



Truro Zoning Board of Appeals Agenda

Remote Zoom Meeting

Monday, December 16, 2024 – 5:30 pm

www.truro-ma.gov

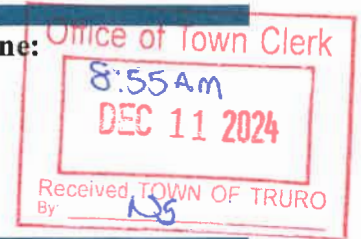
Join the meeting from your computer, tablet or smartphone:

<https://us02web.zoom.us/j/81283139740>

Dial in: +1-646-931-3860

Meeting ID: 812 8313 9740

Passcode: 664911



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

Public Hearing – Continued

2024-011/ZBA – Janet Despres and Richard Despres, for property located at 4 Kettle Hole Lane (Atlas Map 42, Parcel 266) located on property in the Residential District. Applicant seeks: (1) a variance to construct a garage within a side setback (10 feet where 25 feet required); and (2) a Special Permit for the removal of a pre-existing, non-conforming structure (shed) with new non-conforming garage structure. DEADLINE FOR BOARD ACTION – THIS MEETING

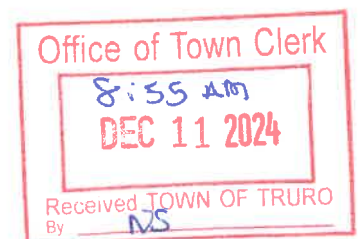
Public Hearing – New

2024-013/ZBA – Peter and Melissa Costa, relating to property located at 113 Castle Road (Atlas Map 46, Parcel 398). Appeal by applicants of inability to obtain zoning enforcement from the Building Commissioner with respect to zoning violations alleged to arise from construction of a

dwelling on property in the Residential District. DEADLINE FOR BOARD ACTION: MEETING JANUARY 27, 2025/DEADLINE FOR FILING DECISION: FEBRUARY 10, 2025

Next Meetings Monday, January 27, 2025 at 5:30 p.m.

Adjourn



Benjamin E. Zehnder LLC

62 Route 6A, Suite B
Orleans, Massachusetts 02653

Benjamin E. Zehnder, Esq.

bzehnder@zehnderllc.com

Tel: (508) 255-7766

December 10, 2024

Elisabeth Verde, Truro Town Clerk
Truro Town Hall
24 Town Hall Road
Truro, MA 02666

Via Hand Delivery

Re: 2024-011/ZBA – Janet Despres and Richard Despres
4 Kettle Hole Lane (Assessor's Parcel ID 42-266)

Dear Ms. Verder:

Please find enclosed for filing with the above Board of Appeals matter ten copies of an amended site plan for consideration by the Board.

Thank you as always for your assistance. I remain –

Very truly yours,



Benjamin E. Zehnder

Enc.

cc. via email only:

client

Barbara Carboni

Robert Freeman

Liz Sturdy

SURVEYOR'S CERTIFICATION:

ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, I CERTIFY TO RICHARD AND JANET DESPRES THAT AS THE RESULT OF A LOCATION SURVEY PERFORMED ON THE GROUND SEPTEMBER 1, 2023 IN ACCORDANCE WITH THE NORMAL STANDARD OF CARE EXERCISED BY PROFESSIONAL LAND SURVEYORS PRACTICING IN THE COMMONWEALTH OF MASSACHUSETTS, I FIND THAT THE EXISTING BUILDINGS AND PROPOSED GARAGE ARE SITUATED ON LOCUS AS SHOWN HEREON.

DATE: ~~DECEMBER 4, 2024~~

PROFESSIONAL LAND SURVEYOR

ANDREW LARKE
ANA CRISTINA LUNA
MAP 42, PARCEL 265

ROBERT A. LANCEY
LISA M. MANNA
MAP 42, PARCEL 91

LINDA D. CALDWELL
& CECILIA W. CALDWELL
MAP 42, PARCEL 114

ZONING TABLE

DIMENSIONAL REQUIREMENT	REQUIRED	EXISTING	CONFORMS	PROPOSED GARAGE	CONFORMS
MINIMUM LOT SIZE	33750 SQ.FT.	38078 SQ.FT.	YES*	38078 SQ.FT.	YES*
MINIMUM LOT FRONTAGE	150 FT.	181.46 FT	YES*	181.46 FT	YES*
MINIMUM FRONTYARD SETBACK	25 FT	78.9 FT	YES*	25 FT PROPOSED	YES*
MINIMUM SIDEYARD SETBACK	25 FT	26.8 FT	YES*	18 FT PROPOSED	NO*
MAXIMUM BUILDING HEIGHT	2 STORIES, 30'	2 STORY	YES*	1 STORY	YES*
MINIMUM BACKYARD SETBACK	25 FT	26.7 GAZEBO	YES*	188.8 FT PROPOSED	YES*
LOT SHAPE	NA				
LOT COVERAGE		6.1%		7.7%	

* CONTACT THE TRURO BUILDING COMMISSIONER AND REFER TO CURRENT ZONING REGULATIONS FOR SETBACKS, BUILDING COVERAGE, ETC.

REVISED: DECEMBER 4, 2024

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O-12661

PROJECT DATA

OWNER OF RECORD:
JANET DESPRES, 2015 REVOCABLE TRUST
DEED BOOK 35137, PAGE 149
PLAN BOOK 431, PAGE 74, MARCH, 1987

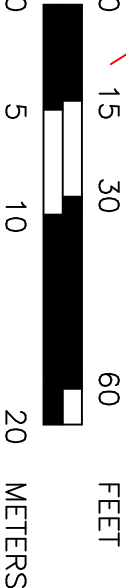
ASSESSOR'S MAP 42, PARCEL 266

PARCEL AREA: 38,078 SQ.FT.±

ZONING: RESIDENTIAL DISTRICT
GENERAL BUSINESS (ROUTE 6) DISTRICT

** CONTACT THE TRURO BUILDING COMMISSIONER AND REFER TO CURRENT ZONING REGULATIONS FOR SETBACKS, BUILDING COVERAGE, ETC.

~ 4 KETTLE HOLE LANE ~



CERTIFIED PLOT PLAN SHOWING

A PROPOSED GARAGE

TRURO, MA

PREPARED FOR:

RICHARD AND JANET DESPRES

SCALE: 1" = 30' DATE: SEPTEMBER 17, 2024

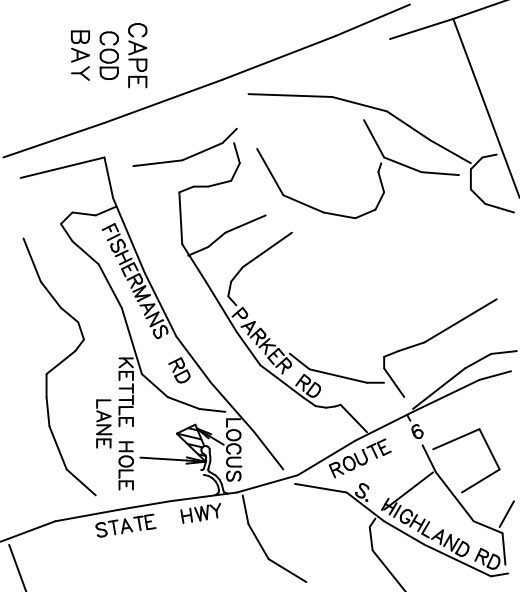
SCHOFIELD BROTHERS OF CAPE COD

LAND SURVEYING AND ENVIRONMENTAL PERMITTING

P.O. BOX 101, 161 CRANBERRY HIGHWAY, ORLEANS, MA 02653

TEL. NO. 508-255-2098 FAX NO. 508-240-1215

LOCUS MAP



SCALE: 1 IN. = 2000 FT.

O-12661

GALVIN & GALVIN, PC

Attorneys and Counselors at Law

A Professional Corporation

10 Enterprise Street, Suite 3
Duxbury MA 02332-3315
(corner of Rtes 3A & 139)

Robert W. Galvin, Esq.

Tel: (781) 934-5678 / (781) 834-4224

Facsimile: (781) 837-1030

David A. Henig, Esq. *

Robert E. Galvin, Esq. (1933-d.2020)

William J. Galvin, Esq. (1898- d.1995)

* also licensed in New York

October 25, 2024

VIA OVERNIGHT MAIL

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

RE: 113 Castle Road (Atlas Map 46, Parcel 398) – Zoning Enforcement Request

Dear Ms. Verde:

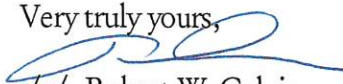
I am enclosing the following document for filing with the Town of Truro and Zoning Board of Appeals:

1. Application for Hearing (10 Copies);
2. Filing Fee \$200.00 payable to Town of Truro;
3. Certified Abutters' List; and,
4. Narrative and Letters dated September 16, 2024 and August 14, 2024 (10 copies).

Kindly accept this Application and forward same to the Zoning Board of Appeals for a hearing.

Thank you for your courteous attention to this matter.

Very truly yours,



/s/ Robert W. Galvin

Robert W. Galvin, Esq.

cc: Barbara Carboni, Town Planner
and Land Use Counsel

Richard Stevens, Building Commissioner
Town of Truro
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

Chris Lucy, Chair
Town of Truro Zoning Board of Appeals
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666



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 10/24/24

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) 10/17/24.

☐ 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) _____

☐ 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 113 Castle Road, Truro Map(s) and Parcel(s) Map 46, Parcel 398

Registry of Deeds title reference: Book _____, Page _____, or Certificate of Title Number 229034 and Land Ct. Lot # _____ and Plan # _____

Applicant's Name Peter & Melissa Costa

Applicant's Legal Mailing Address 11 Squantum Street Milton, MA 02186

Applicant's Phone(s), Fax and Email (617)293 0657 swan11c@verizon.net

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

☐ Owner

☐ Prospective Buyer*

☒ Other*

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

Owner's Name and Address Paul & Amy Holt, 75 Andrew St, Newton Highlands MA 02461

Representative's Name and Address Robert W. Galvin Esq. 10 Enterprise St. Duxbury MA 02461

Representative's Phone(s), Fax and Email 781 934-5678 rwgalvin@galvin-legal.com

- 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)

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

Applicant(s)/Representative Signature

Owner(s) Signature or written permission

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

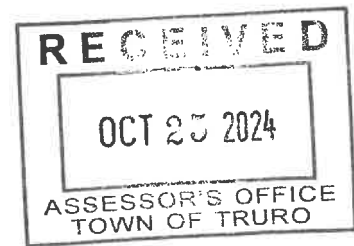


TOWN OF TRURO

Assessors Office

Certified Abutters List

Request Form



DATE: 10/24/24

NAME OF APPLICANT: Robert W. Galvin Esq

NAME OF AGENT (if any): _____

MAILING ADDRESS: 10 Enterprise Street, Ste 3, Duxbury MA 02332

CONTACT: HOME/CELL (781) 934-5678 EMAIL rwgalvin@galvin-legal.com

PROPERTY LOCATION: 113 Castle Road, Truro, MA
(street address)

PROPERTY IDENTIFICATION NUMBER: MAP 46 PARCEL 398 EXT. _____
(if condominium)

ABUTTERS LIST NEEDED FOR:

FEE: \$15.00 per checked item

(please check all applicable)

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

☐ Board of Health⁵

☐ Planning Board (PB)

☐ Zoning Board of Appeals (ZBA)

☐ Cape Cod Commission

☐ Special Permit¹

☐ Special Permit¹

☐ Conservation Commission⁴

☐ Site Plan²

☐ Variance¹

☐ Licensing

☐ Preliminary Subdivision³

☒ Appeal

Type: _____

☐ Definitive Subdivision³

Other appeal from Building Insp. Decision

(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: 10/25/2024

Date completed: 10/25/2024

List completed by: [Signature]

Date paid: 10/25/2024 Cash/Check Online CC

¹Abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line.

²Abutters to the subject property, abutters to the abutters, and owners of properties across the street from the subject property.

³Landowners immediately bordering the proposed subdivision, landowners immediately bordering the immediate abutters, and landowners located across the streets and ways bordering the proposed subdivision. **Note:** For Definitive Subdivision only, responsibility of applicant to notify abutters and produce evidence as required.

⁴All abutters within 300 feet of parcel, except Beach Point between Knowles Heights Road and Provincetown border, in which case it is all abutters within 100 feet. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.

⁵Abutters sharing any boundary or corner in any direction – including land across a street, river or stream. **Note:** Responsibility of applicant to notify abutters and produce evidence as required.



TRURO ASSESSORS OFFICE

PO Box 2012 Truro, MA 02666

Telephone: (508) 214-0921

Fax: (508) 349-5506

Date: October 25, 2024

To: Robert W. Galvin, Esq.

From: Assessors Department

Certified Abutters List: 113 Castle Road (Map 46, Parcel 398)

Zoning Board of Appeals

Attached is a combined list of abutters for 113 Castle Road.

The current owners are Paul & Mmary Holt.

The names and addresses of the abutters are as of October 18, 2024 according to the most recent documents received from the Barnstable County Registry of Deeds.

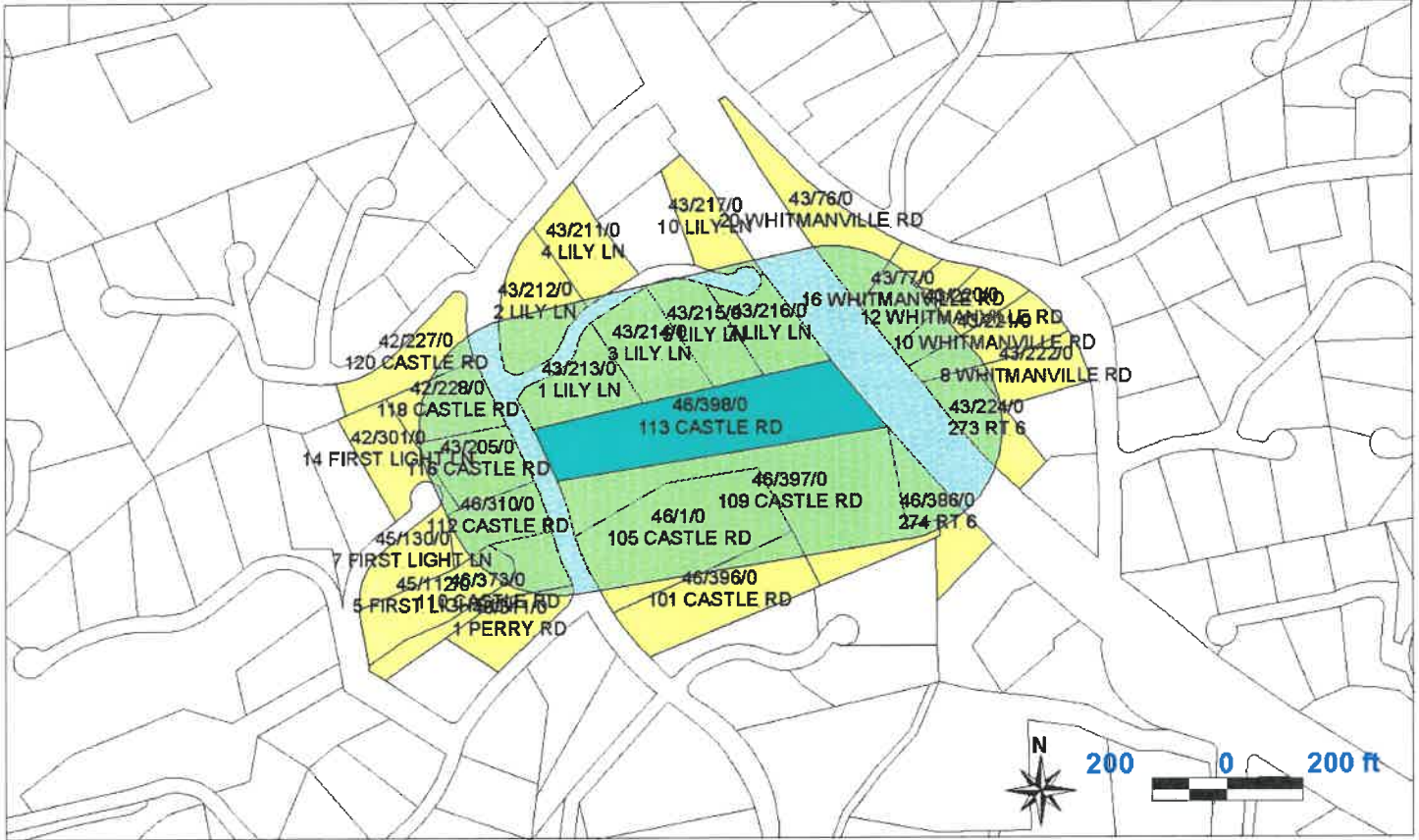
Certified by:

Olga Farrell
Assessing Clerk

113 Castle Road
Map 46, Parcel 398
Zoning Board of Appeals

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


Abutters List Within 300 feet of Parcel 46/398/0



Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
1809	42-227-0-R	WALTER & PAMELA THIEVON REV TR TRS: WALTER & PAMELA THIEVON	120 CASTLE RD	367 HIGH ST	STIRLING	NJ	07980
1810	42-228-0-R	POULIN ETHAN & RODERICK ANDREA	118 CASTLE RD	PO BOX 263	NO TRURO	MA	02652-0263
5684	42-301-0-R	ROBERTS FAMILY REV TRUST TRS:ROBERTS RICHARD E & ANNE B	14 FIRST LIGHT LN	PO BOX 1280	TRURO	MA	02666
1951	43-76-0-R	DEERING LEE SCOTT	20 WHITMANVILLE RD	PO BOX 299	NO TRURO	MA	02652
1952	43-77-0-R	PREGENT SARAH & GASPIE RITA & DENNIS & PAUL	16 WHITMANVILLE RD	c/o DENNIS GASPIE 19 ENSIGN AVE	MECHANICVILLE	NY	12118
1953	43-78-0-R	CORREA CHRISTOPHER M & KATIE A	14 WHITMANVILLE RD	PO BOX 880	NO TRURO	MA	02652
5682	43-205-0-R	GUBAR MARTIN D & RHODES REBECCA E	116 CASTLE RD	54 JORDAN ROAD	BROOKLINE	MA	02446
5898	43-211-0-R	WOODBURY SCOTT C & JEANNE A	4 LILY LN	3 CENTER WOODS NORTH	SAGINAW	MI	48638
5899	43-212-0-R	WOODBURY SCOTT C & JEANNE A	2 LILY LN	3 CENTER WOODS NORTH	SAGINAW	MI	48638
6018	43-213-0-R	CARPENTER CLYDE TIMOTHY & ROBERTSON JAMES DAVID	1 LILY LN	1803 WHITE OAK HOLLOW NE	ATLANTA	GA	30324
6019	43-214-0-R	BRATSKAIR STANLEY & BRATSKAIR ANNE REZNIKOFF	3 LILY LN	PO BOX 1276	TRURO	MA	02666
6020	43-215-0-R	COSTA PETER M & MELISSA A	5 LILY LN	75 WASHINGTON ST, SUITE 100	PEMBROKE	MA	02359
6021	43-216-0-R	JCM REAL ESTATE LLC RES AGT: SHARON S MANDLI	7 LILY LN	12770 TOUCHSTONE PLACE	WEST PALM BEACH	FL	33418
6022	43-217-0-R	DUARTE COLLEEN S & PILLOW MICHAEL J	10 LILY LN	PO BOX 682	NO TRURO	MA	02652
6665	43-220-0-R	MOTTA BRANDON F &MAKER SARAH A	12 WHITMANVILLE RD	PO BOX 930	NO TRURO	MA	02652-0930

oh D10/25/2024
10/25/2024

Key	Parcel ID	Owner	Location	Mailing Street	Mailing City	ST	ZipCd/Country
6666	43-221-0-R	SOUZA JEFFREY J & SOUZA RACHEL C	10 WHITMANVILLE RD	PO BOX 690	NO TRURO	MA	02652
6667	43-222-0-R	A F HULTIN & CO INC	8 WHITMANVILLE RD	PO BOX 504	NO TRURO	MA	02652-0504
6669	43-224-0-R	KANE CARTER T & AN R	273 RT 6	PO BOX 456	TRURO	MA	02666-0456
2215	45-112-0-R	BIKOFKY LYNN ANNE	5 FIRST LIGHT LN	PO BOX 364	TRURO	MA	02666
5687	45-130-0-R	BRAUER SHELLEY B & HEY JEAN LD	7 FIRST LIGHT LN	20 BOYLSTON ST, UNIT 14	BROOKLINE	MA	02445
2229	46-1-0-R	MADSEN PETER E	105 CASTLE RD	PO BOX 1309	TRURO	MA	02666
2519	46-310-0-R	TATERKA JAMES ANDREW & TONI M	112 CASTLE RD	827 HAIN DR	LAFAYETTE HILL	PA	19444
2520	46-311-0-R	LEFORT PAUL F & EILEEN M TRS TRS: LEFORT PAUL F & EILEEN M	1 PERRY RD	860 SADDLEWOOD DR	GLEN ELYN	IL	60137
5681	46-373-0-R	WOLFSON JANE	110 CASTLE RD	10 BATES ST	CAMBRIDGE	MA	02140
6664	46-386-0-R	GARVAN STEVEN J & CAREN L	274 RT 6	PO BOX 398	N.TRURO	MA	02652
7414	46-396-0-R	D MAYERS & L BOWMAN REV TRUST TRS: DAMON MAYERS & LYNN BOWMAN	101 CASTLE RD	PO BOX 322	TRURO	MA	02666
7416	46-397-0-R	HAGHIGHI MOHAMAD T	109 CASTLE RD	19 STONEY BROOK RD	HOPKINTON	MA	01748
7417	46-398-0-R	HOLT PAUL & AMY	113 CASTLE RD	75 ANDREW ST	NEWTON HIGHLANDS	MA	02461

 10/25/2024
10/25/2024 Page 2

42-227-0-R	42-228-0-R	42-301-0-R
WALTER & PAMELA THIEVON REV TR TRS: WALTER & PAMELA THIEVON 367 HIGH ST STIRLING, NJ 07980	POULIN ETHAN & RODERICK ANDREA PO BOX 263 NO TRURO, MA 02652-0263	ROBERTS FAMILY REV TRUST TRS:ROBERTS RICHARD E & ANNE B PO BOX 1280 TRURO, MA 02666
43-76-0-R	43-77-0-R	43-78-0-R
DEERING LEE SCOTT PO BOX 299 NO TRURO, MA 02652	PREGENT SARAH & GASPIE RITA & DENNIS & PAUL c/o DENNIS GASPIE 19 ENSIGN AVE MECHANICVILLE, NY 12118	CORREA CHRISTOPHER M & KATIE A PO BOX 880 NO TRURO, MA 02652
43-205-0-R	43-211-0-R	43-212-0-R
GUBAR MARTIN D & RHODES REBECCA E 54 JORDAN ROAD BROOKLINE, MA 02446	WOODBURY SCOTT C & JEANNE A 3 CENTER WOODS NORTH SAGINAW, MI 48638	WOODBURY SCOTT C & JEANNE A 3 CENTER WOODS NORTH SAGINAW, MI 48638
43-213-0-R	43-214-0-R	43-215-0-R
CARPENTER CLYDE TIMOTHY & ROBERTSON JAMES DAVID 1803 WHITE OAK HOLLOW NE ATLANTA, GA 30324	BRATSKEIR STANLEY & BRATSKEIR ANNE REZNIKOFF PO BOX 1276 TRURO, MA 02666	COSTA PETER M & MELISSA A 75 WASHINGTON ST, SUITE 100 PEMBROKE, MA 02359
43-216-0-R	43-217-0-R	43-220-0-R
JCM REAL ESTATE LLC RES AGT: SHARON S MANDLI 12770 TOUCHSTONE PLACE WEST PALM BEACH, FL 33418	DUARTE COLLEEN S & PILLOW MICHAEL J PO BOX 682 NO TRURO, MA 02652	MOTTA BRANDON F & MAKER SARAH A PO BOX 930 NO TRURO, MA 02652-0930
43-221-0-R	43-222-0-R	43-224-0-R
SOUZA JEFFREY J & SOUZA RACHEL C PO BOX 690 NO TRURO, MA 02652	A F HULTIN & CO INC PO BOX 504 NO TRURO, MA 02652-0504	KANE CARTER T & AN R PO BOX 456 TRURO, MA 02666-0456
45-112-0-R	45-130-0-R	46-1-0-R
BIKOFSKY LYNN ANNE PO BOX 364 TRURO, MA 02666	BRAUER SHELLEY B & HEY JEAN LD 20 BOYLSTON ST, UNIT 14 BROOKLINE, MA 02445	MADSEN PETER E PO BOX 1309 TRURO, MA 02666
46-310-0-R	46-311-0-R	46-373-0-R
TATERKA JAMES ANDREW & TONI M 827 HAIN DR LAFAYETTE HILL, PA 19444	LEFORT PAUL F & EILEEN M TRS TRS: LEFORT PAUL F & EILEEN M 860 SADDLEWOOD DR GLEN ELYN, IL 60137	WOLFSON JANE 10 BATES ST CAMBRIDGE, MA 02140
46-386-0-R	46-396-0-R	46-397-0-R
GARVAN STEVEN J & CAREN L PO BOX 398 N.TRURO, MA 02652	D MAYERS & L BOWMAN REV TRUST TRS:DAMON MAYERS & LYNN BOWMAN PO BOX 322 TRURO, MA 02666	HAGHIGHI MOHAMAD T 19 STONEY BROOK RD HOPKINTON, MA 01748
46-398-0-R		
HOLT PAUL & AMY 75 ANDREW ST NEWTON HIGHLANDS, MA 02461		

NARRATIVE

On August 14, 2024, as counsel, I wrote concerning certain deficiencies in the home abutting my clients' property at 113 Castle Road, Truro, MA owned by Paul and Amy Holt.

I represent Peter and Melissa Costa who own the abutting home at 5 Lily Lane, Truro.

Our concern is that the plans proposed to remedy some of the several zoning issues that affect the newly constructed home at 113 Castle Road do not remedy all of the dimensional issues.

The original record plans that I have show preconstruction elevations and that clearly did not include proper measurement of building heights and the as-built conditions evidence ignorance of those height restrictions in the actual construction of the home/

As detailed in my August 14, 2024 letter, the original building plans excluded from height portions of the foundation, floor joists and other areas of the structure resulting in the height of the structure being clearly beyond the height limitations for this zoning district. The Building Inspector was of the opinion that this was a 1' 6" height issue; when it is plainly evident that the height issue with the residence is likely between 3' or 4' higher than what is permitted utilizing the height measurements from the original average grade prior to construction and the chimney issue another estimated 3' beyond that height which is also not permitted.

There has also been no resolution that includes a solution solving the issue with the height of chimneys, the roofing, the decking, and the roof railings with the deck and the like.

Lastly, as indicated, the home itself is too large and does not comply with the Bylaw requirements limiting total gross floor area. The maximum Total Gross Floor Area for the home would appear to be approximately 4,368 s.f. based on the calculations done by Land Use Counsel and the Livable Area alone on the plans is 4,502 s.f.

It is therefore axiomatic that the home size exceeds the bylaw requirements.

On September 16, 2024, on behalf of the Costas, I requested in writing that there be zoning enforcement by the Building Commissioner directing that all zoning deficiencies be resolved and to date there has been no response from the Building Commissioner, Mr. Stevens. We are unclear why there is a reluctance to address these issues as similar issues were encountered by the Costas and the Costas (and other owners) have been forced to adhere to the strict limits of the bylaws concerning the height of residences, height of decks and railings, chimneys and other projections, and also the size of structures.

The Costas are asking the Board direct the owners, the Holts, to remedy the issues and bring the residence and property into compliance with the zoning bylaws.

EX A

GALVIN & GALVIN, PC

Attorneys and Counselors at Law

A Professional Corporation

10 Enterprise Street, Suite 3
Duxbury MA 02332-3315
(corner of Rtes 3A & 139)

Robert W. Galvin, Esq.

Tel: (781) 934-5678 / (781) 834-4224

Facsimile: (781) 837-1030

David A. Henig, Esq. *

Robert E. Galvin, Esq. (1933-d.2020)

William J. Galvin, Esq. (1898- d.1995)

* also licensed in New York

September 16, 2024

VIA EMAIL AND CERTIFIED MAIL

Richard Stevens, Building Commissioner
Town of Truro Zoning Board of Appeals
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

RE: 113 Castle Road (Atlas Map 46, Parcel 398) – Zoning Enforcement Request

Dear Mr. Stevens:

On August 14, 2024, I wrote concerning certain deficiencies in the home abutting my clients' property at 113 Castle Road, Truro, MA.

I do not believe I have heard anything back.

Our concern is that there are plans that are or will be proposed to you that may remedy some of the issues but ignore others. Once the owners vacate the home, as required, we believe that some but not all of the issues will be addressed.

I would like to be certain and confirm with you as to how the owners and contractor intend to resolve the several building height issues including the height of the residential structure, the height of the deck and deck railings, and also the height of the chimneys and other related improvements.

Can you provide us with any communications or plans that depict how these issues will be resolved? I am happy to pay for any cost to produce the documents.

It is our view that an effort was being made to re-survey the property elevations by JM O'Reilly, which have been altered during construction and are not the same as the preconstruction site

elevations and conditions. The original record plans that I have show preconstruction elevations and that clearly did not include proper measurement of building heights and the as-built conditions evidence ignorance of those height restrictions in the actual construction.

My prior letter indicated the building plans excluded from height portions of the foundation, floor joists and other areas of the structure. It is not a 1' 6" height issue, it is plainly evident that the height issue with the residence is likely between 3' or 4' issue and the chimney issue another estimated 3' beyond.

We also have no understanding as to how the issue with the chimneys and roofing, the decking, and the roof railings with the deck and the like are being resolved. I would like to see if there are any communications or plans on these issues.

Lastly, as indicated, the home itself is too large and does not comply with the Bylaw requirements limiting total gross floor area. The maximum Total Gross Floor Area for the home would appear to be approximately 4,368 s.f. based on the calculations done by Land Use Counsel and the Livable Area alone on the plans is 4,502 s.f. It is therefore axiomatic that the home size exceeds the bylaw requirements.

Finally, as indicated before, the homeowner and/or their designers and contractors are clearly responsible for the deficiencies in the design and construction of the home and granting a permit in this regard is not harmony with the general public good, intent of this bylaw, is substantially more detrimental to the neighborhood and plainly inconsistent with the manner in which the Town handled a similar height issue for my clients, the Costas, next door.

Again, kindly advise if there are any proposed plans or other information as to how the owner and builders intend to remedy these significant issues.

We believe this is a zoning enforcement issue and need to know if and what is being proposed to resolve them.

I trust you understand my position in this letter.

Very truly yours,

/s/ Robert W. Galvin

Robert W. Galvin, Esq.

cc: Barbara Carboni, Town Planner
and Land Use Counsel

Chris Lucy, Chair
Town of Truro Zoning Board of Appeals
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

EX B

GALVIN & GALVIN, PC

Attorneys and Counselors at Law

A Professional Corporation

10 Enterprise Street, Suite 3
Duxbury MA 02332-3315
(corner of Rtes 3A & 139)

Robert W. Galvin, Esq.

Tel: (781) 934-5678 / (781) 834-4224

Facsimile: (781) 837-1030

David A. Henig, Esq. *

Robert E. Galvin, Esq. (1933-d.2020)

William J. Galvin, Esq. (1898- d.1995)

* also licensed in New York

August 14, 2024

VIA EMAIL AND FIRST-CLASS MAIL

Richard Stevens, Building Commissioner
Town of Truro Zoning Board of Appeals
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

Chris Lucy, Chair
Town of Truro Zoning Board of Appeals
24 Town Hall Road
P.O. Box 2030
Truro, MA 02666

RE: 113 Castle Road (Atlas Map 46, Parcel 398)

Dear Mr. Stevens and Mr. Lucy:

Please be advised that this office continues to represent the interests of Peter and Melissa Costa who are the owners of 5 Lily Lane, Truro and the direct abutters to the subject property.

Last week, my clients were home when a survey crew from J.M. O'Reilly & Associates, Inc. was present. Mr. Costa spoke with one of the members of the survey team who acknowledged to him that the home as constructed was not the same home that was originally approved and that design and construction changes were made that altered the home and created issues with the amount of "livable space, building height, height and size of the deck" and other issues.

Our understanding is that the owners withdrew their zoning request, and were then issued a temporary occupancy permit that expires in September, and that the home must be made to comply by the end of the year.

It appears that there is a belief that with a new survey that some of the issues will be resolved or lesser in scope.

The issues facing this homeowner are significant and it's not clear that a new survey will solve or resolve the issues since the mean ground level cannot be artificially adjusted or altered. See §10.4, Building Height, "The vertical distance from the average of the existing undisturbed grade at each corner of a building to the ridge, hip or highest point of the structure."

The height of the home under construction clearly exceeds the two-story limitation measured from the undisturbed mean ground level under §50.1 of the Zoning Bylaw.¹ This fact was evident from the building plans that excluded from height portions of the foundation, floor joists and other areas.

In addition, the portions of the home that are constructed with flat roof decking areas which are larger than on the original plans are also clearly in excess of 23' feet which is prohibited by the Zoning Bylaws. See §50.1.A, n.5a of the Zoning Bylaw

Of concern to us is that the height of the constructed home is not 1' 6" above what is permitted and estimated to be the case but as many as 2-3' higher given the mean ground level on the original plans, the accuracy of which should be verified from pre-existing conditions.

In addition, the home itself is too large and does not comply with the Bylaw requirements limiting total gross floor area. The maximum Total Gross Floor Area for the home would appear to be approximately 4,368 sq.ft based on the calculations done by Land Use Counsel and the Livable Area alone on the plans is 4,502 s.f. It is therefore axiomatic that the home size exceeds the bylaw requirements.

As indicated before, the homeowner and/or their designers and contractors are clearly responsible for the deficiencies in the design and construction of the home and granting a permit in this regard is not harmony with the general public good, intent of this bylaw, is substantially more detrimental to the neighborhood and plainly inconsistent with the manner in which the Town handled a similar height issue for my clients, the Costas, next door.

Kindly advise if there are any proposed plans or other information as to how the owner and builders intend to remedy these significant issues.

¹ Under the Zoning Bylaw, Mean Ground Level is Where the finished ground level varies in elevation on different sides of a building, the average of the various elevations at the centers of the four main sides. In the case where fill has been used to raise the finished ground level on a side(s) of the building to an elevation higher than the preconstruction ground level, on those sides the measurement shall be taken from center of that side ten (10) feet out from the side of the building. Further, the finished grade of the fill, within one hundred (100) feet of the building shall not have a grade steeper than ten per cent (10%) (one foot of drop for every ten foot run)

Very truly yours,

/s/ Robert W. Galvin

Robert W. Galvin, Esq.

cc: Barbara Carboni, Town Planner
and Land Use Counsel

Benjamin E. Zehnder LLC

62 Route 6A, Suite B
Orleans, Massachusetts 02653

Benjamin E. Zehnder, Esq.

bzehnder@zehnderllc.com

Tel: (508) 255-7766

December 6, 2024

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

Via Hand delivery

Re: 2024-013/ZBA – Peter and Melissa Costa

Dear Mr. Lucy and Board Members:

Please find enclosed for consideration at the Board's December 16, 2024 hearing of the above matter 10 copies of my submissions on behalf of Paul and Amy Holt. I remain,

Very truly yours,



Benjamin E. Zehnder

Enc.

cc. via email only with attachments:

client

Barbara Carboni – Truro Land Use Counsel and Town Planner

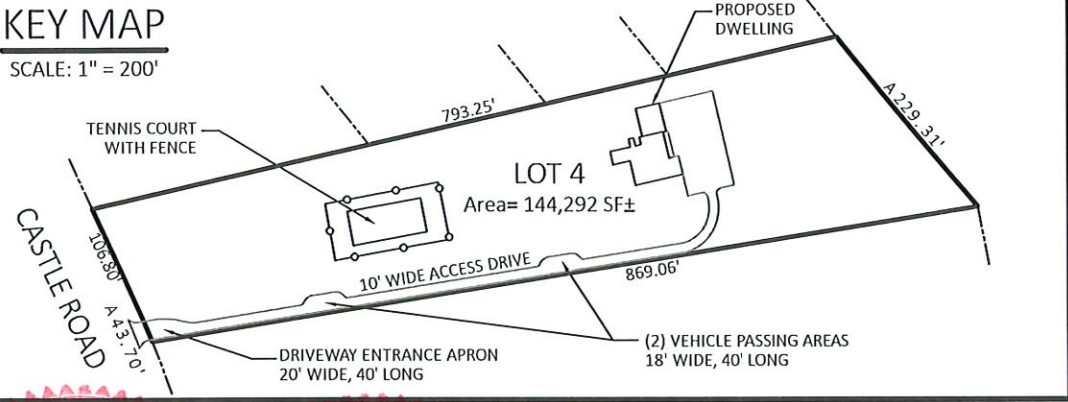
Elisabeth Verde – Truro Town Clerk

Robert W. Galvin, Esq.

Liz Sturdy

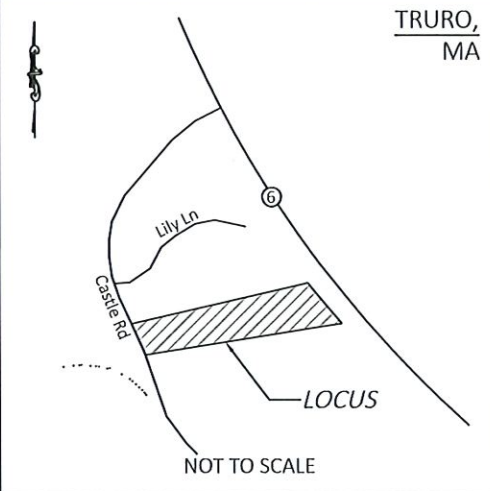
KEY MAP

SCALE: 1" = 200'



ZONING TABLE

RESIDENTIAL DISTRICT		PROPOSED BUILDING HEIGHT CALCULATIONS:	
FRONT YARD (STREET) SETBACK	25 FEET	MEAN GROUND LEVEL = (114.0+114.0+114.0+114.0) / 4	
SIDE AND REAR YARD SETBACKS	25 FEET	MEAN GROUND LEVEL = 114.0	
BUILDING HEIGHT	30 FEET	MAXIMUM ALLOWABLE BUILDING ELEVATION: 114.0 + 30 = 144.0	
		PROPOSED BUILDING ELEVATION:	
		114.5 (TOF) + 29.2' (BUILDING HEIGHT) = 143.7 < 144.0, OK	

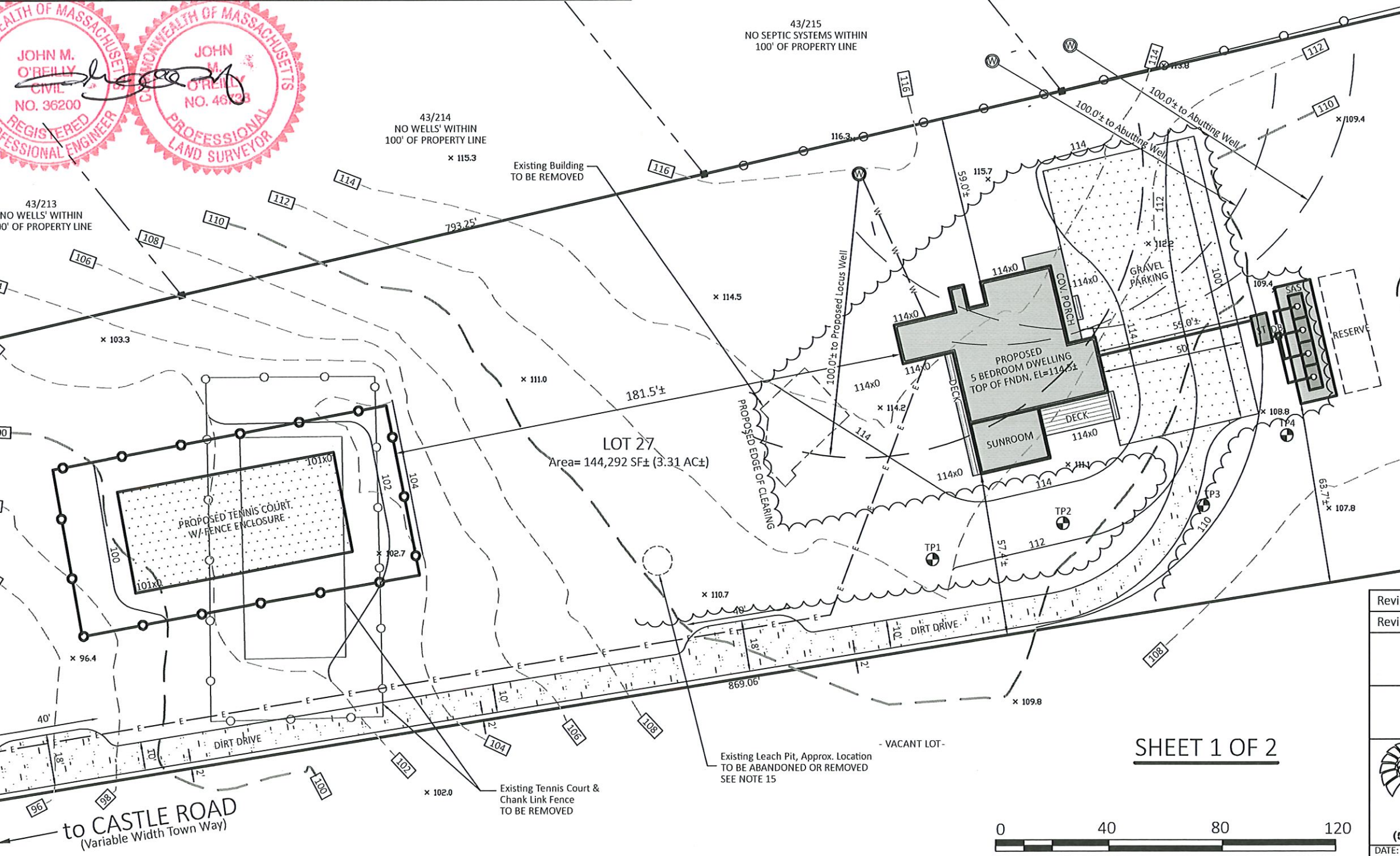


*LAND COURT PLAN PENDING
*CERTIFICATE PENDING
ASSESSORS' MAP 46
PARCEL 1

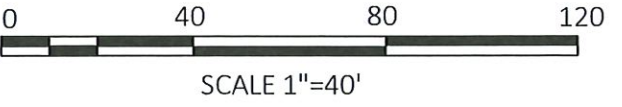
*NOTE: A PLAN TITLED 'PLAN OF LAND #105 CASTLE ROAD TRURO, MA' BY OUTERMOST LAND SURVEY, INC. WHICH SHOWED THE SUBDIVISION OF THIS LOT WAS SUBMITTED TO THE TRURO PLANNING BOARD AS AN APPROVAL NOT REQUIRED PLAN ON 11/09/2021, AND WAS SIGNED BY THE TRURO PLANNING BOARD ON 11/17/2021. THE LAND COURT PLAN AND CERTIFICATE HAVE NOT YET BEEN RECORDED AT THE BARNSTABLE COUNTY REGISTRY OF DEEDS.

LEGEND

- 32 --- EXISTING CONTOUR
- 32 --- PROPOSED CONTOUR
- 32 --- EXISTING SPOT GRADE
- 32 --- PROPOSED SPOT GRADE
- W- WATER SERVICE LINE
- E-TP- UNDERGROUND UTILITY SERVICE
- ST- TEST HOLE / BORING LOCATION
- DB- DISTRIBUTION BOX
- SAS- SOIL ABSORPTION SYSTEM
- Reserve- RESERVED FOR FUTURE
- TP- UTILITY POLE
- BH- BULKHEAD
- S- STEP
- W- WELL
- CONCRETE BOUND, FOUND
- o-o- CHAIN LINK FENCE
- o-o- EDGE OF CLEARING




SHEET 1 OF 2



Revised 11/19/2024: Adjusted proposed grades.
Revised 4/22/2024: Adjusted building height calcs & proposed grades.

Amy Holt
c/o Pine Knoll Builders, P.O. Box 1347, N. Eastham, MA 02651

SITE & SEPTIC PLAN
Lot 4, 105 Castle Road, Truro, MA

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

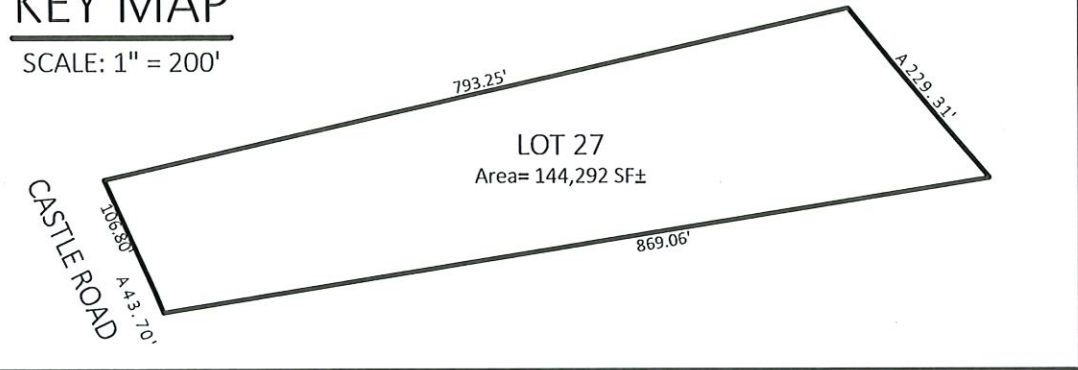
1573 Main Street - Route 6A
P.O. Box 1773
Brewster, MA 02631 (508)898-6801 Office (508)898-6802 Fax

DATE:	SCALE:	BY:	CHECK:	JOB NUMBER:
01/19/2022	As Noted	RFR	JMO	JMO-9171

L.C. PLAN 17658-I

KEY MAP

SCALE: 1" = 200'



OWNER OF RECORD:
PAUL & AMY HOLT
LAND COURT PLAN 17658-I
CERTIFICATE 229034
ASSESSORS' MAP 46 PARCEL 398

I CERTIFY THAT THE FOUNDATION SHOWN
HEREON IS LOCATED AS IT EXISTS ON THE
GROUND.

DATE 12-2-2024

P.L.S. [Signature]



BENCHMARK
TOP OF CONCRETE BOUND
EL=116.3± (NAVD88 DATUM)

793.25'

7.69'

NEW DWELLING
T.O.F. EL=114.5±
RIDGE EL=143.5±

WIDOW'S WALK ELEVATIONS:
MAIN WOODEN RAILING EL=143.1±
TOP CABLE RAILING EL=144.6±

57.5±

869.06'

LOT 27
Area= 144,292 SF± (3.31 AC±)

AS-BUILT PLOT PLAN
SHOWING FOUNDATION
ON
113 CASTLE ROAD, TRURO, MA

PREPARED FOR
AMY HOLT



SCALE 1"=40' FEBRUARY 12, 2024
(REVISED DECEMBER 2, 2024: ELEVATIONS UPDATED)

G:\AAJobs\PineKnoll9225\dwg\9225.FNDN AS-BUILT.dwg

Drawn by: RFR JMO-9225

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

1573 Main Street, P.O. Box 1773
Brewster, MA 02631 (508)896-6601

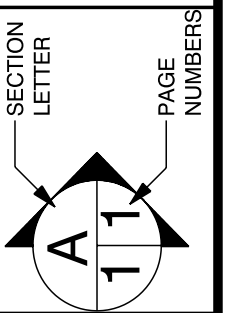


DECK STRUCTURAL 3-15-22

DINING ROOM ROOF DECKS

ORIGINAL DESIGN

PAGE: 15/15
PAGE 15

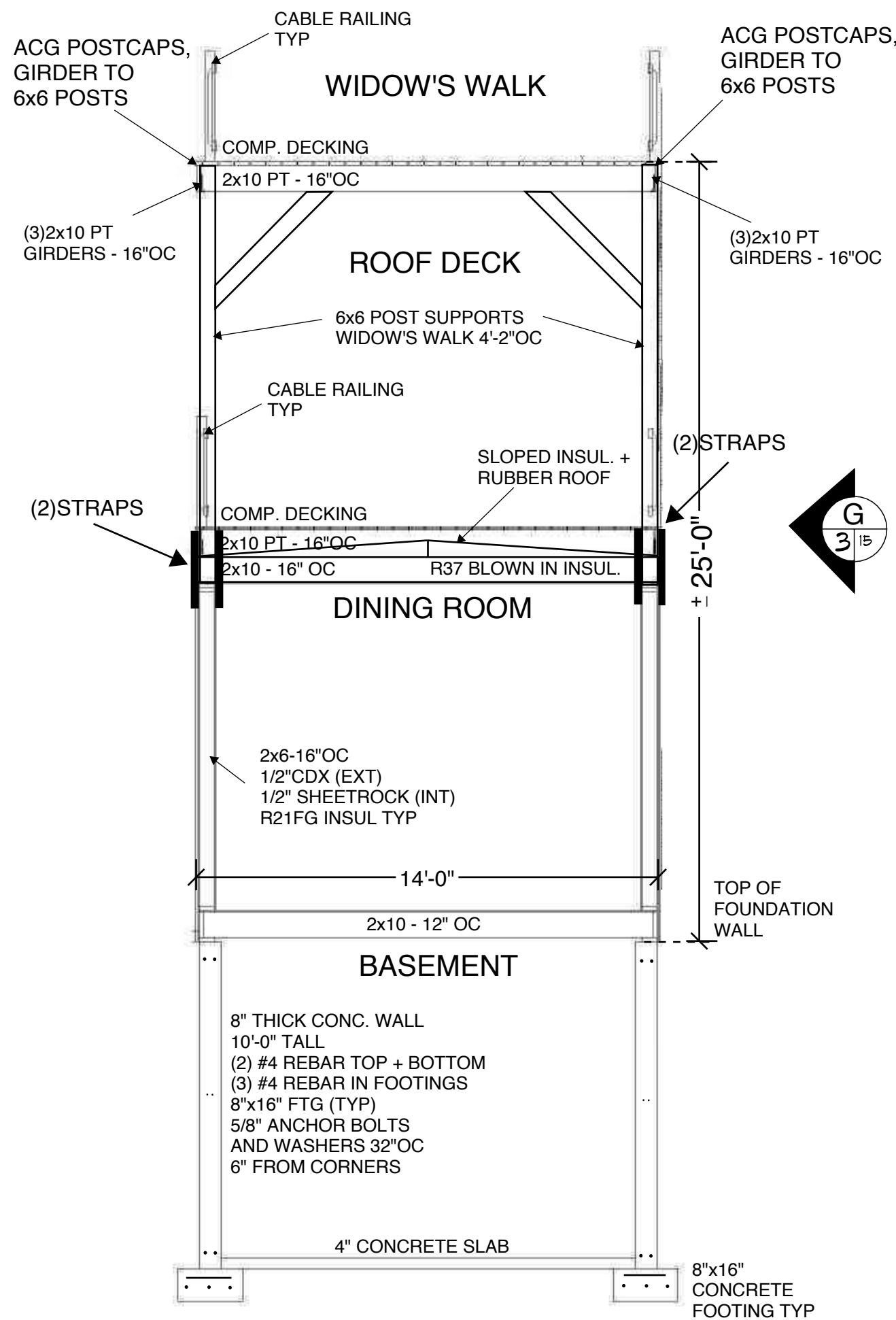


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DRAWN BY:
DATE: 12/6/2021

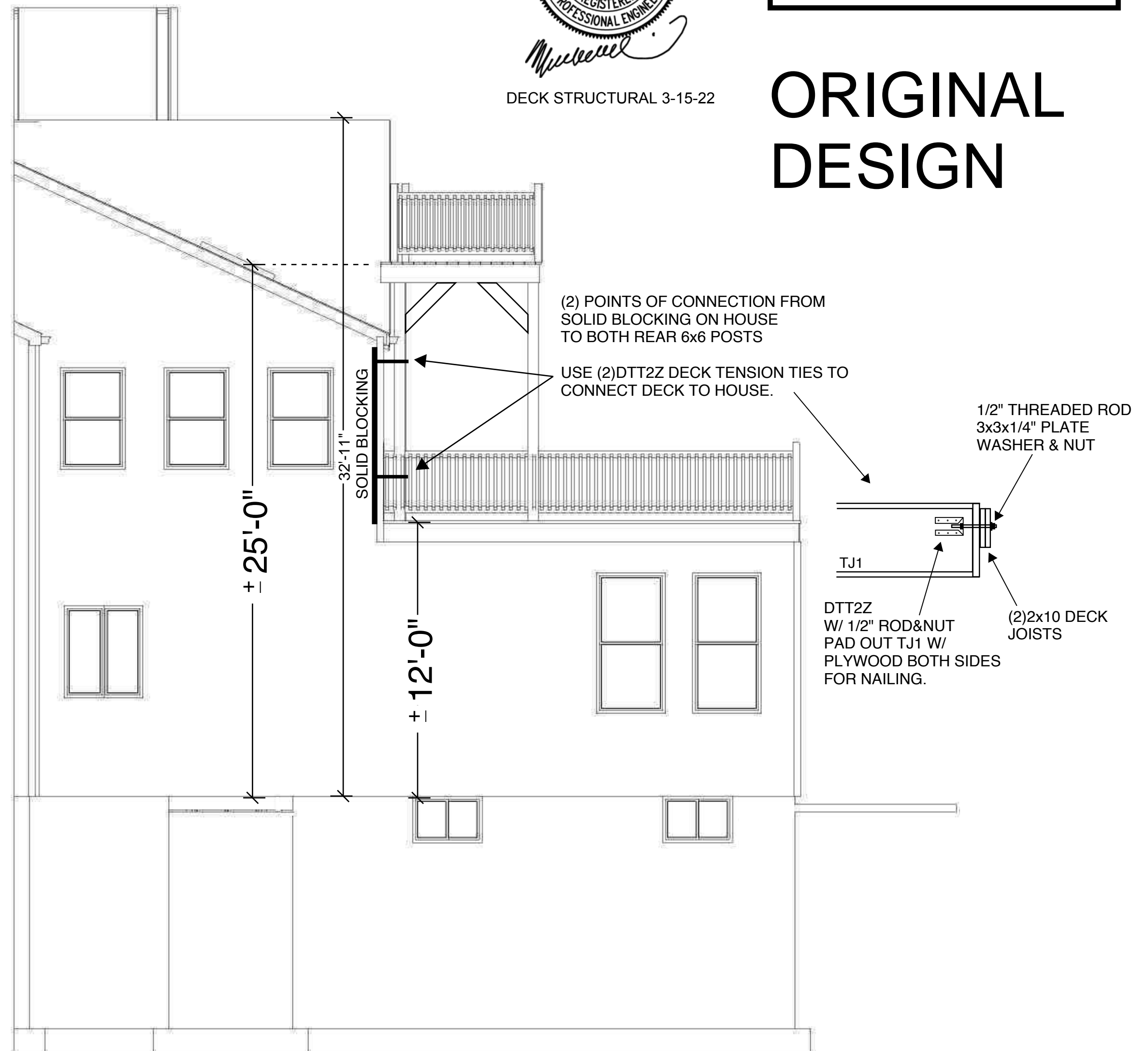
PHONE:
FAX:
MOBILE:

SOFTPLAN
ARCHITECTURAL DESIGN SOFTWARE

Holt2
PHONE:
FAX:
MOBILE:

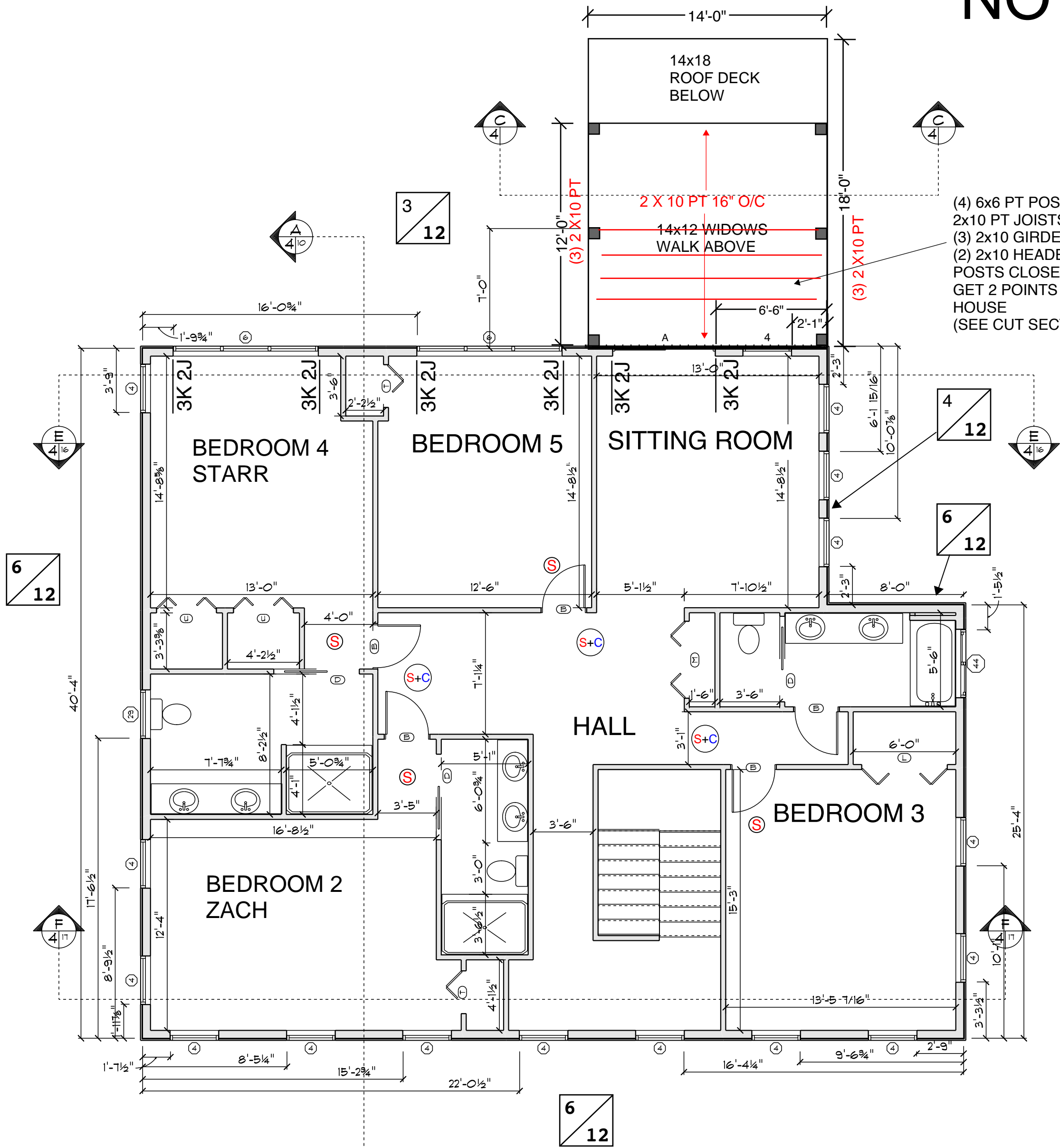


C
3/10
CROSS SECTION C
SCALE: 1/4" = 1'-0"



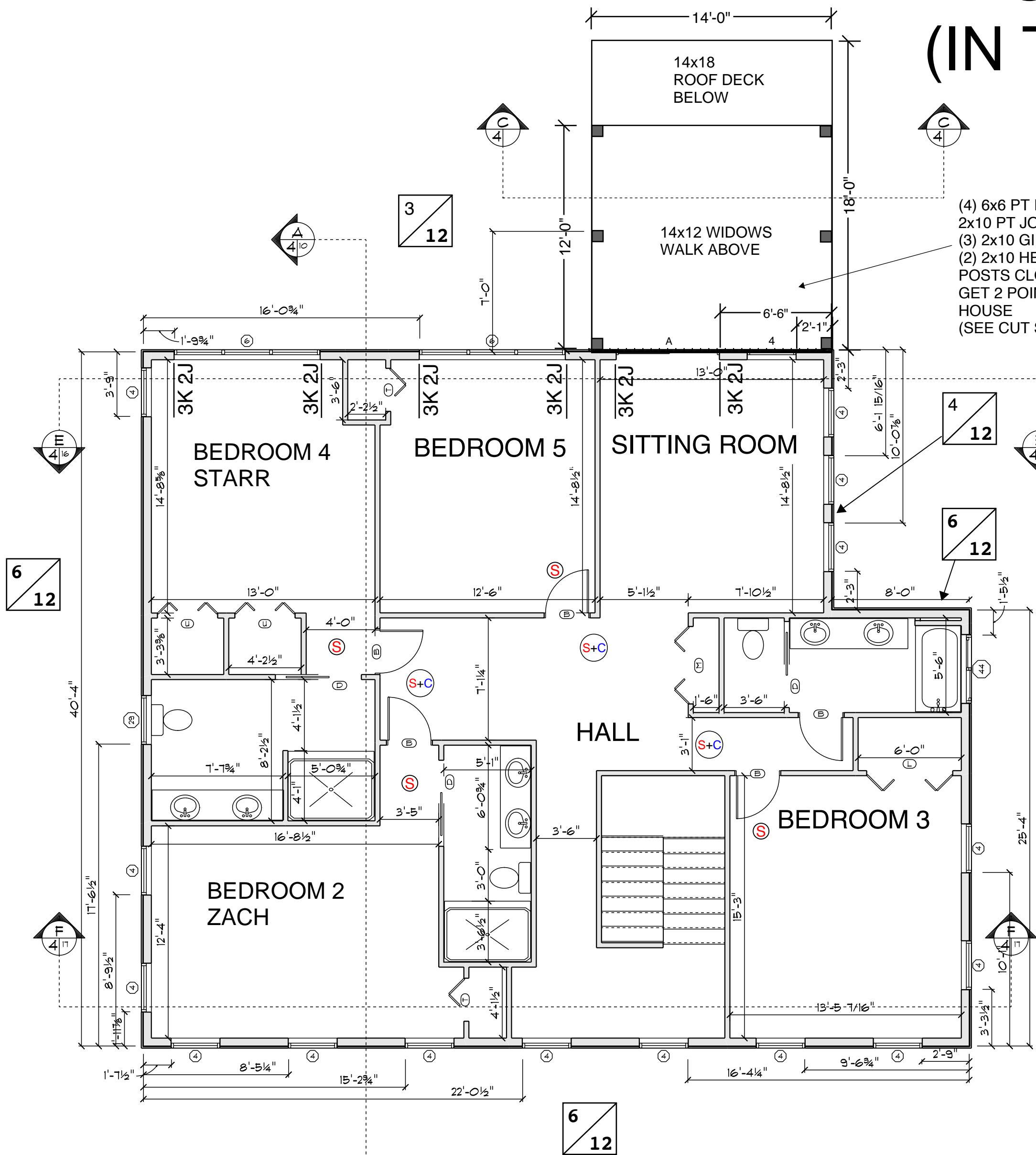
G
4/15
CROSS SECTION D
SCALE: 1/4" = 1'-0"

ENGINEER'S
NOTES



SECOND FLOOR2
SCALE: 3/16" = 1'-0"

UPDATED
DESIGN
(IN THE NOTES)



SECOND FLOOR2
SCALE: 3/16" = 1'-0"

REVISED PLAN 6-28-24



Paul & Amy Holt
113 Castle Rd,
Truro MA
02666

SOFTPLAN
ARCHITECTURAL DESIGN SOFTWARE

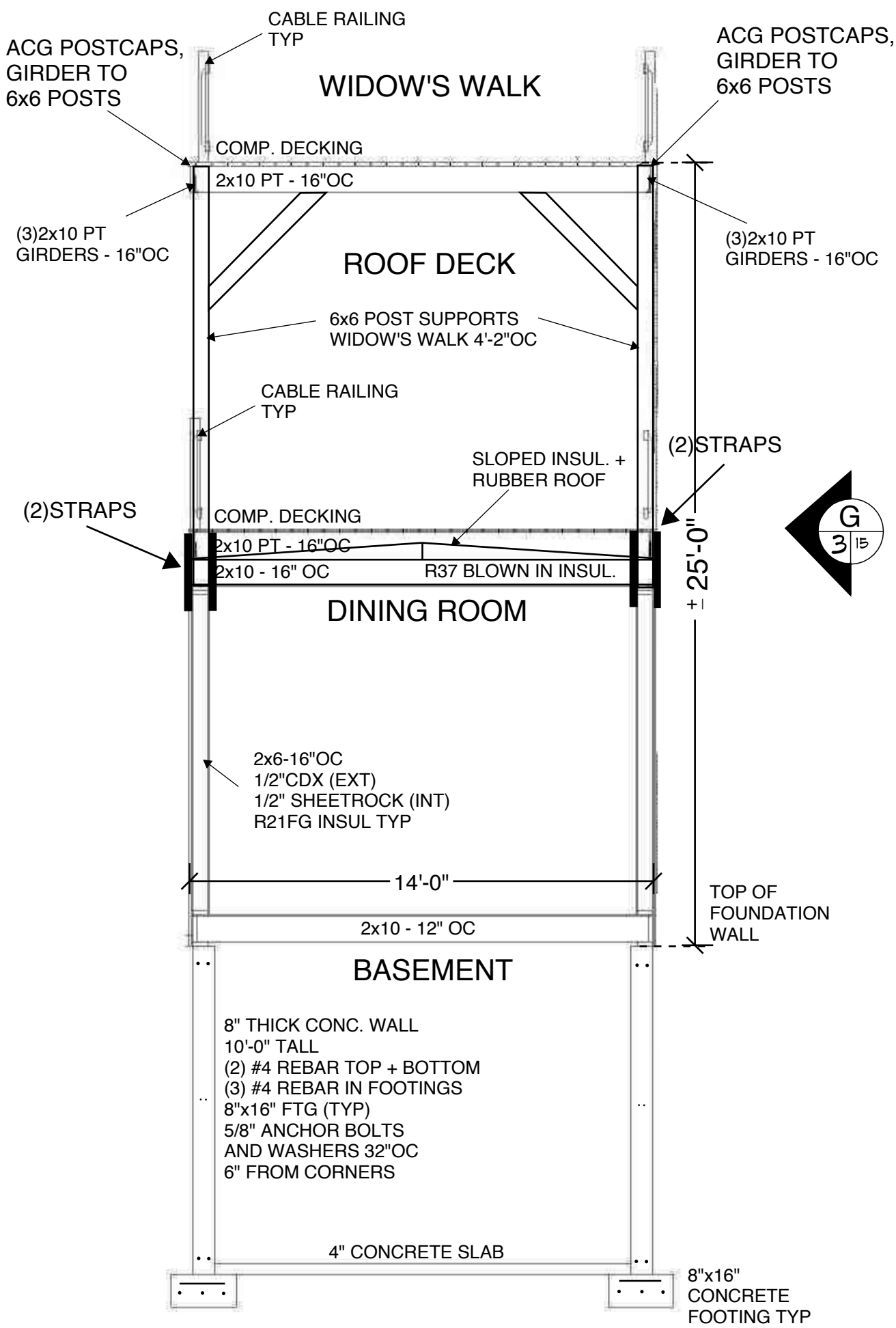
PINE KNOLL DEVELOPERS
P.O. BOX 1347
N. EASTHAM
MA 02651
Phone: 508-255-8292
Fax: 508-255-8292
Email: pineknoll123@gmail.com

SCALE: 3/16" = 1'-0"
DRAWN BY: John Ferro
DATE: 2/15/2022

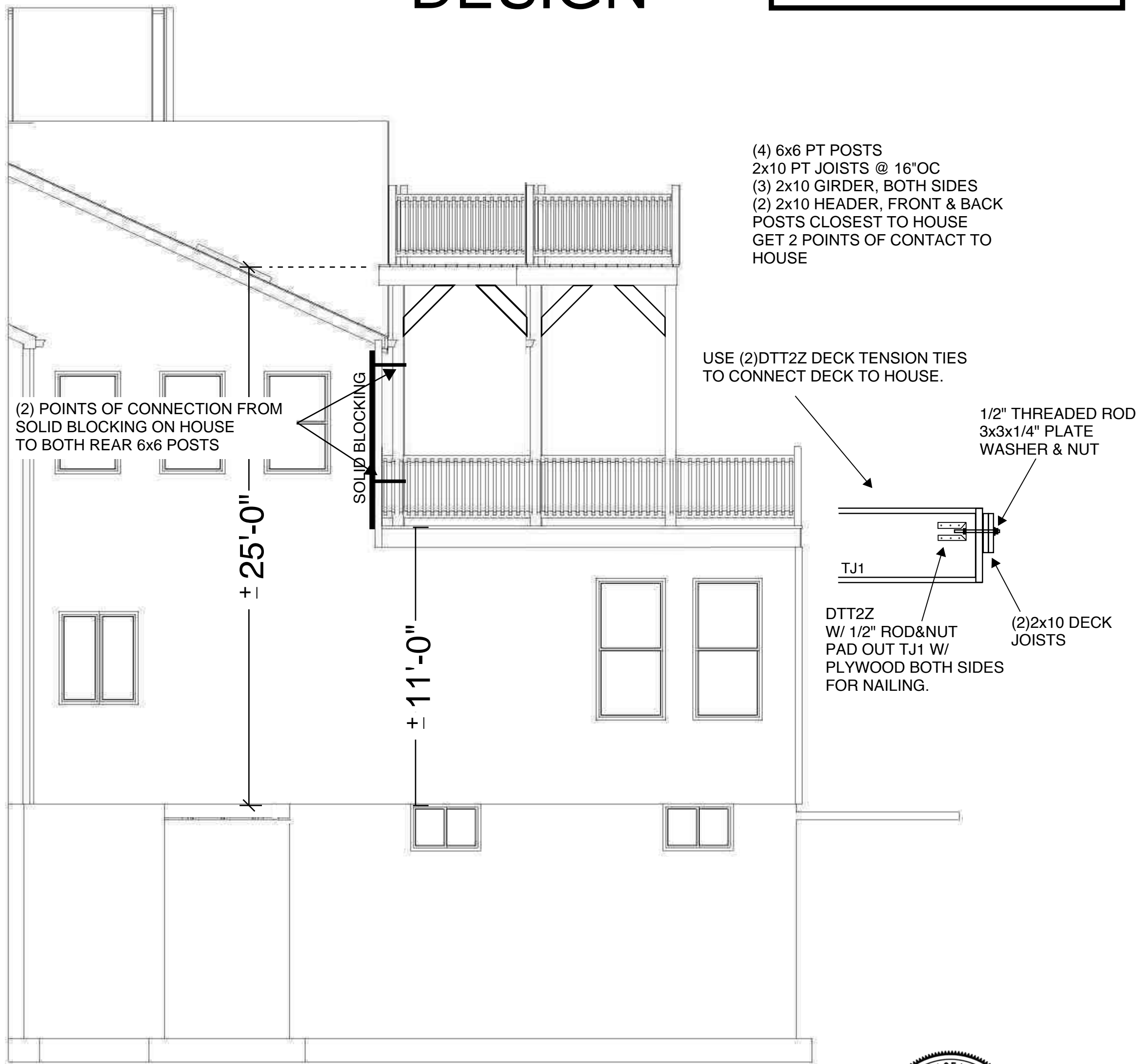
PAGE:
SECTION LETTER
A
PAGE NUMBERS
11

UPDATED
DESIGN

DINING ROOM
ROOF DECKS



C 3/10 CROSS SECTION C
SCALE: 1/4" = 1'-0"



G 4/15 CROSS SECTION D
SCALE: 1/4" = 1'-0"



REVISED PLAN 6-28-24

PROPERTY ADDRESS:
113 CASTLE RD
TRURO, MA
02666

ALLOWABLE TOTAL GROSS FLOOR AREA:

SIZE OF THE LOT = 3.312 ACRES

TGFA ALLOWED = 4,361.75 SF

$(3,668 \text{ SF} + (2.321 \times 300)) = 4,361.75$

TOTAL GROSS FLOOR AREA:

(MEASURED FROM EXTERIOR WALLS)

BASEMENT (BATHROOM AREA) = 124.6 SF

1ST FLOOR = 2,290.4 SF

2ND FLOOR = 1,816 SF

TOTAL GROSS FLOOR AREA = 4,231 SF

EXCLUDED AREAS:

BASEMENT (UNHEATED) = 1,636 SF

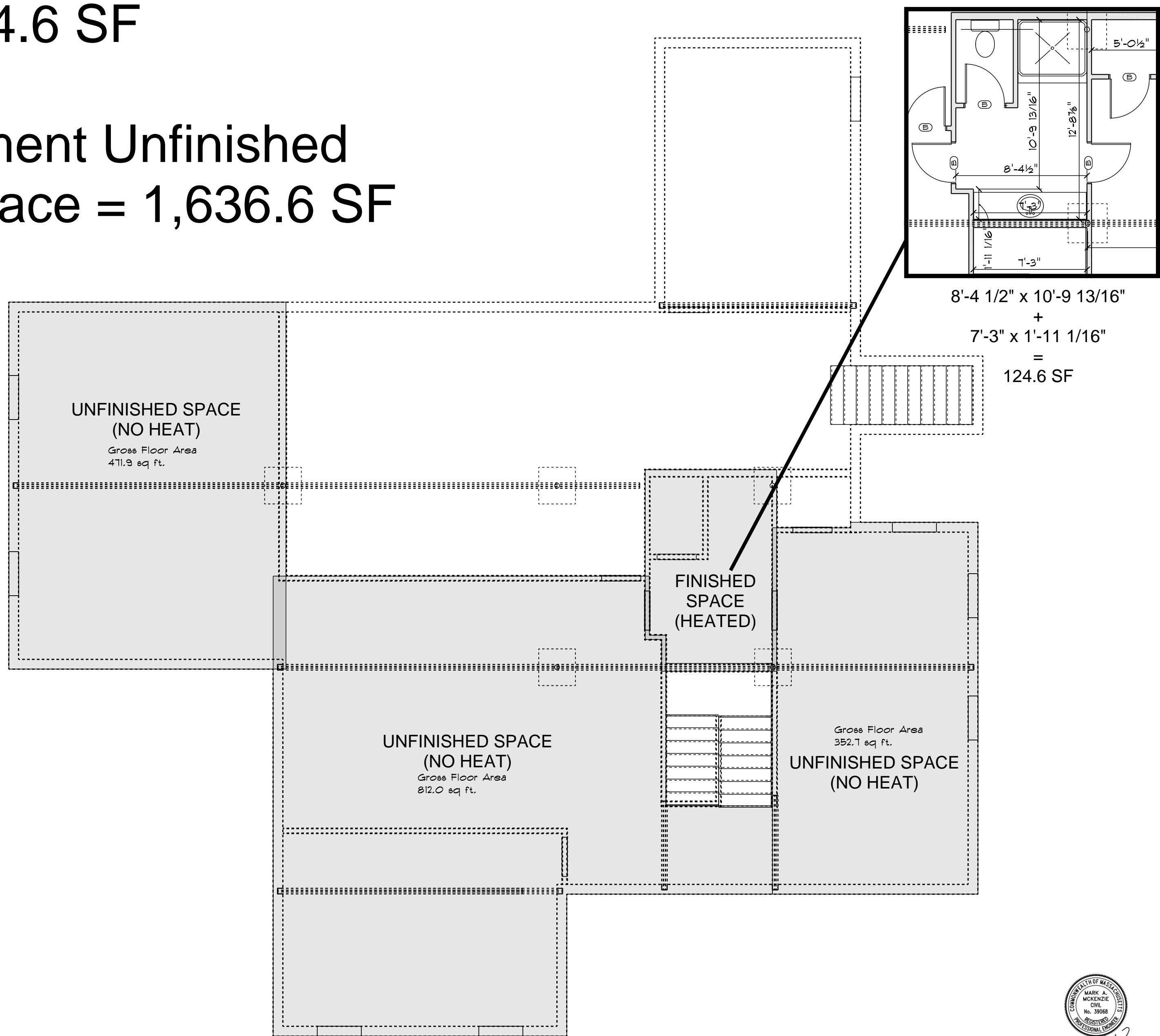
1st FLOOR PORCH (UNHEATED) = 469.2 SF



CALCULATION REVIEW
12-4-24

Total Basement Finished Space = 124.6 SF

Total Basement Unfinished Finished Space = 1,636.6 SF



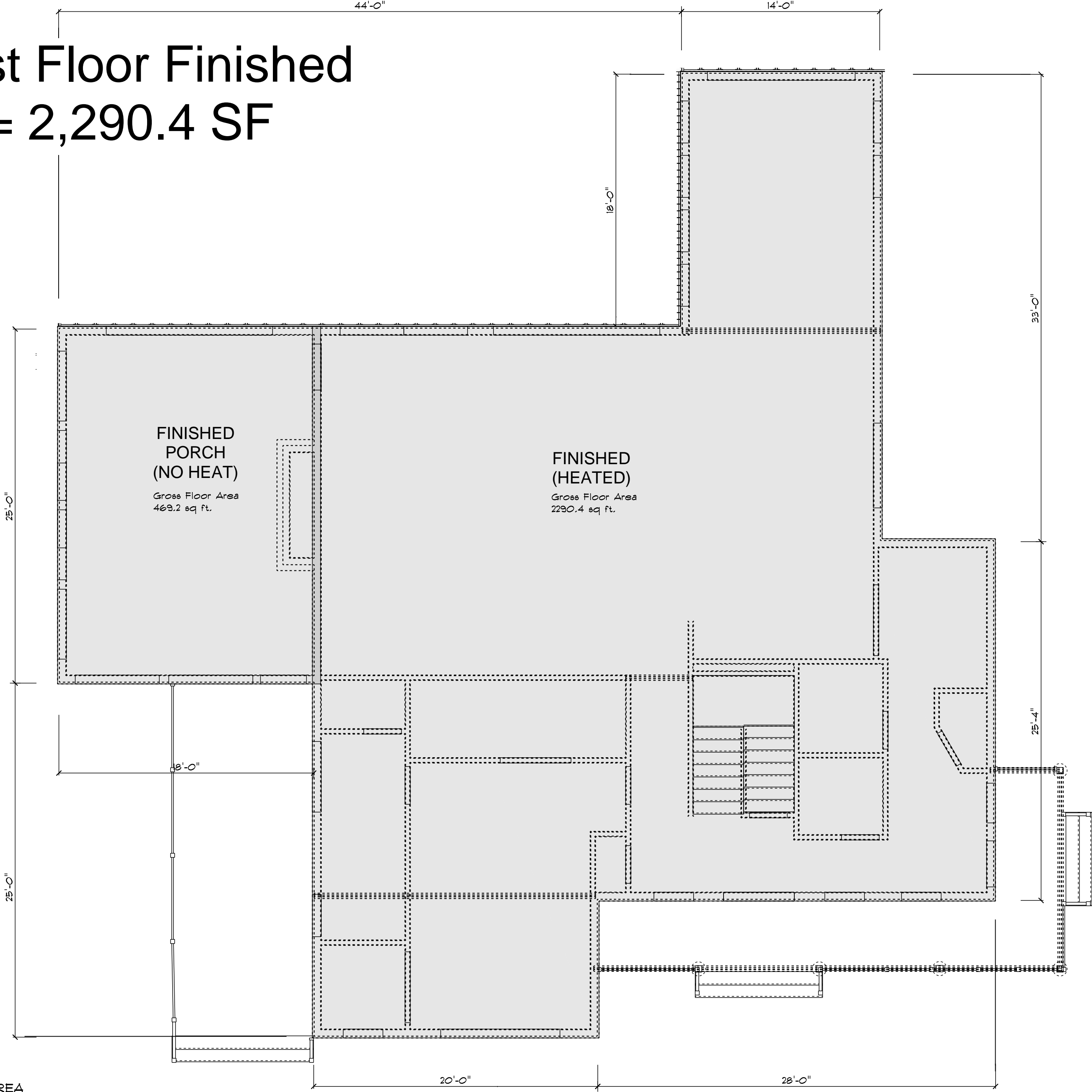
BASEMENT - AREA
SCALE: 3/16" = 1'-0"



CALCULATION REVIEW
12-4-24

PAGE: 28/30 PAGE 28	
SECTION LETTER: A	PAGE NUMBERS: 11
SCALE: 3/16" = 1'-0"	DRAWN BY:
DATE: 11/20/2024	
PHONE: FAX: MOBILE:	
SOFTPLAN ARCHITECTURAL DESIGN SOFTWARE	
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Total 1st Floor Finished
Space = 2,290.4 SF



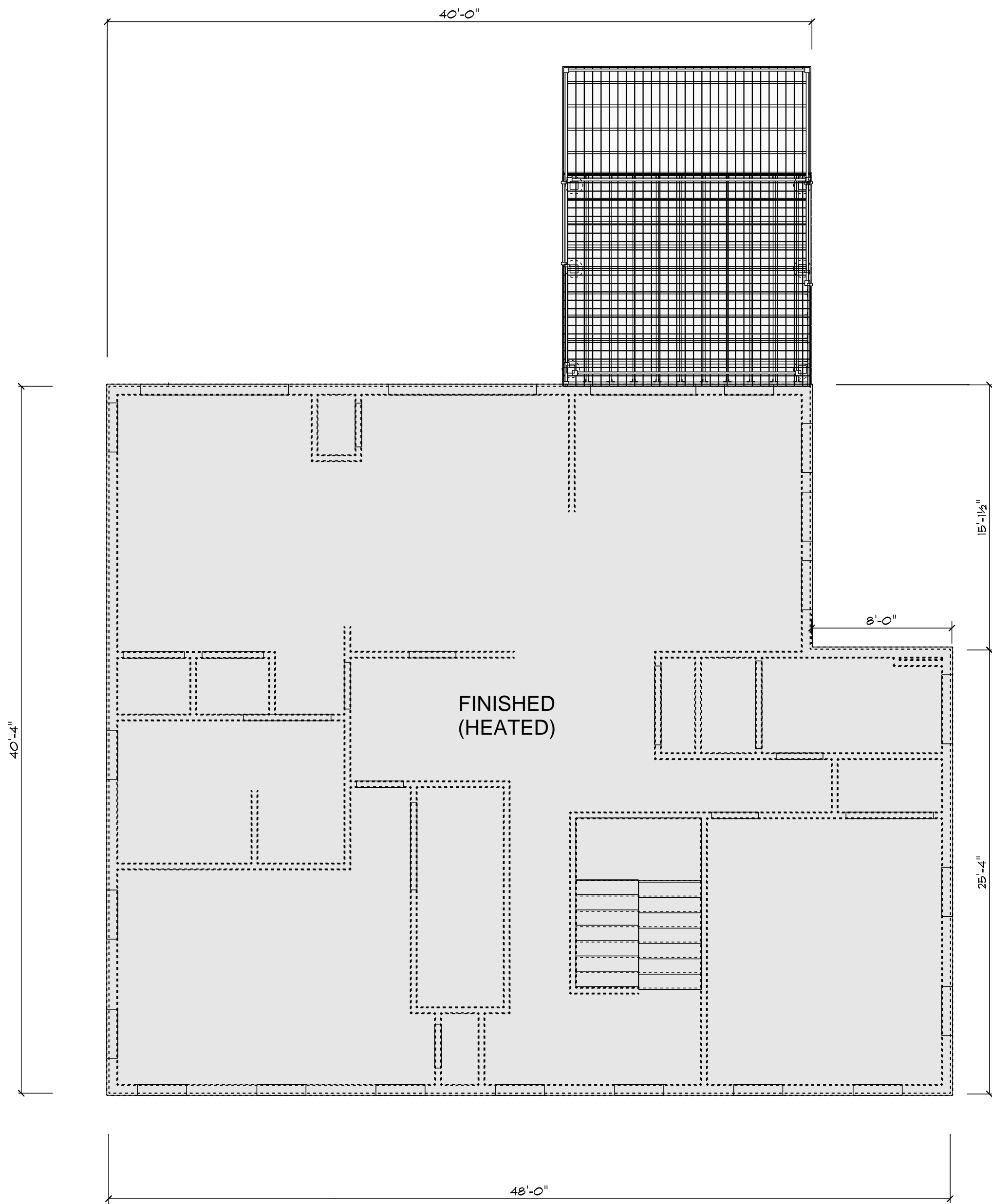
MAIN FLOOR - AREA
SCALE: 3/16" = 1'-0"



CALCULATION REVIEW
12-4-24

Holt2 PHONE: FAX: MOBILE:	SOFTPLAN ARCHITECTURAL DESIGN SOFTWARE	PHONE: FAX: MOBILE:	SCALE: 3/16" = 1'-0"	SECTION LETTER A	PAGE NUMBERS 1 1	PAGE: 4/30 PAGE 4
			DRAWN BY:	DATE: 11/20/2024		

Total 2nd Floor Finished Space = 1816 SF



CALCULATION REVIEW
12-4-24

PHONE:
FAX:
MOBILE:



Holt2
PHONE:
FAX:
MOBILE:

TOWN OF TRURO
ZONING BOARD OF APPEALS
Meeting Minutes
September 24, 2018, 5:30 pm
Truro Town Hall

Quorum Present: J. Dundas, A. Hultin (Clerk), C. Lucy (Alt), B. Perkel (Chair), J. Thornley, F. Todd; S. Areson (Alt).

Other Participants: Jessica D. Bardi, Esq., KP Law, P.C. (Interim Town of Truro Planner); Benjamin Zehnder, Esq.; David Reid, Esq.; Lester J. Murphy, Jr., Esq.; Peter M. Costa, Trustee of The 5 Lily Lane Realty Trust.

Meeting convened at 5:35 pm by Chair Perkel.

Continuance – 2018-002/ZBA – Timsneck LLC. Attorney Zehnder requested to continue this for another month as they have filed an application for a Variance and would like to have the Board review them both together. Chair accepted a motion to continue to the next meeting date which is October 29; however, Attorney Reid stated that the Dubinsky's will be out of the country for that week and asked if it was possible to move the meeting to the following week. Attorney Zehnder and the Board had no objection to pushing the meeting out to Monday, November 5, at 5:30. Mr. Todd made a motion to continue to Monday, November 5, at 5:30. Ms. Areson seconded. All in favor: Aye. Attorney Zehnder stated he will come in on October 29 to request a continuance of the variance matter from the 29th to November 5. Attorney Bardi will schedule the variance on the 5th to coincide with the continuance on the special permit. Chair – all those in favor – aye; one abstention.

Continuance – 2018-003/ZBA – Susan Lewis Solomont. Attorney Bardi stated that she had a letter from the applicant's attorney. Time waiver until October 29. Chair accepted a motion to continue 2018-003 – Susan Lewis Solomont until October 29. Moved, seconded by Chair. All in favor – aye; one abstention.

2018-011/ZBA – Peter M. Costa, Trustee of The 5 Lily Lane Realty Trust. For the record, Mr. Dundas disclosed that he was once employed by Benson Wood in New Hampshire, a contractor of this, but just a laborer – just moving things around. Chair asked if any objections to this disclosure by anyone in the room. No objections. Attorney Murphy stated that his client is seeking a Special Permit under Section 50.1.B of the Zoning Bylaws to authorize the completion of the construction of a single-family residential structure a 5 Lily Lane that, when finally built, will be some 25 inches higher than the maximum building height of 30 feet. Attorney Murphy gave some background on the construction to date, and Mr. Costa explained the structural integrated panel system being used in the construction of his home and offered a Benson Wood brochure. Mr. Costa also explained what had transpired from the time he purchased his lot to present. Attorney Murphy further explained the role of J.C. Ellis and Benson Wood regarding the grade height of the foundation and how it came to be 25 inches higher at the back of the house than the maximum building height allowed under the Truro Zoning Bylaws. Attorney Murphy stated that this came

down to a failure to communicate by two professionals. Mr. Costa presented to the Chair J.C. Ellis' plan with an explanation. Chair then stated that the Board had a copy of this plan, and it had been read. Attorney Murphy stated that they are only requesting ridge-height relief on a small portion of the house. Mr. Costa has a landscaping plan from Bayberry Gardens. Chair asked for discussion from the Board. Discussed with Mr. Costa were: the series of emails before the foundation went in, when the site work was actually done for the foundation, the timeline of when the foundation was actually built. Chair stated he did not think the Bylaws were meant to address the correction of negligent errors as part of its core purpose. Chair stated that 2 members of Board were against. Chair gave option to continue on or withdraw. Attorney Murphy asked that they be allowed to withdraw this application without prejudice. Chair moved to accept withdraw without prejudice. Seconded by Mr. Thornley. All in favor – aye.

No Minutes before the Board.

Chair accepted a motion to adjourn, and this motion was seconded. Meeting adjourned at 6:09.

Respectfully Submitted,


Elizabeth Sturdy

