



February 22, 2022

Wareham Planning Board
54 Marion Road
Wareham, MA 02571

**RE: 370 COUNTY ROAD
SUBDIVISION PLAN APPLICATION**

Dear Board Members:

This letter is in response to an email from Aaron Shaheen, Assistant Town Planner, on February 2, 2022 regarding the zoning freeze on the above-mentioned Subdivision Plan application. The Definitive Plan submittal was within the 7-month timeframe as per Massachusetts General Law Chapter 40A Section 6 (attached) which effects a zoning freeze. The chronology of events of the submittal is as follows:

- A copy of the Preliminary Plan was submitted to the Planning office on April 26, 2021; however, the Town Hall was closed due to COVID 19 and no acknowledgement of receipt was provided.
- An additional copy of the Preliminary Plan submission was sent to the Wareham Town Clerk on April 26, 2021 by certified mail. Again, due to the closure of Town Hall, no acknowledgement of receipt was provided.
- On May 3 2021, the Town, through the Planning office, acknowledged receipt of the Preliminary Plan filing.
- Pursuant to MGL c. 41, §81O, the date of receipt of the application is the date of submission. The Applicant relied on the Town's acknowledgment of receipt of the application on May 3, 2021, which was reasonable, particularly in light of COVID 19 and the inability to interface directly with the Town Clerk or Planning office.
- The Definitive Plan was hand delivered to the Planning office on December 2, 2021, which is within 7 months of the May 3, 2021 acknowledgement of receipt of the Preliminary Plan filing.

CIVIL ENGINEERING ENVIRONMENTAL ASSESSMENT LAND SURVEYING

**P.O. BOX 1088, 350 BEDFORD STREET, LAKEVILLE, MA 02347 · 508-947-0050 · FAX
508-947-2004**

www.primeengineering.org



We respectfully request that the Town recognize the foregoing timeline and appreciate that the Definitive Plan submittal was made in reliance with information provided by the Planning office as to the receipt of the Preliminary Plan filing.

We are available to discuss further at your convenience.

Sincerely,

PRIME ENGINEERING, INC.

Richard J. Rheaume, P.E., LSP
Chief Engineer

Massachusetts General Law – Chapter 40a Section 6

If a definitive plan, or a preliminary plan followed within seven months by a definitive plan, is submitted to a planning board for approval under the subdivision control law, and written notice of such submission has been given to the city or town clerk before the effective date of ordinance or by-law, the land shown on such plan shall be governed by the applicable provisions of the zoning ordinance or by-law, if any, in effect at the time of the first such submission while such plan or plans are being processed under the subdivision control law, and, if such definitive plan or an amendment thereof is finally approved, for eight years from the date of the endorsement of such approval, except in the case where such plan was submitted or submitted and approved before January first, nineteen hundred and seventy-six, for seven years from the date of the endorsement of such approval. Whether such period is eight years or seven years, it shall be extended by a period equal to the time which a city or town imposes or has imposed upon it by a state, a federal agency or a court, a moratorium on construction, the issuance of permits or utility connections.

When a plan referred to in section eighty-one P of chapter forty-one has been submitted to a planning board and written notice of such submission has been given to the city or town clerk, the use of the land shown on such plan shall be governed by applicable provisions of the zoning ordinance or by-law in effect at the time of the submission of such plan while such plan is being processed under the subdivision control law including the time required to pursue or await the determination of an appeal referred to in said section, and for a period of three years from the date of endorsement by the planning board that approval under the subdivision control law is not required, or words of similar import.

Disapproval of a plan shall not serve to terminate any rights which shall have accrued under the provisions of this section, provided an appeal from the decision disapproving said plan is made under applicable provisions of law. Such appeal shall stay, pending either (1) the conclusion of voluntary mediation proceedings and the filing of a written agreement for judgment or stipulation of dismissal, or (2) the entry of an order or decree of a court of final jurisdiction, the applicability to land shown on said plan of the provisions of any zoning ordinance or by-law which became effective after the date of submission of the plan first submitted, together with time required to comply with any such agreement or with the terms of any order or decree of the court.

In the event that any lot shown on a plan endorsed by the planning board is the subject matter of any appeal or any litigation, the exemptive provisions of this section shall be extended for a period equal to that from the date of filing of said appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

CIVIL ENGINEERING ENVIRONMENTAL ASSESSMENT LAND SURVEYING

P.O. BOX 1088, 350 BEDFORD STREET, LAKEVILLE, MA 02347 · 508-947-0050 · FAX

508-947-2004

www.primeengineering.org



The record owner of the land shall have the right, at any time, by an instrument duly recorded in the registry of deeds for the district in which the land lies, to waive the provisions of this section, in which case the ordinance or by-law then or thereafter in effect shall apply. The submission of an amended plan or of a further subdivision of all or part of the land shall not constitute such a waiver, nor shall it have the effect of further extending the applicability of the ordinance or by-law that was extended by the original submission, but, if accompanied by the waiver described above, shall have the effect of extending, but only to extent aforesaid, the ordinance or by-law made then applicable by such waiver.

Section 81O: Regulation of new subdivisions

Section 81O. No person shall make a subdivision of any land in any city or town in which the subdivision control law is in effect unless he has first submitted to the planning board of such city or town for its approval a plan of such proposed subdivision, showing the lots into which such land is to be divided and the ways already existing or which are to be provided by him for furnishing access to such lots, and the planning board has approved such plan in the manner hereinafter provided. After the approval of a plan the location and width of ways shown thereon shall not be changed unless the plan is amended accordingly as provided in section eighty-one W; but the number, shape and size of the lots shown on a plan so approved may, from time to time, be changed without action by the board, provided every lot so changed still has frontage on a public way or way shown on a plan approved in accordance with the subdivision control law of at least such distance, if any, as is then required by ordinance or by-law of said city or town for erection of a building on such lot, and if no distance is so required, has such frontage of at least twenty feet.

A plan shall be submitted under this section when delivered at a meeting of the board or when sent by registered mail to the planning board. If so mailed, the date of receipt shall be the date of submission of the plan.