



FAIRHAVEN SELECT BOARD

Meeting Minutes

July 15, 2024

Present: Chair Stasia Powers, Clerk Andrew B. Saunders, Members Keith Silvia and Andrew Romano

Present via zoom: Town Administrator Angie Lopes Ellison

Not Present: Vice-Chair Charles Murphy Sr.

Ms. Powers opened the Select Board meeting at 6:30p.m.

APPOINTMENT AND COMMUNITY ITEMS

Proclamation: Police Chief Michael Myers

Ms. Powers read the proclamation. Chief Myers addressed the Board, he thanked past and present Board members, the administration, the Department past and present, his family including his wife Wendy and son Matthew as well as his fellow Police Chiefs present tonight.

The Board and Town Administrator each thanked Chief Myers and wished him well in his retirement.

The Board took a brief recess for photos from 6:45-6:47p.m.

Junior Deputy Tree Warden: Izabella T. Cardoza

Ms. Powers introduced Izabella Cardoza and swore her in as a Junior Deputy Tree Warden for Fairhaven. The Board congratulated Ms. Cardoza.

Conservation Restriction (CR): Trott Properties

Allen Decker from Buzzard's Bay Coalition (BBC) addressed the Board and referred to the maps of the Trott Property (*Attachment A*). He explained that BBC is applying for a state grant and the property would need to be held in partnership with the Town.

No development is planned for the land, if the grant is received the BBC would be back to address the Board and tonight BBC is asking for a vote to have the Town support the CR that would be drafted.

Discussion and questions ensued regarding who the fee interest owner is, if any property tax would be assessed, what a 501(c) tax exempt status means, potential for broader discussion at a future meeting regarding new growth, impacts to the tax levy, focus on smart development areas versus areas under water in about fifty years, Department of Local Service (DLS) document frequently asked questions G.L. c. 59, § 5 (*Attachment B*) will there be development on or division of the property.

Mr. Decker said BBC is the fee interest owner and no property tax would be paid as a 501(c), no development or division of the property is planned at this time. He also said the CR protection follows planning documents and policies of the Town. This property gives salt marsh a place to migrate to as sea levels rise, the one on this property is on the eastern edge and is likely to migrate westward into the property.

Ms. Ellison referred to the DLS document and will forward it to the Board. She said she is concerned with properties coming off the tax roll while understanding the work done by the BBC.

Bob Pink of Gull Island Rd asked if the state grant covers the total purchase. Mr. Decker advised it would be for half, fundraising for the remainder.

Ms. Powers said she would like to table this and Mr. Romano asked what the ramification would be if the Board does not vote to approve the Conservation Restriction. Mr. Decker said without the approval of the Board the BBC cannot complete the protection of the property.

Lisa Eston of Little Neck Rd. asked if they get the grant or not and raise the money the property is off the tax roll anyway.

Bob Grindrod of Center St. commented that he recalled when the Carvalho property came before the Board the Town paid the BBC a sum of money for the easement, dipping into funds without knowing how this is structured and off the tax roll and not developed, with a housing shortage this seems to be working in opposition and we cannot conserve the whole town.

Ms. Powers asked if there was a cost to the Town for this CR. Mr. Decker said not currently and the BBC is working to raise the funds for the balance from other sources.

The Board did not take a vote on this item.

Request to Waive Parking Fees: Hoppy's Landing, Sunday, August 4, 2024 from 12:30-6:00p.m.

Bob Pink addressed the Board regarding the request and distributed a flyer showing the fundraiser (*Attachment C*). He explained the details of the fundraiser on Sunday, August 4, 2024 from 12:30-6:00p.m. The organizers are asking for the parking fee waiver to give attendees more opportunities to participate in raffles and spend their money on the event.

Motion: Mr. Romano motioned to approve waiving the parking fees at Hoppy's Landing on August 4, 2024 from 12:30-6:00p.m. for attendees of the event. Mr. Saunders seconded.

After discussion about identifying attendees and creating a process for the future to assist the Harbormaster, Mr. Romano rescinded his motion. A question was asked online as to the number of parking spots at Hoppy's Landing.

Motion: Mr. Romano motioned to waiving the parking fees for attendees of the Nellie Zygiel fundraiser at Off the Hook at Hoppy's Landing on August 4, 2024 from 12:30-6:00p.m. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

Appointment to Zoning Board of Appeals, Associate Member: Derek Furtado

The Board reviewed Mr. Furtado's application, he was not in attendance to speak to the Board. Mr. Romano asked if the Board would consider tabling to allow the Board to ask questions of the applicant. The Board felt his application could be considered and this is for an Associate position.

Motion: Mr. Saunders motioned to appoint Derek Furtado to the Zoning Board of Appeals, Associate member for a term through May, 2025. Mr. Silvia seconded. The motion passed (3-0-1) Mr. Romano opposed.

Event Request: Podkowa 5K Race Fundraiser, Sunday, October 6, 2024

Adriann Corazzini of Southcoast Health addressed the Board via zoom and answered questions about the event and fundraising efforts. She advised the Board that they also go door-to-door to notify residents that are on the route of the event for their awareness and they have a police detail for the event as well.

Motion: Mr. Romano motioned to approve the Podkowa 5K Road Race on Sunday, October 6, 2024. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

Special All Alcohol License Request: Our Lady of Angels Catholic Association (OLOA)

Ms. Powers reviewed the request. Mr. Silvia asked if police details were listed in the request and suggested they be not less than what was used last year. The office will reach out to the Police to ask if they have reached out for details and advise what the Board recommends.

Motion: Mr. Romano motioned to approve the All Alcohol request for the OLOA on Saturday, August 31, 2024 from 5:00p.m. to 12:00a.m., Sunday, September 1, 2024 from 12:00p.m. to 12:00a.m. and Monday, September 2, 2024 from 12:00p.m. to 10:00pm.m. with the stipulation of the same police details as 2023. Mr. Saunders

seconded. The motion passed unanimously (4-0-0).

Proclamation: 34th Anniversary of the Americans With Disabilities Act

Ms. Powers read the proclamation.

Motion: Mr. Romano motioned to adopt the proclamation as read. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

Motion: Mr. Romano motioned to adopt the proclamation for Chief Michael Myers as read earlier. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

MINUTES

Motion: Mr. Romano motioned to approve the June 10, 2024 Open Session minutes. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

TOWN ADMINISTRATOR

Ms. Ellison reported:

- Staffing Update: Interviews are underway for open positions. A Building Commissioner appointment may be asked for ahead of the August 19th meeting and potentially along with other appointments.

Tree Department coverage: A meeting was held with Public Works and the Conservation Agent, who is a certified arborist, to discuss the duties with Public Works taking the day to day work duties and Mr. Webb taking administrative duties as a trial and will look at future updates as needed. Mr. Romano asked about the workload and asked for an update on the Planning Department search. Ms. Ellison advised interviews are in process and is dependent on applicants that come in; she is aware of staffing and monitoring workloads and is in contact with the agent. If there are personnel concerns, please see Ms. Ellison offline.

- Holbrook Regional Dispatch Update and Grant. Effective July 17, 2024 the transition takes place, Chief Correia is overseeing the transition and the grant money covers up to five years and she will send the breakdown to the Board. Budgetarily we will maintain the line item so it is not lost. Mr. Silvia asked about cell phone repeater upgrade. Ms. Ellison said the upgrade is covered by the grant. Ms. Powers asked about cameras. Ms. Ellison said there will be some, unclear on the specific set-up.
 - Municipal Light Plant Article 34 and 35. Bond Counsel reviewed and sent an updated version over due to a scrivener's error. Both the update and original have been sent over to Representative Straus' office for the legislature. Ms. Powers asked why it was not sent previously. Ms. Ellison advised that it was during the Town Clerk transition and was an oversight. Ms. Powers asked if there is a plan for follow up on articles like this from Town Meeting and who's role or responsibility is it to follow-up. Anything coming from Town Meeting to be recorded is the Town Clerk, with the appointed Town Clerk there is some level of oversight. Hopefully the next elected Town Clerk will work in collaboration.
 - Massachusetts Preservation Projects Funds (MPPF) Round 30 of the Grant Cycle Update, this item is informational correspondence.
 - Police Department Recertification: the department has been re-accredited for the next three years. The accreditation reflects a strong department, well run and structurally sound under the leadership of the chief.
 - NStar d/b/a Eversource: Notice of Filing: this item is informational correspondence.
 - Resignation from Commission on Disability: Glenn Gabbard
 - Police Chief Search Panel: Per questions from the Board, the panel is consisting of five members: Ms. Ellison, Ms. Kohler, Mr. Saunders, Mr. Furtado and Chief King from Mattapoisett. Candidates were notified and those interested will be interviewed tomorrow. The recording of the interviews will be made public after the process is complete. Mr. Romano asked if the Board could view them prior to voting to approve. Ms. Ellison said this could be done individually, reach out to set up a time.
- Bob Espindola of John St addressed the Board via zoom and said he was curious, at the last meeting it was announced that there was going to be a panel, tonight we learned who was on that panel and that the panel

met prior to this point and the process was outlined about how things will flow, how decisions would be made and what the interview process would be like. He said he is assuming that is what the panel was put together for. Mr. Saunders confirmed. Mr. Espindola said he was curious about how that went.

Inter-Municipal Agreement: Fairhaven Police and New Bedford Health Department: Recovery Coaches

This item was tabled

Call Special Town Meeting: November 19, 2024

Ms. Ellison advised the Board that in anticipation of the 40R being back and with about seven to ten article requests from departments it supports having a Special Town Meeting.

Discussion ensued about a calendar for timelines for submittals and if approved today what are the deadlines. Ms. Ellison advised that the calendar is in process and will be sent.

Motion: Mr. Romano motioned to call Special Town Meeting on November 19, 2024. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

Term Correction: Steamship Authority Port Council: Eric Dawicki to May, 2026

The term for the appointment should have been for a two-year term and was voted on as a three-year term.

Motion: Mr. Romano motioned to correct the term for Eric Dawicki to end May, 2026. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

Create Working Group to Address Buzzards Bay Water Quality

Ms. Powers said the closing of shellfish beds has become a serious issue and concern for constituents. In reviewing with Ms. Ellison, the suggestion was made to form a working group to help move the concerns forward. Ms. Powers would like to see the make-up also include community membership along with leadership from elected officials and staff like the 40R.

Ms. Ellison shared that this would be an important to have department heads and also community members. Community members would be the most significant form of advocacy with department heads and staff supporting so that it truly represents the community.

Discussion ensued about the membership, start time, how many members and what boards to included. Discussion also included the effects of combined sewer overflows from the city of New Bedford which has been a decades long issue along with the sewage treatment plant and system. The Massachusetts Department of Environmental Protection (DEP) and the Environmental Protection Agency (EPA) should be engaged and the working group have a letter writing campaign to lobby the state and federal regulators to take more proactive action on the matter. The Board thanked Mr. Trapillo for speaking up and sharing information from the Town of Dartmouth.

Discussion continued as to the composition of the working group: 5 At-Large Community Members, 1 Select Board Member, 1 Conservation Commission Member, 1 Planning Board Member, 1 Marine Resource Member, 1 BPW Staff Representative and 1 Town Staff Representative. Also, the meeting will be open to the public. Mr. Silvia suggested Mr. Trapillo lead the group. Ms. Ellison suggested the Board determine the membership composition and then the group would determine leadership.

Motion: Mr. Romano motioned to create the Buzzards Bay Water Quality Working Group made up of 5 At-Large Community Members, 1 Select Board Member, 1 Conservation Commission Member, 1 Planning Board Member, 1 Marine Resource Member, 1 BPW Staff Representative and 1 Town Staff Representative.

Additional discussion on the charge of the group and what to accomplish. First, to investigate the cause of the degradation of the water quality in Buzzards Bay, specifically the Fairhaven waters which has been happening within the last two years; second, once that cause is reasonably determined, make recommendations on the next course of action to address the issue or to remediate the issue in a reasonable way; third, as part of their investigation, to

communicate with other neighboring towns within the Buzzards Bay Watershed to see if they have similar committees and what they have investigated and find ways to coordinate efforts and work together.

Cam Durant, former Sewer Commissioner, via zoom, suggested that the Board of Public Works be represented due to their knowledge of the permit processes and also engage the Buzzards Bay Coalition.

Bob Grindrod of Center St. addressed the Board via zoom and suggested to not make the goals of the working group bigger and bigger. Hit the DEP and EPA and focus on what the problem really is. And also, be in contact with the elected officials and senators including in Washington.

Patricia Souza via zoom, said she is happy this is being discussed, take lessons from how we cleaned up Atlas Tack, we went to the federal government and walked the streets. Follow the patterns of how things were done in the past, we can do a lot.

Mr. Romano rescinded his earlier motion.

Motion: Mr. Romano motioned to create the Buzzards Bay Water Quality Working Group made up of a member of the Select Board, a member of the Conservation Commission, five community members, a member of Marine Resources and a staff member from the Sewer Department, a member of the Planning Board and a Town Staff Representative with the charge as read by Mr. Saunders. Mr. Saunders seconded. The motion passed unanimously (4-0-0).

BOARD MEMBER ITEMS/ COMMITTEE LIAISON REPORTS

Mr. Romano reported:

Thank you to Mr. and Mrs. Oliveira and Mr. Medeiros for their work on the July 4th parade and letting him fire a cannon, glad to see Mr. Silvia is feeling better. The Town Meeting Advisory Committee will meet on July 17th at 6:30pm. Belonging met and their focus is on the Diverse Abilities event on Sunday, July 28th at the Rec Center and Council on Aging, thank you to Mr. Durant for volunteering for the dunk tank again.

Mr. Romano asked for an update from the June 10th meeting and calendar days for requests for banners and use of Town Hall. The Belonging Committee asked about a calendar for events to help volunteers. Ms. Ellison said this can be added to a future agenda for discussion. Mr. Romano said Broadband officially joined the committee he referred to previously and joined from June 1, 2024 to June, 2025 asked if there were any updates on the feasibility study. Ms. Ellison said there is no update, still doing research and scheduling time to meet with different people. Mr. Romano asked if an update will be available for the August 19th meeting. Ms. Ellison asked for clarification on what type of update. Ms. Powers suggested Mr. Romano work with Ms. Ellison and add it to the August 19, 2024 agenda.

Mr. Romano said they have contacted SRPEDD for tech assistance for the fall.

Mr. Saunders reported:

SRPEDD held an orientation session. In terms of Broadband, the city of New Bedford is about to put their own RFP (request for proposal) out and Mayor Mitchell from New Bedford reached out and asked if Fairhaven is interested in participating with the City in the RFP. Mayor Mitchell is reaching out to surrounding towns like Dartmouth as well, they are looking for strength in numbers. Potential for our Broadband to collaborate.

Mr. Silvia reported:

Nothing to report

Ms. Powers reported:

The Financial Policy Review Committee met, will present at a future meeting. The Library meets this week. Bristol County Advisory meets in early August.

CORRESPONDENCE

Land Court Registered Land: Order of the Court.

PUBLIC COMMENT

Bob Espindola of John Street addressed the Board, he asked if the next meeting is August 19th and about that being after Chief Myers' last day. Ms. Powers said that Ms. Ellison mentioned earlier that the Board would need to do an off-schedule meeting to do appointments.

NEWS AND ANNOUNCEMENTS

The next regularly scheduled Select Board meeting is on Monday, August 19, 2024 at 6:30p.m.

Meeting adjourned at 8:33 p.m.

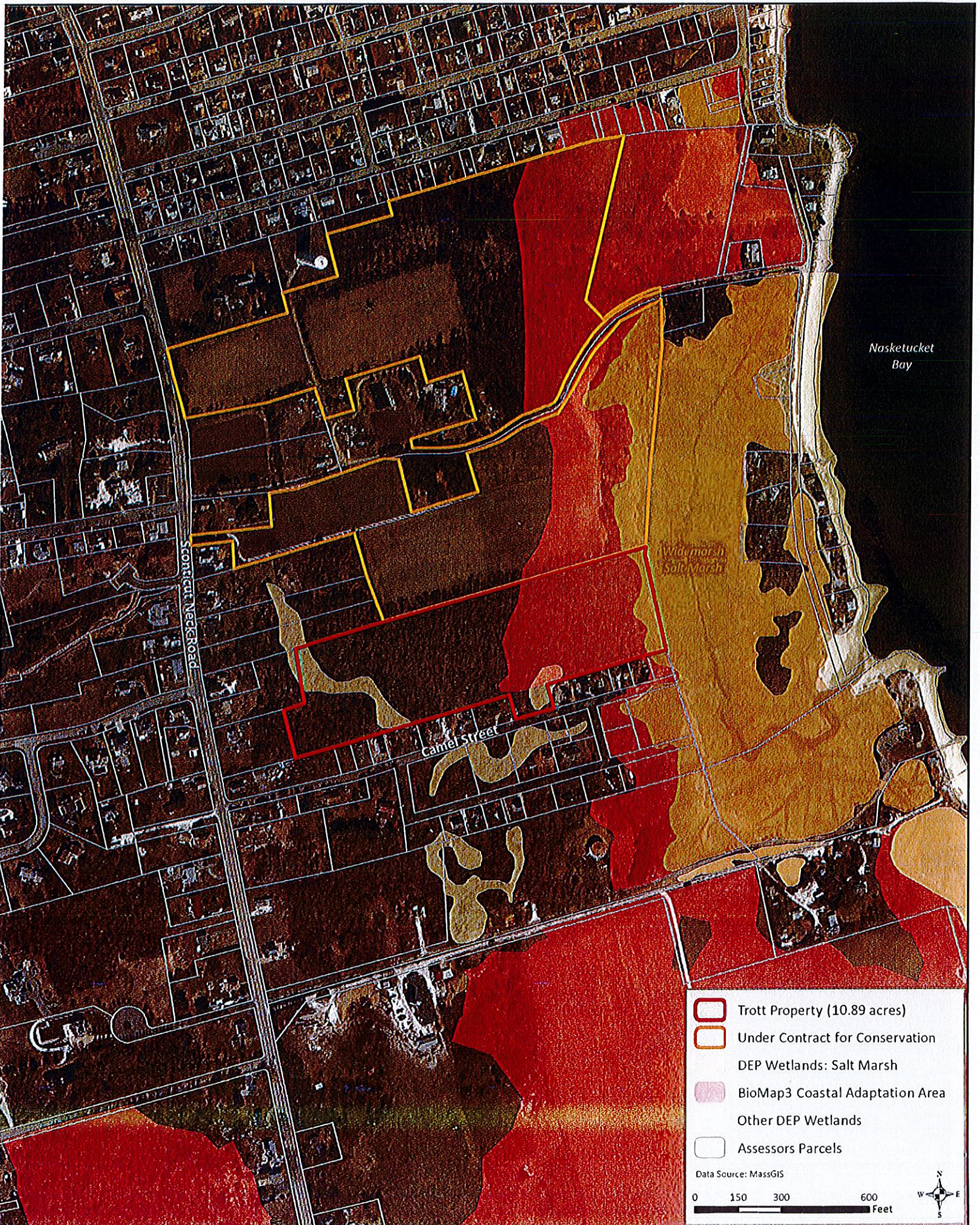
Respectfully submitted on behalf of the Select Board Clerk (ah)

ATTACHMENTS:

- A. Conservation Restriction: Trott Properties
- B. Division of Local Services document on G.L. c. 59, § 5
- C. Fundraiser Flyer: Bob Pink, re. request to waive parking at Hoppy's Landing

Approved on July 30, 2024

Nasketucket Bay - Trott, Fairhaven - Wetlands



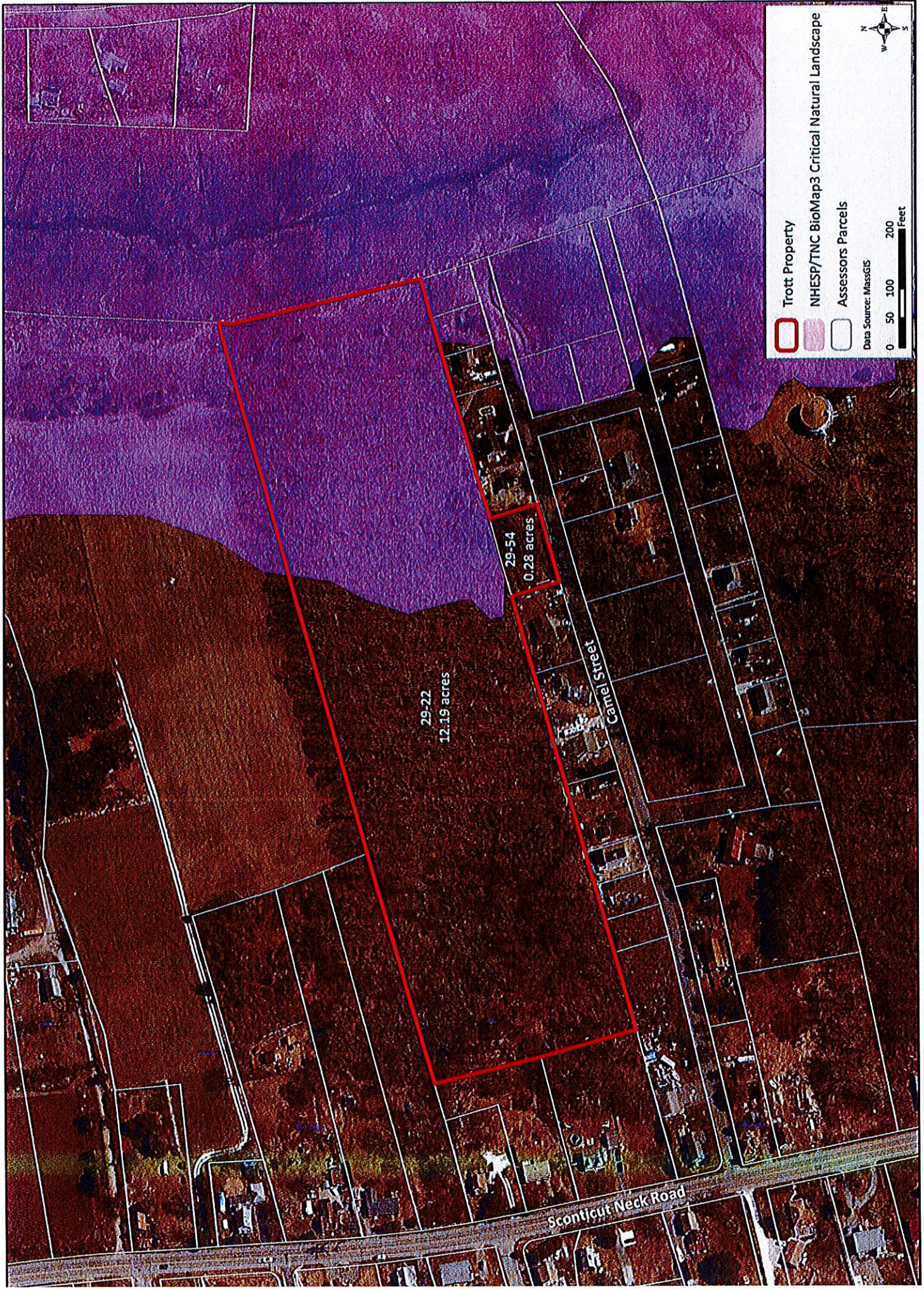
Trott Property, Fairhaven - Aerial Map



Nasketucket Bay - Trott, Fairhaven - Open Space Context



Trott Property, Fairhaven - NHESP/TNC BioMap3



APPROVAL NOT REQUIRED.
PLAN OF LAND
SCOTTISH IRISH ROAD
PREPARED FOR:
LESLIE TROTTE
1650 ROAD
CEYLON CROWN.

DRAFT

DATE: DEC 8 2023
DRAWN BY: JH
CHECKED BY: NAB
JOB NO: 21-8158
SCALE: 1" = 60'

7. CERTIFY THAT THIS PLAN WAS PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REVENUES OF DENMARK.

THE CERTIFICATION MADE HEREON IS INTENDED TO MEET THE REQUIREMENTS OF DENMARK AND IS NOT A CERTIFICATION TO THE TITLE OR ON BEHALF OF THE REVENUE AGENCY.

ABSTRACTS SHOWN ARE ACCORDING TO THE FINANCIAL TAX ACCOUNTING RECORDS.

<p> TEST OF FARMINGTON APPROVED UNDER CHANGSON CONTROL LAW NOT REQUIRED </p>	<p> FARMINGTON PLUMBING BOARD </p>
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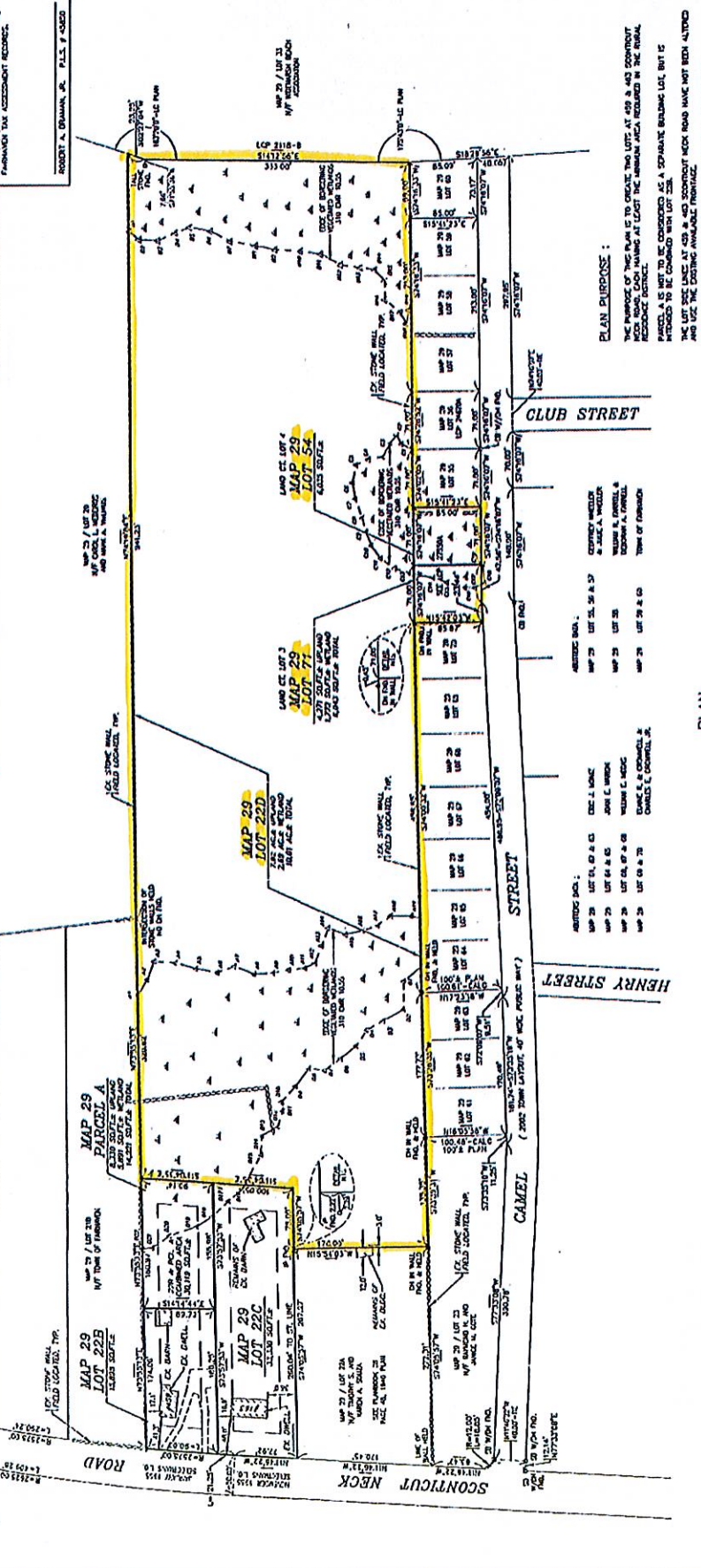
LOT DATA:

ACCESSORS MAP: 29 / LOT 22 & 23B
ADDRESS: 425 & 443 COMBURY ROCK ROAD
DEED REF: BOOK 1471, PAGE 34
ACCESSORS MAP: 29 / LOT 24 & 25
ADDRESS: CAROL STREET
LAND COURT CERTIFICATE OF TITLE 2029
OWNERS:
LESLIE A. TRIST
JAMES A. TRIST
CLEAR CREEK, ALA OTHER
THOMAS A. TRIST
JAMES A. TRIST
BOONSTOWN, ME OWNERS

PLANS HAVE BEEN RECORDED AS THE FOLLO BY
THE RECORD DEPARTMENT ON 2007 AND HAVE
EXPIRED ON 2022.

[illegible]

7-00 301 ALCOOL 304



PLAN PURPOSE :

THE PURPOSE OF THIS PLAN IS TO CREATE TWO LOTS IN 459 & 460 SOUTHWEST MECK ROAD, EACH WITH A LOT AREA OF 10,661 SQUARE FEET, WHICH WILL BE REQUIRED IN THE FUTURE FOR THE PROPOSED HIGHWAY 200 PROJECT. PARCELS 1 & 2 ARE NOT TO BE CONSIDERED AS A SEPARATE BUILDING LOT, BUT IS INTENDED TO BE COMBINED WITH LOT 238.

THE LOT SITUATION IN 459 & 460 SOUTHWEST MECK ROAD HAVE BEEN ALIGNED AND LOTS ARE BEING OFFERED FOR SALE. THE EXISTING AVAILABLE, IMPROVED AND UNIMPROVED AREAS ARE:

THE REMAINING BACK LAND AREA OF 10,661 SQUARE FEET IS SHOWN AS LOT 238.

THE OWNERS ARE PROPOSING THE LOTS 34 & 77, 80ND LAND COURT LOTS 3 AND 4 ON LAND COURT STREET.

DRAFT

PLAN



TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 40 Center Street • Fairhaven, MA 02719

July 8, 2024

Melissa Cryan
EOEEA
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Nasketucket Bay - Trott Conservation Project
Fairhaven, Massachusetts

Dear Ms. Cryan:

The Town of Fairhaven Conservation Commission (Con Comm) is pleased to support Buzzards Bay Coalition (BBC) in the above referenced project for funds to help complete the protection of approximately 11 acres of land along the Widemarsh saltmarsh on the Nasketucket Bay side of Sconticut Neck in Fairhaven. This application and project protects this undeveloped property and will prevent land use conversion (as the property would support multiple house lots), open the area for public access, protect water quality and fish and wildlife habitat associated with the saltmarsh complex along the shoreline of the Bay.

The property is principally forested uplands with its eastern edge abutting saltmarsh. The topography is such that protection of the property will provide resiliency to the effects of climate change and make it possible for the saltmarsh to migrate westerly over time as sea level rises. My understanding in discussing the project with the BBC is that the BBC has the property under agreement to acquire as part of a building block of conservation land in the immediate area which will add to the overall expanse of conservation land on Sconticut Neck (see enclosed maps). BBC envisions managing the property as a publicly-accessible open space reserve.

The Con Comm commits to holding the conservation restriction (CR) required by the grant program if the application is selected for funding and the Fairhaven Select Board approves. We will work with BBC and the Fairhaven Select Board to create a CR for the property that allows public access for passive recreational activities while protecting important natural resources associated with the coastal habitats.

Thank you for your attention to this letter and working with our partners to protect this important property.

Sincerely,



Hugh Bruce Webb

Conservation Agent and Sustainability Coordinator

EXEMPTIONS FOR ORGANIZATIONS (FAQS)

FAQs on Exemptions for Charitable, Religious, Veterans and Fraternal Organizations G.L. c. 59, § 5

Frequently asked questions (FAQs) published by the Division of Local Services (DLS) within the Department of Revenue provide general information about Massachusetts municipal tax and finance laws and DLS policies and procedures in effect when published. They do not answer all questions or address complex issues about their topics. FAQs are not public written statements of the Department. They are informational only as described in [830 CMR 62C.3.1\(10\)\(c\)](#), and do not supersede, alter or otherwise change any Massachusetts General Law, Department public written statement or other source of law.

Charitable Organization FAQs

1. Does state law exempt charitable or religious organization from real and personal property taxes?

Yes. Institutions and organizations, such as hospitals, schools, churches and cultural facilities, may qualify for exemption from local taxes on real and personal property they own on July 1, the beginning of the fiscal year. These exemptions are found in [G.L. c. 59, § 5, Clause 3](#) (real and personal property of charitable organizations), [Clause 10](#) (personal property of religious organizations) and [Clause 11](#) (houses of worship and parsonages of religious organizations). However, a religious or charitable organization is not automatically exempt from local taxation when it organizes or acquires property. It must meet specific eligibility criteria and follow certain procedures to obtain an exemption.

2. What property of a charitable organization qualifies for a property tax exemption?

The following property of a charitable organization is exempt from local property taxes:

- 1) All personal property regardless of use.
- 2) Real property:
 - a) Owned by, or held in trust for, the charitable organization and occupied by it, or another charitable organization, for charitable purposes;
 - b) Purchased by the charitable organization with the intention of future relocation and charitable use for no more than two years from the acquisition; and
 - c) Upon local acceptance, owned by, or held in trust for, a charitable organization for the purpose of creating community housing, as defined in [G.L. c. 44B, § 2](#), if it was purchased from an entity that acquired it by a mortgage foreclosure sale, until it is rented or sold, but for not more than seven years after the purchase.

[G.L. c. 59, § 5, Clause 3.](#)

3. What is the qualification date for a charitable organization property tax exemption?

Exempt status is determined as of July 1, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the charitable organization must meet all eligibility criteria as of that date. [G.L. c. 59, § 5](#). It is not entitled to a pro-rata exemption for property

acquired after July 1 and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

4. What is a charitable organization?

A charitable organization for property tax exemption purposes is a corporation or trust established for literary, benevolent, charitable, or temperance purposes. A limited liability company (LLC), disregarded entity or other non-corporate entity is not eligible for exemption as a charitable organization under G.L. c. 59, § 5, Clause 3.

The actual work done by the organization must be consistent with its stated charitable purposes and must benefit a sufficiently large or indefinite class such that society at large benefits, *i.e.*, it must operate as a public charity. Harvard Community Health Plan, Inc. v. Board of Assessors of Cambridge, 384 Mass. 536 (1981) and Cummington School of the Arts, Inc. v. Board of Assessors of Cummington, 373 Mass. 597 (1977). Its status as a non-profit corporation under G.L. c. 180 or exemption from federal taxes under sec. 501(c)(3) of the Internal Revenue Code is, without more, insufficient to satisfy this requirement. Western Mass. Lifecare Corp. v. Assessors of Springfield, 434 Mass. 96, 102 (2001).

In addition, the organization cannot distribute its income or assets to officers, directors or shareholders while it operates, or use them for non-charitable purposes, *i.e.*, there can be no private inurement. If the organization dissolves, its assets must be distributed to another charity.

5. What purposes are charitable for property tax exemption purposes under G.L. c. 59, § 5, Clause 3?

"A charity ...may be more fully defined as a gift to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves in life, or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government." Boston Symphony Orchestra, Inc. v. Assessors of Boston, 294 Mass. 248, 254-255 (1936), quoting Jackson v. Phillips, 96 Mass. 539 (1867). It includes more than almsgiving and assistance to the needy. It includes a wider field of activities for the improvement of man. Massachusetts Medical Society v. Assessors of Boston, 340 Mass. 327, 331 (1960).

Traditional charitable purposes include relief for low-income individuals, medical care, religious works, natural resource conservation, education, and public works. Less traditional charitable purposes include advancement of arts and sciences, promotion of culture, and providing an essential function for a charity. The further away an organization's purposes are from the traditional understanding of charitable activities, the more strictly it is held to the requirement that its operations primarily benefit a sufficiently large and indefinite class of the public.

An "auxiliary" organization created to raise funds for a related charitable organization, or to reduce the overall cost of operation of that related charitable organization by performing a necessary function for it, may qualify as a public charity for exemption purposes. Children's Hospital Medical Center v. Board of Assessors of Boston, 353 Mass. 35 (1967).

6. Can an organization that does charitable work as an incidental or secondary aspect of its mission qualify for a charitable exemption?

No, the dominant purpose of the organization must come within the definition of "charitable." Providing commendable, laudable and socially useful services is not sufficient. Western Massachusetts Lifecare

Corp. v. Board of Assessors of Springfield, 434 Mass. 96 (2001); *Jewish Geriatric Services Inc. v. Board of Assessors of Longmeadow*, 61 Mass. App. Ct. 73 (2004). In addition, if the organization is created and operated primarily for the mutual improvement of its members, or for social and recreational purposes, it is not a public charity for exemption purposes, even if there is some incidental benefit to the public. *Massachusetts Medical Society v. Assessors of Boston*, 340 Mass. 327 (1960), *Boston v. Boston Pilots' Relief Society*, 311 Mass. 232 (1942) and *Newton Centre Woman's Club v. City of Newton*, 258 Mass. 326 (1927). The dominant purpose of the work governs.

7. Can organizations that do not serve a large and indefinite class of the public (e.g., due to high fees or user costs or limited membership) be exempt under G.L. c. 59, § 5, Clause 3?

An organization with purposes and methods close to the traditional understanding of charitable activity is less likely to forfeit charitable status because it serves a relatively small number of beneficiaries.

There is no precise number of persons who must be served, and at any given moment a small number may be served, but generally membership in the class served must be fluid and must be drawn from a large segment of society or all walks of life. *Massachusetts Lifecare Corp. v. Board of Assessors of Springfield*, 434 Mass. 96 (2001). The benefit does not have to be to the people in the community granting the exemption, but to the public generally. *Board of Assessors of City of Quincy v. Cunningham Foundation*, 305 Mass. 411 (1940).

A class may be considered limited if it is stable and consists of the same members for a relatively extended period of time, especially where the stability is a result of a membership policy of the organization.

8. Under what circumstances might private inurement occur for a Chapter 180 non-profit corporation?

A non-profit corporation may pay reasonable salaries for services rendered. However, if payment of salaries or provision of fringe benefits to officers or professional employees operates merely as a device to benefit the officers or distribute profits, a non-profit corporation claiming charitable status would be ineligible for the exemption. *Fisher School v. Assessors of Boston*, 325 Mass. 529 (1950); *Sturdy Memorial Foundation, Inc. Board of Assessors of North Attleborough*, 47 Mass. App. Ct. 519 (1999); (*on remand*, 60 Mass. App. Ct. 573 (2004)).

9. What information is relevant in determining if an organization is a charitable organization?

Whether an organization is charitable under G.L. c. 59, § 5, Clause 3 depends upon the specific facts. Assessors may require whatever additional information is reasonably relevant to determining whether the organization's purposes and activities are charitable.

Relevant characteristics include the entity's form of organization, stated purposes, actual operation, persons served and how its income or revenue is spent or distributed. Generally, the purposes of an organization are set forth in its articles of organization and bylaws. A description of its activities and information about its officers and employees can also be derived from the information contained in its public charity filing (Form PC) with the Office of the Attorney General. Generally, the information the assessors will want to review would include, but is not limited to:

- 1) Articles of incorporation, charter or declaration of trust,
- 2) Organization by-laws,
- 3) Identification of officers, directors or trustees,

- 4) Description of charitable activities,
- 5) Description of the use of the property, including use by all lessees or other occupants,
- 6) Information about compensation arrangements for officers and key employees, and
- 7) Whether the organization has a federal tax exemption under sec. 501(c)(3) of the Internal Revenue Code.

10. Whose obligation is it to demonstrate qualification for a charitable exemption under G.L. c. 59, § 5, Clause 3?

The burden is on the applicant. “Exemption statutes are strictly construed, and the burden lies with the party seeking an exemption to demonstrate that it qualifies according to the express terms or the necessary implication of a statute providing the exemption.” New England Forestry Foundation, Inc. v. Board of Assessors of Hawley, 468 Mass. 138, 148 (2014).

11. What is required for a charitable organization to occupy real property for property tax exemption purposes?

As a general rule, real property owned by, or held in trust for, a charitable organization must also be occupied by the charitable organization or its officers in furtherance of its charitable purposes to qualify for exemption. G.L. c. 59, § 5, Clause 3. Officers are not necessarily limited to persons holding corporate offices, but can include employees of the organization. *Trustees of Thayer Academy v. Board of Assessors of Braintree*, 232 Mass. 402 (1919).

Occupancy “means something more than that which results from simple ownership and possession. It signifies an active appropriation to the immediate uses of the charitable cause for which the owner was organized. The extent of the use, although entitled to consideration, is not decisive. But the nature of the occupation must be such as to contribute immediately to the promotion of the charity and physically to participate in the forwarding of its beneficent objects.” Board of Assessors of Boston v. The Vincent Club, 351 Mass. 10, 14 (1966).

Assessors must determine how the property is actually used by the charity. Charitable use must be the principal use of the property. The occasional and incidental use of the property by a non-charitable organization does not impact the exemption.

The use does not have to be intensive and the officers generally have broad latitude to determine the amount of real estate needed to carry out the organization’s mission. New England Forestry Foundation, Inc. v. Board of Assessors of Hawley, 468 Mass. 138 (2014); Assessors of Dover v. Dominican Fathers Province of St. Joseph, 334 Mass. 530 (1956). However, the use must be substantial enough for the property to be considered dedicated to the charitable purposes of the organization.

12. Is real property owned by, or held in trust for, a charitable organization but not occupied and used by that organization eligible for exemption?

The following real property owned by, or held in trust for, a charitable organization and not currently occupied by the organization to further its charitable purposes is also eligible for exemption:

- 1) Real property leased to or occupied by another charitable organization or its officers in furtherance of that organization’s charitable purposes.
- 2) Real property acquired by a charitable organization with the intention of future relocation and charitable use may qualify for up to two years from acquisition. The organization has that time to construct a facility, or renovate the property, and occupy it. If the property is not occupied for charitable use within that period, the property is taxable until it is occupied.

- a) The organization must intend to relocate from its current facility to a new one located at the site. If acquisition is for expansion purposes, actual occupancy is required. *Wheaton College v. Norton*, 232 Mass. 141, 147 (1919); 7 *Op. A.G.* 1925, p. 572 ("removal" means "change in the situs" of the organization to another parcel). But see *Mount Auburn Hospital v. Board of Assessors of Watertown*, 55 Mass. App. Ct. 611 (2002) (Purchase of property by a hospital to alleviate space constraints at existing facility and relocate outpatient services in about 50% of new site, which was substantial portion of its operations, was sufficient to establish acquisition was for the purpose of removal).
- b) The grace period is not automatic. There must be a present intent to relocate at the time of the acquisition. This may have to be established by reference to all of the surrounding facts and circumstances. In addition, there must be a continuing intent to relocate as of the qualification date for the second fiscal year of the grace period.
- 3) In a city or town that accepts a provision of G.L. c. 59, § 5, Clause 3, real property acquired by a charitable organization for the purpose of creating community housing, as defined in G.L. c. 44B, § 2, may qualify for exemption if it was purchased from an entity that acquired it by a mortgage foreclosure sale. The exemption applies until the property is rented or sold, but for not more than seven years after the purchase.
- 4) Real property occupied by a governmental entity with congruent purposes qualifies for exemption, *i.e.*, the property is occupied by the governmental agency in furtherance of the charity's charitable purposes. In that case, the governmental occupancy is tantamount to occupancy by the charity. See *Bridgewater State University Foundation v. Board of Assessors of Bridgewater*, 463 Mass. 154 (2012) and *CIL Realty of Massachusetts, Inc. v. Board of Assessors of the Town of East Longmeadow*, ATB Docket No. F314815 (July 2013).

13. Is residential property owned by a charity and occupied by an officer or employee exempt?

A residence may be exempt if the occupancy by the organization's officer or employee is consistent with the charitable purposes of the organization. To qualify, the organization must establish that (1) the housing is provided as a means of adjusting the employee's compensation so that any rent paid is nominal and not intended to produce income for the organization, (2) the residency is a condition of employment, and (3) the residency is essential to the success and efficiency of the institution. See *Board of Assessors of New Braintree v. Pioneer Valley Academy, Inc.*, 355 Mass. 610 (1969) (Rent free living quarters at secondary school where faculty members were required to live were tax exempt because residency essential to the education of the students); *South Lancaster Academy v. Inhabitants of the Town of Lancaster*, 242 Mass. 553 (1922) (Student residential cottage also occupied by principal as a condition of employment who paid nominal amount for heating and lighting was tax exempt because residency essential to education of the students); *Wheaton College v. Norton*, 232 Mass. 141 (1919) (Houses supplied rent free to chief engineer and building superintendent who were required to live there were tax exempt because use was consistent with educational purpose of school). Compare *President and Trustee of Williams College v. Assessors of Williamstown*, 167 Mass. 505 (1897) (House owned and leased by college to professor was not occupied for college purposes but solely for private purposes and was not tax exempt).

14. What procedures must a charitable organization follow to obtain a local property tax exemption?

A charitable organization must make an initial application to the assessors in the first fiscal year it claims exempt status for its personal property, or for a particular parcel of real property. The organization may use a charitable exemption application form (State Tax Form 1-B-3) or an abatement application (State Tax Form 128) to apply. The application deadline for any year is the same as the

deadline for property tax abatement applications, i.e., the date the first actual tax installment for the year is due.

For example, a charitable organization buys a parcel of real property in January 2018 and begins operating there in June 2018. To receive an exemption for fiscal year 2019 beginning on July 1, 2018, it must apply to the assessors for exemption of that parcel, and any personal property it owns, on or before the deadline for applying for abatement of fiscal year 2019 taxes.

If the organization buys another parcel in December 2018, it would have to apply to establish an exemption for that parcel for fiscal year 2020, beginning on July 1, 2019. That application would be due on or before the deadline for fiscal year 2020 abatement applications.

Once an exemption is established for personal property, or a particular parcel of real property, no further application is required, provided there is no change in ownership, occupancy or other eligibility criteria.

In addition, however, every charitable organization that owns real and personal property on January 1 for which it claims exemption for the fiscal year that begins on the next July 1 must file a property return ([Form 3ABC](#)) with the assessors in order to receive or continue an exemption for that year. [G.L. c. 59, § 5, Clause 3\(b\)](#). If the charitable organization is required to register and file an annual report ([Form PC](#)) with the Public Charities Division of the Attorney General's Office, it must attach a copy of its most recent Form PC to its Form 3ABC.

For example, a charitable organization buys a parcel of real property in January 2018 and begins operating there in April 2018. To receive an exemption for fiscal year 2019 beginning on July 1, 2018, it must apply to the assessors, but it would not have to have filed a Form 3ABC because it did not own the property for which an exemption is claimed on January 1. However, if the organization had bought the property in September 2017 and moved there in December 2017, it would have to have filed a Form 3ABC in addition to its exemption application in order to receive an exemption for fiscal year 2019. In both cases, the organization would have to file a Form 3ABC for subsequent fiscal years so long as it owns real and personal property on January 1.

15. What information must a charitable organization include with its exemption application?

A charitable organization must include with its exemption application whatever supporting information is reasonably required by the assessors to establish eligibility. This information may include, but is not limited to:

- 1) Articles of incorporation, charter or declaration of trust.
- 2) Organization by-laws.
- 3) Identification of officers, directors or trustees.
- 4) Description of charitable activities.
- 5) Description of the use of the property, including use by all lessees or other occupants.
- 6) Information about compensation arrangements for officers and key employees.

16. What is the due date for filing the [Form 3ABC](#) and may it be extended or waived by the assessors?

The [Form 3ABC](#) must be received in the assessors' office on or before March 1. However, the assessors can extend the March 1 deadline if the charitable organization makes a written request and demonstrates

a good reason for not filing on time. The latest the filing deadline can be extended to is the last day for applying for abatement of the tax for the fiscal year to which the return relates (the date the first actual tax installment for the year is due). [G.L. c. 59, § 29](#).

The requirement to file the return is a jurisdictional prerequisite to an exemption for any property owned by the charitable organization on January 1. An organization that fails to file the return is not exempt for the year. [G.L. c. 59, § 5, Clause 3\(b\)](#); *Children's Hospital Medical Center v. Assessors of Boston*, 388 Mass. 832 (1983). No exemption can be granted by the assessors or appeal reviewed by the Appellate Tax Board (ATB).

Religious Organization FAQs

17. What property of a religious organization qualifies for a property tax exemption?

The following property of a religious organization is exempt from local property taxes:

- 1) The personal property (a) owned by or (b) held in trust within Massachusetts by a religious organization of any denomination if the principal or income is used for religious or charitable purposes. [G.L. c. 59, § 5, Clause 10](#).
- 2) The pews and furniture of a religious organization. [G.L. c. 59, § 5, Clause 11](#).
- 3) A church, synagogue, mosque or other house of religious worship (a) owned by, or (b) held in trust for the exclusive benefit of, a religious organization of any denomination. [G.L. c. 59, § 5, Clause 11](#).
- 4) A parsonage (a) owned by, or (b) held in irrevocable trust for the exclusive benefit of, a religious organization of any denomination. [G.L. c. 59, § 5, Clause 11](#).

18. What is the qualification date for a religious organization exemption?

Exempt status is determined as of July 1, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the religious organization must meet all eligibility criteria as of that date. [G.L. c. 59, § 5](#). It is not entitled to a pro-rata exemption for property acquired after July 1 and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

19. What is a house of worship?

A house of worship is a building or structure which is owned by, or held in trust for, a religious organization, which uses and occupies it for purposes of religious services or instruction. It includes the land under the building, land accessory to the use of the building, such as parking lots, and halls used for religious classes and other religious activities. Incidental or occasional use of the property for other purposes does not affect the exemption, as long as the dominant purpose is connected with religious worship or instruction, i.e., it accompanies and supplements the religious work of the organization. See [Our Lady of La Sallette, Inc. v. Assessors of Attleboro](#), 476 Mass. 690 (2017). However, any part of the property regularly leased or occupied for other purposes is taxable. See [Evangelical Baptist Benevolent and Missionary Society v. City of Boston](#), 204 Mass. 28 (1910); *All Saints Parish v. Brookline*, 178 Mass. 404 (1901); *Boston Society of Redemptorist Fathers v. City of Boston*, 129 Mass. 178 (1880).

20. Is property acquired by a religious organization for a future house of worship exempt?

Property acquired and held by a religious organization for a future house of worship is not exempt unless construction or renovation is underway on the July 1 exemption qualification date. See *All Saints*

Parish v. Inhabitants of Town of Brookline, 178 Mass. 404 (1901) (Land acquired for future house of worship is not exempt where construction had not begun); *Trinity Church v. Boston*, 118 Mass. 164 (1875) (Land for future house of worship upon which construction was underway by driving piles for the foundation is exempt). There is no grace period found in [G.L. c. 59, § 5, Clause 11](#) as there is in [G.L. c. 59, § 5, Clause 3](#) for real property acquired by a charity for purposes of relocation.

21. What is a parsonage?

A parsonage is a ministerial residence used in connection with a house of worship of any denomination. It must be occupied by the religious leader, pastor or other clergy person, who regularly officiates at or conducts religious services in a house of worship. [Assessors of Boston v. Old South Society in Boston](#), 314 Mass. 364 (1943); [Worcester District Stewards New England Conference of Methodist Episcopal Church v. Assessors of Worcester](#), 321 Mass. 482 at 486 (1947) (“...the residence of a minister used in connection with his duties in a house of religious worship.”).

22. Is a residence owned by a religious organization and rented to the organization’s religious education director, or other employee, exempt?

The exemption under [G.L. c. 59, § 5, Clause 11](#) applies only to houses of worship and ancillary facilities, parsonages, and certain other ecclesiastical residences. Therefore, a house owned by a religious organization is not exempt as a parsonage if someone other than its religious leader, pastor, or other active clergy person for the congregation, occupies it as of the July 1 exemption qualification date.

However, if the religious organization separately qualifies as a charitable organization under [G.L. c. 59, § 5, Clause 3](#), the residence may be exempt if the occupancy by the organization’s officer or employee is consistent with the charitable purposes of the organization. To qualify, the organization must establish that (1) the housing is provided as a means of adjusting the employee’s compensation so that any rent paid is nominal and not intended to produce income for the organization, (2) the residency is a condition of employment, and (3) the residency is essential to the success and efficiency of the institution. See [Board of Assessors of New Braintree v. Pioneer Valley Academy](#), 355 Mass. 610 (1969) (Rent free living quarters at secondary school where faculty members were required to live were tax exempt because residency essential to the education of the students); *South Lancaster Academy v. Inhabitants of the Town of Lancaster*, 242 Mass. 553 (1922) (Student residential cottage also occupied by principal as a condition of employment who paid nominal amount for heating and lighting was tax exempt because residency essential to education of the students); *Wheaton College v. Norton*, 232 Mass. 141 (1919) (Houses supplied rent free to chief engineer and building superintendent who were required to live there were tax exempt because use was consistent with educational purpose of school). Compare *President and Trustee of Williams College v. Assessors of Williamstown*, 167 Mass. 505 (1897) (House owned and leased by college to professor was not occupied for college purposes but solely for private purposes and was not tax exempt).

23. Is a religious organization required to file an annual [Form 3ABC](#) to obtain a property tax exemption?

No, unless it is seeking an exemption as a charitable organization for real property it owns and uses for other than a house of worship or parsonage, for example, a school, health care or social service facility. In that case, it must follow the same procedures as a charitable organization to obtain the exemption.

A religious organization does not have to file any specific application form to establish exempt status for a house of worship or parsonage. If it is claiming exemption for the first time, or for property not previously exempt as a house of worship or parsonage, however, it would want to contact the assessors’

office and provide the information needed to establish exempt status and have the property removed from the tax rolls. If a tax bill is issued for any fiscal year, however, the organization must apply on or before the due date for abatement applications for that year in order for the assessors to grant the exemption. Abatement applications are due the same day as the first installment payment of the actual, not preliminary, tax bill for the fiscal year. Applications may be made using [State Tax Form 128](#) (abatement application).

Veterans' Organization FAQs

24. What property of a veterans' organization qualifies for a property tax exemption?

An incorporated organization of veterans is exempt from local property taxes up to a dollar amount of the fair cash valuation of the following property:

- 1) The personal property that it owns or is held in trust for its benefit if the net income is used for charitable purposes. [G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C.](#)
- 2) The real property that it owns or is held in trust for its benefit if it is actually used and occupied by the organization and the net income is used for charitable purposes. [G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C.](#)

25. What is the amount of the exemption for which a veterans' organization is eligible?

It depends on the specific clause that operates in the city or town. The basic exemption is for \$200,000 worth of property. [G.L. c. 59, § 5, Clause 5.](#) If the city or town has accepted [G.L. c. 59, § 5, Clause 5A](#), the exemption amount rises to \$400,000. If the city or town has accepted [G.L. c. 59, § 5, Clause 5B](#), the exemption amount rises to \$700,000. Acceptance of [G.L. c. 59, § 5, Clause 5C](#) increases the amount of the exemption to \$1,500,000.

26. What is the qualification date for a veterans' organization exemption?

Exempt status is determined as of July 1, which is the first day of the fiscal year. To qualify for an exemption from the taxes assessed for that fiscal year, the veterans' organization must meet all eligibility criteria as of that date. [G.L. c. 59, § 5.](#) It is not entitled to a pro-rata exemption for property acquired after July 1 and should ensure that any taxes for that fiscal year are addressed when closing on the acquisition.

27. Is a veterans' organization required to file an annual return ([Form 3ABC](#)) to obtain a property tax exemption?

Yes. Every veterans' organization that owns real and personal property on January 1 for which it claims exemption for the fiscal year that begins on the next July 1 must file a property return ([Form 3ABC](#)) with the assessors in order to receive or continue an exemption for that year. [G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C.](#)

For example, a veterans' organization buys a parcel of real property in January 2018 and begins operating there in April 2018. To receive an exemption for fiscal year 2019 beginning on July 1, 2018, it must apply to the assessors, but it would not have to have filed a Form 3ABC because it did not own the property for which an exemption is claimed on January 1. However, if the organization had bought the property in September 2017 and moved there in December 2017, it would have to have filed a Form 3ABC in order to receive an exemption for fiscal year 2019. In both cases, the

organization would have to file a Form 3ABC for subsequent fiscal years so long as it owns real and personal property on January 1.

- 28. Does a veterans' organization have to attach a report to the Public Charities Division of the Attorney General's Office ([Form PC](#) with federal form 990) to its annual return to obtain a property tax exemption?**

No. Veterans' organizations are not required to register and file an annual report ([Form PC](#)) with the Public Charities Division of the Attorney General's Office.

- 29. What is the due date for filing the [Form 3ABC](#) and may it be extended or waived by the assessors?**

The [Form 3ABC](#) must be received in the assessors' office on or before March 1. However, the assessors can extend the March 1 deadline if the veterans' organization makes a written request and demonstrates a good reason for not filing on time. The latest the filing deadline can be extended to is the last day for applying for abatement of the tax for the fiscal year to which the return relates (the date the first actual tax installment for the year is due). [G.L. c. 59, § 29](#).

The requirement to file the return is a jurisdictional prerequisite to an exemption for any property owned by the veterans' organization on January 1. An organization that willfully fails to file the return is not exempt for the year. [G.L. c. 59, § 5, Clauses 5, 5A, 5B and 5C](#). No exemption can be granted by the assessors or appeal reviewed by the ATB.

Fraternal Organization FAQs

- 30. What is a fraternal organization?**

A fraternal organization is a society, order or association of members who share a similar calling, avocation, profession or cultural background or have banded together to aid and assist one another and promote a common cause. Fraternal societies, orders, or associations often have ritualized forms of meetings and work. They typically operate under the lodge system, or for the exclusive benefit of the members of a fraternity that operates under the lodge system, and they provide life, sick, accident or other benefits for the members or their dependents. See generally [G.L. c. 176](#).

- 31. Does a fraternal organization qualify for a property tax exemption?**

Yes. The following property of a fraternal organization is exempt from local property taxes:

- 1) The personal property owned by a fraternal organization operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and providing life, sick, accident or other benefits for the members or their dependents. [G.L. c. 59, § 5, Clause 7](#).
- 2) The real property owned by an incorporated fraternal organization, or held in trust for a fraternal organization, if (1) the organization is organized for charitable purposes and actually operates as a public charity and (2) the real estate is occupied by the organization for its charitable purposes, or another charitable organization for its charitable purposes. [G.L. c. 59, § 5, Clause 3](#).

32. Is a fraternal organization required to file an exemption application or annual return in order to obtain a property tax exemption?

A fraternal organization is not required to file an exemption application or annual return ([Form 3ABC](#)) unless it is seeking an exemption as a charitable organization under [G.L. c. 59, § 5, Clause 3](#) for real property it owns and uses for its charitable purposes. If a tax bill is issued for any fiscal year, however, the organization must apply on or before the due date for abatement applications for that year in order for the assessors to grant the exemption. Abatement applications are due the same day as the first installment payment of the actual, not preliminary, tax bill for the fiscal year. Applications may be made using [State Tax Form 128](#) (abatement application).

If the fraternal organization is claiming a charitable exemption for its real property under [G.L. c. 59, § 5, Clause 3](#), it must meet the same standards and follow the same procedures as a charitable organization to obtain the exemption.

Specifically, the organization must make an initial application to the assessors in the first fiscal year it claims exempt status for a particular parcel of real property it owns on July 1. The organization may use a charitable exemption application form ([State Tax Form 1-B-3](#)) or an abatement application ([State Tax Form 128](#)) to apply. The application deadline for any year is the same as the deadline for property tax abatement applications, *i.e.*, the date the first actual tax installment for the year is due.

In addition, if the organization owns real property on January 1 for which it claims a charitable exemption for the fiscal year that begins on the next July 1, it must file a property return ([Form 3ABC](#)) with the assessors in order to receive or continue an exemption for that year. [G.L. c. 59, § 5, Clause 3\(b\)](#).

33. Does a fraternal organization have to attach a report to the Public Charities Division of the Attorney General's Office ([Form PC](#) with federal form 990) to its annual return to obtain a property tax exemption?

Not as a general rule. The Public Charities Division of the Attorney General's Office does not consider most fraternal organizations to be charities subject to registration and annual reporting ([Form PC](#)) because they are primarily member benefit organizations.

Appeal Procedures and Deadlines FAQs

34. If an organization receives a tax bill even if it had applied for exemption for the year, or been granted an exemption in a prior year, must it apply to the assessors for an abatement?

If a tax bill is issued in any fiscal year, the organization would have to do one of the following to obtain the exemption:

- 1) Apply for abatement to the assessors on or before the due date for abatement applications for that fiscal year. [G.L. c. 59, § 59](#). Abatement applications are due the same day as the first installment payment of the actual, not preliminary, tax bill for the fiscal year. Applications may be made using [State Tax Form 128](#) (abatement application). If the assessors deny the application, the organization may appeal to the ATB within three months of the date the assessors denied the exemption, or it was deemed denied. To maintain the appeal, the organization must pay at least one-half of the personal property tax it is contesting. If the appeal involves a real estate parcel with a tax over \$5,000, it must pay all preliminary and actual tax installments on time or, alternatively, pay an amount equal to the average tax assessed, reduced by abatements, for the preceding three years. [G.L. c. 59, §§ 64 and 65](#).

- 2) Pay the tax and bring suit to recover the amount within 90 days. G.L. c. 60, § 98. See New England Legal Foundation v. City of Boston, 423 Mass. 602 (1996).

In addition, if the organization is claiming exemption as a charitable organization, it may appeal directly to the ATB within three months of the assessors' determination that its property is not eligible for a charitable exemption. The issuance of a tax bill on the property is considered a determination of non-eligibility for purposes of a direct appeal. Payment of the tax is not required to take a direct appeal. G.L. c. 59, § 5B.

HELP 20-YEAR-OLD NELLIE ZYGIEL GET HER KIDNEY TRANSPLANT!



Attachment C

Nellie is a resident of West Island and a student at the University of Massachusetts Amherst. She is an active member of the community and has been working at Off the Hook for the past seven summers.

Nellie has three rare and chronic illnesses, all of which were diagnosed by age 10. In February of 2023, she was told she would need a kidney transplant and in January of this year, she was officially placed on the national transplant list. Her doctors say the best way for Nellie to live a normal life is to begin a search for a live kidney donor, in hopes of avoiding dialysis and the 5-7 year wait for a kidney from a deceased donor. If she doesn't find a donor within the next year she will most likely have to go on dialysis, which has side effects of depression, takes a physical toll on the body, and is a time consuming process.



To learn more about Nellie, how to help, and to become a donor visit

We are trying to get Nellie's story out to as many people as possible in hopes of finding her a donor!

Thank you for sharing her story!



To donate to a GoFundMe for Nellie scan the QR code!