.8 feet to foundation excl. egress porch	conforming at 25.75 feet	conforming at two stories
22-24 23-25	conforming at 51.5' **waiver required at 14.6 feet to foundation	**waiver required at 36'11" **waiver required at 31'11" due to fill placed at rear of site above existing grade; appears 24'8" at roadway	**waiver required at three stories; definition of basement in terms of foundation exposure on more than one side will classify this basement as a third story; relief required
21	conforming at 61' west side and 40' east side	**waiver required at 31.5' that exceeds 23' limit for flat roof; based on def of building height above existing grade; visible height from road is 22.5' at front and 31.5' at rear	**waiver required at three stories; definition of basement in terms of foundation exposure on more than one side will classify this basement as a third story; relief required

The Board GRANTS these waivers.

50.2: Building Gross Floor Area for the Residential District

“B. Applicability and Exceptions:

1. Total Gross Floor Area Allowed by Right: [B]uilding permits for new construction . . . shall be issued only where, on completion of the construction or project, the Total Gross Floor Area of the new or expanded structure(s) does not exceed 3,600 sq.ft. for a Residential District Minimum Lot Size of 33,750 square ft. and prorated to 3,668 sq.ft. for one acre of land:

a. Plus 300 sq.ft. for each additional contiguous acre of land, or fraction thereof prorated.

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2. Special Permit to exceed the Total Gross Floor Area limit: The Total Gross Floor Area limit for a dwelling and accessory buildings on a lot established in subsection 50.2.B.1 may be exceeded up to a maximum established by this subsection, by Special Permit. No Special Permit may be issued for any construction if the construction would result in the Total Gross Floor Area exceeding 4,600 sq.ft. for a Residential District Minimum Lot Size of 33,750 (or .775 acre) and prorated to 4,600 sq.ft for one acre of land:
- a. plus 300 sq.ft. for each additional contiguous acre of land, or fraction thereof prorated.
- ...

At 3.91 acres, the Total Gross Floor Area allowed as of right on the project site would be 4,568 sq. ft. (3,668 for the first acre + 300 sq ft. for each additional acre or fraction). The Total Gross Floor area allowed by Special Permit would be 5,568 sq ft (4,668 for the first acre + 300 sq. ft for each additional area or fraction). As calculated by the Applicant, the Total Gross Floor Area of the project is 46,172 sq.ft. A waiver is required for construction of all Floor Area in excess of 5,568 sq. ft.

The Board GRANTS this waiver.

Section 70: Site Plan Review

70.3. Commercial Development

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.

Under G.L. c. 40B, a separate site plan review process cannot be required. This Board's review of the comprehensive permit application substitutes for Site Plan Review under Section 70. The Board finds that its exhaustive review of this project, with the benefit of peer review and comment by Town departments, is consistent with the provisions of Commercial Site Plan Review. The Board waives any remaining requirements of Section 70.3, *with the express exception of Section 70.3.I, "Performance Guarantee."*

With the above-noted exception of Section 70.3.I, "Performance Guarantee," the Board GRANTS his waiver.

Subdivision Rules and Regulations

Although the project is not a subdivision, it is residential development of a scale, and having design features akin to those of a subdivision. Waivers from standards contained in the Subdivision Rules and Regulations are required. The following waivers are sought:

Section 3. Design Standards

Section 3.6. Street Design

Section 3.6.6. Dead-end streets

- a. “The length of dead-end streets should not exceed one thousand (1,000) feet.”

Waiver is required: Loop roadway is 1,060 +/- feet long.

The Board GRANTS this waiver.

Section 3.6.7. Adjacent properties

“Proposed subdivision roads shall be separated from subdivision boundaries by a screening buffer of twenty-five (25) feet width or more. . . .”

Waiver is required: Access road is within 25 feet of side line, adjacent to Unit 21 (east), 13 feet provided.

The Board GRANTS this waiver.

Section 3.6.8. Design Standards: Table 1 in Appendix 2 – Type C

- Minimum Roadway width: 20 feet

Waiver is required: loop road has 14 foot travel way, with 1 foot berms provided (one-way traffic)

The Board GRANTS this waiver.

- Minimum Radius at street centerline: 290 feet

Waiver is required: 100 feet provided at Highland Road entrance; 50 feet provided within the site.

The Board GRANTS this waiver.

- Maximum Grade: 8%

Waiver is required: Main Access Road 10% proposed

The Board GRANTS this waiver.

- Minimum curb radius: 30 feet
30 feet required; 30 foot radius provided on main access road
25 feet lane provided for internal island

The Board GRANTS this waiver.

- Dead-end Street maximum length: 1000 feet

Waiver is required: loop roadway is 1,060 feet +/- long

The Board GRANTS this waiver.

Section 4: Specifications for Construction

4.1.8 Berms

“Berms shall be provided on both sides of all paved roads where the grade is 3% or greater. Bituminous concrete berms, eighteen (18) inches in width on rolled asphalt base or binder course, shall be constructed. . .”

Waiver is required: 12 inch berms proposed

The Board GRANTS this waiver.

4.1.10 Vegetation:

“Existing trees of over six (6) inches in diameter, measured at four and one-half (4-1/2) feet above existing grade, outside the travel surface of any proposed or existing roads and on proposed building lots should be preserved. . . .”

Waiver is required: Trees within the proposed limit of work line shall be removed as needed to allow for the construction of the development, beyond the edge of clearing for the roadway.

The Board GRANTS this waiver.

2.5.4(c) Performance Guarantee

Requires a performance guarantee in the form of a bond, deposit, or covenant to secure construction of ways and installation of municipal services.

The Board DENIES this waiver.

General Bylaws

Chapter 1, Section 8: Soil Removal

1-8-1. “The removal of topsoil, loam, sand, gravel, clay, hardening, subsoil and earth from any parcel of land not in public use in the Town of Truro except as hereinafter provided, shall be allowed only after a written permit therefore is obtained from the Building Commissioner.

Under G.L. c. 40B, a separate permit cannot be required for the earth removal involved in this project, but the Board may secure, through a permit condition requiring administrative review, compliance with any reasonable standards and conditions that would be applied to a non-40B project. For this project, the DPW Director will have oversight of soil removal activity during

the Town's part of the project. For the Applicant's portion of the project, earth removal will be subject to review and approval by the Board's consultant.

The Board GRANTS this waiver subject to the review and approval above.

Curb Cut Permit (Selectmen's Policy 28)

Curb cut permits are granted by the Select Board following review by the DPW Director and Chief of Police. The proposed project will have curb cuts on Highland Road (main entrance) and Route 6 (emergency access). The Highland Road curb cut has effectively been reviewed by DPW and the Police Chief as part of the comprehensive permit process. The DPW will apply for the MassDOT curb cut approval.

The Board GRANTS this waiver

Waiver of Fees

The Applicant requests relief from any requirements for paying fees for any regulatory review or for any permits related to the development of this project, including but not limited to fees for building permits and septic system installation permits.

The Board GRANTS this waiver