

June 14, 2021

Via Email to: [kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us)

Members of the Wareham Planning Board  
c/o Kenneth Buckland  
Director of Planning and Community Development  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

Re: *Approval Not Required ("ANR") Plan Submission, 0 Rt. 25, Parcel ID 115-1000*

Dear Members of the Wareham Planning Board:

In advance of tonight's meeting, I wish to further call your attention to Cricones v. Planning Board of Dracut, 39 Mass. App. Ct. 264 (1995), in which the Massachusetts Appeals Court held that a plan showing a parcel that lacks adequate frontage for zoning purposes is nonetheless entitled to ANR endorsement.

According to the Appeals Court, "[i]n acting under Section 81P [of the Subdivision Control Law], a **planning board's judgment is confined to determining whether a plan shows a subdivision.**" See Cricones, 39 Mass. App. Ct. at 267 (citation omitted) (emphasis added). If the board is presented with a plan showing a division of land into two or more "lots," each of which has sufficient frontage on a way, it can properly concern itself with whether the frontage depicted is actual or illusory. Similarly, if a plan shows a subdivision rather than a single lot under the Subdivision Control Law, the board can consider the adequacy of the frontage of any lot shown on the plan independent of any variance that may have been or need to be granted by the zoning board of appeals. See id. at 267-268 (citations omitted). However, if the plan does not show a subdivision, the board must endorse the plan as not requiring subdivision approval.

In Cricones, the Appeals Court explained that the planning board did not need to be concerned with whether the parcel in question had actual and adequate frontage or was otherwise a buildable lot because an ANR endorsement does not mean that a parcel is buildable. See id. at 268 (citations omitted). Rather, "any lot depicted on an endorsed plan remains subject to all pertinent regulatory provisions other than the subdivision control law." See id.

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Thank you for your consideration.

Sincerely,



Elizabeth F. Mason

cc: David Fletcher

David Kane, Longroad Energy

Vanessa Kwong, Esq., Longroad Energy

Richard P. Bowen, Esq., Wareham Town Counsel