
THE LAW OFFICES OF BELLO & MORTON, LLC

184 Main Street Wareham, Massachusetts 02571 · 508-295-2522

April 25, 2023

Wareham Zoning Board of Appeals
54 Maron Road
Wareham, MA 02571

Re: Variance/Special Permit Application for Kevin Keegan; Property Located at 16 Fisherman's Cove Road, Wareham, MA 0257; Assessor's Map 3, Lot 1010B

Dear Members of the Board of Appeals:

Please find enclosed the following information and exhibits:

1. Petitioner and Recorded Owner:

Kevin Keegan
16 Fisherman's Cove Road
Wareham, MA 02571

2. Current Deed:

Plymouth County Registry of Deeds Book 57396, Page 34, Deed attached as Exhibit A.

3. Building Inspector's Denial Letter:

Denial Letter attached here as Exhibit B from the Building Commissioner referencing Appeal to Zoning Board of Appeal is necessary.

4. Certified Abutters List:

Copy Attached as Exhibit C.

5. Site Plan and Architectural

- Copies attached Exhibit D and E, respectively.

6. Letter of Support:

Dear Chairman and the Board,

I represent Mr. Kevin Keegan who has proposed renovation of his property located at 16 Fisherman's Cove Road. His proposal includes taking off the existing roof, framing exterior walls 2' higher and installing a new roof with attached decks in the back with new stairs. In addition, he is looking to build a bigger shed as well.

Building Commissioner's Denial Letter:

On March 29, 2023, the building commissioner made the following determinations of why the building permit was denied:

1. The new stairway on the southwest side of the building will be encroaching the 20' setback and will require a Variance per 621 Residential Districts, R-43, Minimum Side/Rear Setback.
2. A Special Permit OR Variance pursuant to 1350 Non-Conforming Structure, 1352 – in regard to the pre-existing non-conforming single-family house and the raising of the roof which will intensify the non-conformity existing main house. (ZBA to determine if the expansion will be substantially more detrimental to the neighborhood).
3. A Variance pursuant to 1360 Alterations or Extension of Other Structures, 1361; for the increasing of the shed building size which will intensify the existing nonconformity.

Legal Analysis regarding requests for relief:

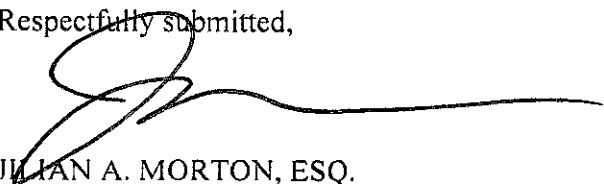
1. The first request for relief from the 20' setback is due to the nature of the lot. The current existing side setback is 13.7' and we are seeking a 3' decrease of 10.7'. The minor ask here is an appropriate allowance for Variance. This lot is unique as two sides of the lot is abutted by beach, with the top of the lot with one fourth of it unusable as it has a concrete wall in front of Buzzards Bay. The shape of this long skinny lot makes it difficult for width to include stairways. The applicant is proposing to remove a stairway on one side of the

building and move it to the side that has easier access to the driveway and the walkway to the home. The hardship to the petitioner would be that he would have to walk around the building to the other side to access the deck as he is now. This is just not efficient – the walkway lends itself to moving the stairway. This also makes the other side more conforming to zoning as it is removing the other set of stairs which infringes on the side setback. This proposed building does not derogate from the other zoning bylaws and will not create substantial harm to the neighborhood.

2. The raising of the roof and walls 2' higher should be treated as a Special Permit. The increase does not pose a threat to the neighborhood as it is not increasing the number of bedrooms or infringing on abutters rights. Many of these older homes here in town which were built in the 1950s are getting new makeovers to improve the homeowner's experience living there and the byproduct of that is the increase in property values of the surrounding property as well. This is a win-win for the homeowner and the neighborhood alike.
3. The last item we are seeking relief on is the size of the shed which is a preexisting nonconforming accessory building. The current shed is too small for the needs of the homeowner and needs to be repaired. Again, due to the nature of the narrow and skinny lot there are not other area where the shed can be placed. The hardship is that the petitioner would not be able to redo the shed to the specifications of the new build and have to leave the other old one. This change does not affect other abutters as the increase is towards the petitioner's property.

We ask that the board approve these Variances and Special Permits as they keep in the nature of the neighborhood, and the new build will meet the standards for relief in the Wareham Zoning By-Laws

Respectfully submitted,



JILLIAN A. MORTON, ESQ.

508-295-2522

TOWN OF WAREHAM

APPLICANT/CONTRACTOR/REPRESENTATIVE INFORMATION SHEET

Check One: Variance Special Permit Site Plan Appeal

Date stamped in: _____ Date decision is due _____

Applicant's Name: Kevin Keegan

Applicant's Address: Jillian Morton, Esq. 184 Main St

Telephone Number: Wareham, MA 508-295-2522
02571

Cell Phone Number: _____

Email Address: jam@mortonlawllc.com

Address of Property/Project: 116 Fisherman's Cove Road

Landowner's Name: Kevin Donald Keegan + Lisa A. Keegan

Owner's Address: 116 Fisherman's Cove Rd, Wareham

Telephone Number: MA

Contact Person: Jillian Morton, Esq Telephone Number: 508-295-2522

Map 3 Lot 1010B Zone R-43

Date Approved _____ Date Denied _____

Comments: _____

TOWN OF WAREHAM
ZONING BOARD OF APPEALS

APPLICATION FOR A PUBLIC HEARING FOR A VARIANCE/SPECIAL PERMIT

Certain uses are allowed in several zoning districts only by means of a Variance and/or Special Permit from the Zoning Board of Appeals. Those uses are indicated in the Wareham Zoning By-Laws. To apply for a Variance/Special Permit from the Zoning Board of Appeals, please do the following:

- Complete this form.
- Complete information packets. (Directions attached)
- Submit application form and packet to Town Clerk for signature.
- Submit application form and packet to Town Collector for signature.
- Submit completed form, packets, and appropriate fees** to the Zoning Board of Appeals secretary.

**Permits may be issued only after a public hearing. There is a filing fee of \$300.00 per lot, per application for all non-conforming residential lots, whether built upon or not. There is a filing fee of \$750.00 per lot, per application for all commercial applications. In the case of a multi-family development, the fee is \$300.00 plus an additional \$50.00 for every unit over two (2). Please make check payable to the Town of Wareham.

**A check to cover two (2) legal advertisements for the public hearing should be made payable to Wareham Week in the amount of \$100.00.

**The applicant will also be responsible for the costs of sending out abutter notifications by Certified Mail. The cost is \$6.90 per certified letter to each abutter. Please see Zoning Board secretary for cost of mailings. Please make check payable to the Town of Wareham.

I hereby apply for a Variance/Special Permit for a use to be made of the following described place:

STREET & NUMBER: 16 Fisherman's Cove Rd LOT: 3 MAP: 1010B
ZONING DISTRICT: R-43
USE REQUESTED: Single family Home
OWNER OF LAND & BUILDING: Kevin & Lisa Keegan TEL.# _____
ADDRESS OF OWNER: 16 Fisherman's Cove Rd. Wareham, MA
PERSON(S) WHO WILL UTILIZE PERMIT: Kevin Keegan
ADDRESS: c/o Attorney Jillian Matar
DATE: 4/24/2013 SIGNATURE: [Signature]
This application was received on the date stamped here:

Town Clerk: _____ Date: _____
Tax Collector: _____ Date: _____
Planning/Zoning Dept.: _____ Date: _____
Application fee paid: _____ Check #: _____ Receipt: _____
Advertising fee paid: _____ Check # _____ Receipt: _____
Abutters fee paid: _____ Check # _____ Receipt: _____

EXHIBIT A

MASSACHUSETTS EXCISE TAX
Plymouth District ROD #11 001
Date: 11/04/2022 01:09 PM
Ctr# 161388 18357
Fee: \$7,455.60 Cons: \$1,635,000.00

Quitclaim Deed

I, Dawn M. Bete, being married, of Buzzards Bay, Massachusetts, ("Grantor")

For consideration paid and in full consideration of One Million Six Hundred Thirty-Five Thousand and 00/100 (\$1,635,000.00) Dollars, grant to

Kevin Donald Keegan and Lisa A. Keegan, as Husband and Wife Tenants by the Entirety, now of 16 Fisherman Cove, Wareham, MA, ("Grantees")

with **QUITCLAIM COVENANTS**

A certain parcel of land situated in Wareham, Plymouth County, Massachusetts on Buzzards Bay and being shown as Lot #1010B-1 on a Plan of Land entitled, "Plan of Division of Land owned by Vincent Forte, Robinwood, Wareham, Mass., dated December 31, 1969, Walter E. Rowley & Associated, West Wareham, Mass.," which Plan is duly recorded in the Plymouth County Registry of Deeds; said Lot# 1010B-1 is more fully bounded and described according to said plan, as follows:

thence Northwesterly by Plymouth Avenue about one hundred-five and forty-one one hundredths (105.41) feet;

thence Northeasterly by land, now or formerly of Vincent Forte et als, in two courses about two hundred forty and sixty-one one hundredths (240.61) feet, more or less;

thence Easterly by Buzzards Bay, eighty-six (86.00) feet, more or less; and

thence Southwesterly by Lot# 1010B-2, as shown on said plan two hundred twenty-five (225.00) feet, more or less.

Containing, according to said plan 20,000 square feet, more or less.

The above described premises are hereby conveyed with the following restrictions which apply to each lot individually.

1. The premises are to be used for residential purposes only.
2. That only one single family dwelling house and garage shall be built, erected; placed or maintained on each lot.

Property Address: 16 Fisherman's Cove, Wareham, MA

3. That no building shall be erected, placed or maintained on each lot within thirty (30.00) feet of the front line abutting Powers Avenue nor within ten (10.00) feet of the side or rear lines of each lots.
4. That no building or structure on said premises shall be erected, remodeled as to exterior thereof, or added to, until the plans have been approved by Vincent A. Forte et al from time to time appoint for this purpose.
5. Except for boat trailer, no trailer, or trailer with the wheels removed therefrom shall be erected or placed on the above described premises.

Together with all rights, privileges and easements connected therewith and subject to restrictions and easements of record and are hereby conveyed subject to any building and zoning law requirements which may be in force and applicable.

The Grantor and her spouse, Matthew Bete hereby voluntarily releases all rights of Homestead as set forth in M.G.L. Chapter 188, but does not waive or release the protection of proceeds, and affirms under the pains and penalties of perjury that there are no other person or persons entitled to any homestead rights.

Meaning and intending to describe and convey the same premises conveyed to the Grantors herein by deed dated and recorded with Plymouth District Registry of Deeds in Book 37997, Page 0001.

SIGNATURE PAGES TO FOLLOW

Executed as a sealed instrument this 12 day of July, 2022.

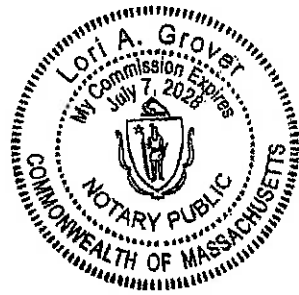
Dawn M. Bete
Dawn M. Bete

COMMONWEALTH OF MASSACHUSETTS

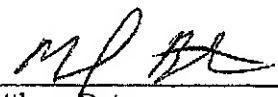
County: Franklin

On this 12th day of July, 2022, before me, the undersigned notary public, personally appeared Dawn M. Bete, the above-named and proved to me through satisfactory evidence of identification, which was personal knowledge to be the person whose name is signed on this document, and acknowledged to me that she signed it voluntarily for its stated purpose and that the foregoing instrument is her free act and deed, 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.

[Signature]
Notary Public: _____
My Commission Expires: _____



Executed as a sealed instrument this 12 day of July, 2022.




Matthew Bete

COMMONWEALTH OF MASSACHUSETTS

County: Franklin

On this 12th day of July, 2022, before me, the undersigned notary public, personally appeared Matthew Bete, the above-named and proved to me through satisfactory evidence of identification, which was Personnel Records to be the person whose name is signed on this document, and acknowledged to me that he signed it voluntarily for its stated purpose and that the foregoing instrument is his free act and deed, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.



Notary Public:
My Commission Expires:

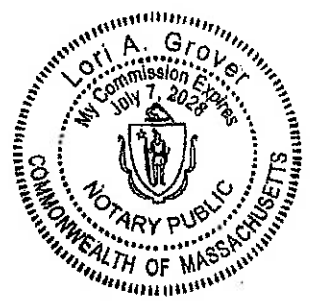


EXHIBIT B



TOWN of WAREHAM
Massachusetts

BUILDING DEPARTMENT

Paul E. Turner
Director of Inspectional Services

March 29, 2023

Mr. Kevin Keegan
16 Fisherman's Cove Road
Buzzards Bay, Massachusetts 02532

RE: 16 Fisherman's Cove Road / Map 3, Lot 1010 B

I have reviewed your Building Permit application B-23-147, submitted March 21, 2023, to "take off roof, frame exterior walls 2' higher and install a new roof. Attach decks in back with new stairs. Rebuild a bigger shed. New front porch. Add new windows" located at 16 Fisherman's Cove Road, Buzzards Bay, Massachusetts. At this time I must deny your request.

Your application is being denied under the following section of the Wareham Zoning By-Laws:

Article 6: Density and Dimensional Regulations:

621 Residential Districts, R-43, Minimum Side/Rear Setback.

The new stairway on the south west side of the building will be encroaching the 20' setback and will require a Variance.

Article 13 Zoning Protection

1350 Non-Conforming Structures, 1352;

The existing main house is a lawfully non-conforming single family residential structure and the raising of the roof will intensify the non-conformity. The alteration or expansion of a lawfully-existing non-conforming residential structure requires relief from the Zoning Board of Appeals. A Special Permit is required for intensification of a lawfully non-conforming structure unless the Board of Appeals finds that the expansion will be substantially more detrimental to the neighborhood in which a Variance will be required.

1360 Alterations or Extension of Other Structures, 1361;

The increasing of the accessory building size of the lawfully non-conforming shed will intensify the existing nonconformity.

Note 4; Any proposed change that adds a new non-conformity or aggravates and/or intensifies an existing nonconformity will require a Variance from the Zoning Board of Appeals.

Therefore, a **Special Permit** and or **Variance** must be secured from the Zoning Board of Appeals in order to proceed with your application.

The subject dwelling is located in **R-43** zoning district.

Respectfully,

A handwritten signature in black ink, appearing to read "Paul E Turner". The signature is written in a cursive style with a large initial "P".

Paul E Turner
Building Commissioner
Zoning Enforcement Officer

It is the owners' responsibility to check with other departments to ensure full compliance.

In accordance with the provisions of MGL chapter 40A §§ 15, you may apply to the Zoning Board of Appeals for the above noted relief within thirty (30) days of receipt of this letter.

EXHIBIT C

TOWN OF WAREHAM ABUTTERS

MAP 3 LOT 1010/B

OWNERS KEVIN DONALD + LISA A KEEGAN

MAP & LOT	OWNERS	STREET ADDRESS	TOWN & STATE	ZIP CODE
3A-5-G	FORTE VINCENT A, ANGUS DONALD H	PO BOX 270, 31 CLEVELAND AVE,	BUZZARDS BAY, MA	02532
3A-5-46.C	DUFFY KENNETH L, DUFFY LINDA A	1931 CORDOVA RD PMB 3133	FT LAUDERDALE, FL	33316
3A-5-WS1	BUTLER PETER J, ANANIAS MELISSA	21 THOREAU RD,	NORTHBOROUGH, MA	01532
3A-5-WS2	MOREIRA DAVID D, MOREIRA ROBIN A	31 CLEVELAND AVE,	BUZZARDS BAY, MA	02532
3A-5-44.A	DUFFY KENNETH L, DUFFY LINDA A	20 FISHERMAN COVE RD,	BUZZARDS BAY, MA	02532
3-0-1010.A	CLEMENT-WAY CHRISTINE A TRUSTEE + WAY DONALD	16 FISHERMAN COVE RD	BUZZARDS BAY, MA	02532
3-0-1010.B	KEEGAN KEVIN DONALD, KEEGAN LISA A	36 RUSTIC ST,	NEWTON, MA	02458
3-0-1010.B2	SERA DOMINIC A TRUSTEE, 18 FISHERMAN COVE ROAD REALTY TRUST	PO BOX 270,	BUZZARDS BAY, MA	02532
3-0-1011	FORTE VINCENT A, ANGUS DONALD H, TR	PO BOX 1723,	ONSET, MA	02558
3-0-R10	DEXTER DENNIS R, DEXTER LINDA A	29 M ST #1,	S BOSTON, MA	02127
3-0-R12	COLVIN JAMES F, COLVIN KRISTEN E	11 FISHERMAN COVE RD	BUZZARDS BAY, MA	02532
3-0-R13	ZANE MICHAEL S, ZANE ELIZABETH FRITZ	9 FISHERMAN COVE ROAD,	BUZZARDS BAY, MA	02532
3-0-R42	TERRIO VICTOR J JR, TERRIO CONSTANCE S			

CERTIFIED ABUTTERS AS THEY APPEAR
ON OUR TAX ROLLS AS OF 4/6/2023

M. Renee Atkins

ASSESSORS OFFICE

REQUESTED BY

CHERYL SILVA

508 295-2522

CHERYL@MORTONLAWLLC.COM

wareham.maps.arcgis.com/apps/webappviewer/index.html?id=892c1f8a79cd04307bf439260ebc5b0e

General Map Layers | Town of Wareham, MA | Find address or parcel

Public Notification

Select or search for a feature in the map
3-0-1010.B1 X Q

Apply a search distance
200 Feet

Addresssee Layer
Abutter's List
Format
Comma-separated values (CSV)
16 addresssees found; do you want to continue?
Review Download

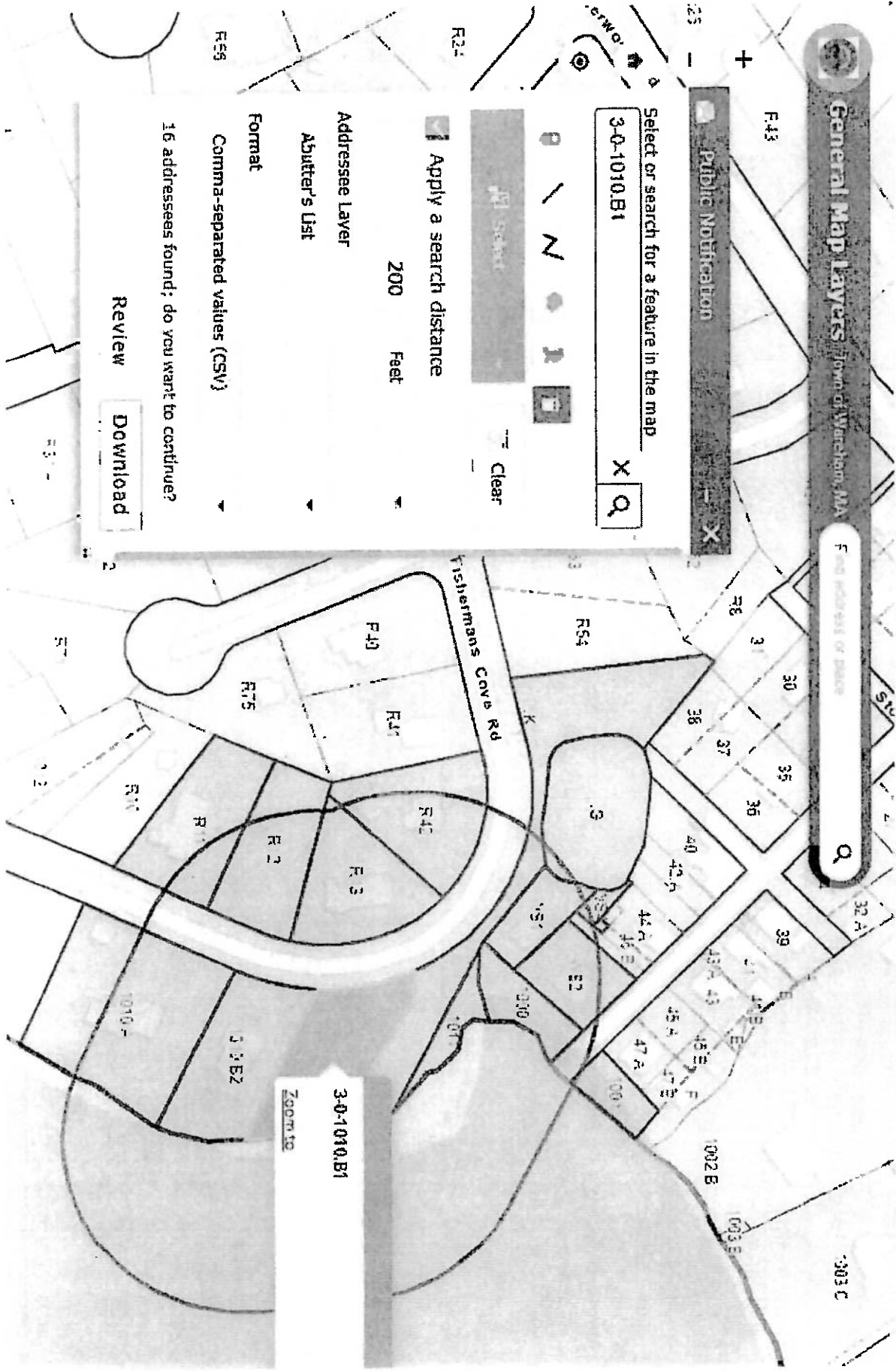


EXHIBIT D