

# TOWN OF BOURNE

## Plans Believed Not to Involve Subdivision - Checklist and Comments

Re: ANR Plan of Land For: 819 Head of the Bay Road

Applicant: 819 Bourne Realty Trust Map: 14.0 Parcel: 51.0

Date of Plan: October 12, 2021 Prepared by: Farland Corporation  
*(M.G.L. Chapter 41 Sections 81P and Bourne Subdivision Bylaw Section Article II Plan Procedures §22)*

PLAN CONTENTS	CONCURS	DOES NOT CONCUR	N/A	COMMENTS
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MINIMUM REQUIREMENTS				
Existing structures shown	✓			There is an existing c. 1920 dwelling on Lot #1. Lot 2 is vacant.
Dimensions to proposed yards	✓			
Frontage: proposed	✓			Lot #1 is 323.70' and Lot 2 is 370.74'
remaining	✓			
Present owner	✓			819 Bourne Realty Trust
All abutting owners	✓			
Easements shown: public			✓	
private			✓	
Any active cranberry bogs w/in 300'			✓	
Cranberry Bog note			✓	

ADDITIONAL INFORMATION				
Lot size (minimum)	✓			
Shape factor met			✓	
Street Names	✓			Head of the Bay Road
Width	✓			Variable
public/private	✓			Public Way
Scale	✓			1 in. = 40 ft.
Date	✓			October 12, 2021
Engineer Stamp	✓			Brian J. Murphy, PLS
Monuments shown: found/ set	✓			
North Arrow	✓			
Map number	✓			14
Parcel number	✓			51
Zoning Classification	✓			R-80

### ADDITIONAL COMMENTS:

- The purpose of the ANR is to divide M14 P51 into Lot #1 and Lot #2.
- The property is located in an R-80 district and the Buttermilk Bay overlay District. Within that district all otherwise applicable requirements of the Bylaw continue to apply, except that nitrate loading as calculated above shall not exceed 15.5 pounds per acre per year.

Jennifer Copeland  
Assistant Town Planner

11/9/21  
Date

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For: 819 Head of the Bay Road

Applicant: 819 Bourne Realty Trust

Map: 14.0 Parcel: 51.0

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*Excerpts taken from the ANR Handbook DHCD 2010*

Three standards that must be met in order for lots shown on a plan to be entitled to an endorsement by the Planning Board that "approval under the Subdivision Control Law is not required." ANR MGL Chapter 41 Section 81P

1. The lots shown on such plan must front on one of the three types of ways specified in Chapter 41, Section 81L, MGL;
  - A. A public way or a way which the municipal clerk certifies is maintained and used as a public way.
  - B. A way shown on a plan which has been previously approved in accordance with the Subdivision Control Law.
  - C. A way in existence when the Subdivision Control Law took effect in the municipality, which in the opinion of the Planning Board is suitable for the proposed use of the lots.

**Planning staff suggests that Standard #1 has been met because Head of the Bay Road is a way shown in the 1947 County Layout.**

*Case law: Roadways shown on the plan were between ten and fourteen feet wide, contained severe ruts and were impassable at times due to heavy rains. The Planning Board determined that the plan constituted a subdivision, which required their approval.*

*The court found that the ways shown on the plan did not provide adequate access for vehicular traffic. Because of the inadequacy of the ways serving the proposed lots, the court found that the Planning Board did not exceed its authority when they did not endorse the plan.*

2. The lots shown on such plan must meet the minimum frontage requirements as specified in MGL Chapter 41, Section 81L
  - A. Do the proposed lots shown on the plan meet the minimum frontage requirements of the zoning bylaw?
    - R40, B1, VB, B2, B3 = 125 feet
    - R80, GD, SDD, B4 – 150 feet
    - DTD = refer to bylaw

**Planning staff suggests that Standard #2 is met. The proposed frontage of Lots 1 and 2 are more than 150 feet.**

3. A Planning Board's determination that the vital access to such lots as contemplated by Chapter 41, Section 81M, MGL, otherwise exists. Vital access standard. The necessity that the Planning Board determines that vital access exists to the lots shown on a plan before endorsing an ANR plan is not expressly stated in the Subdivision Control Law. The vital access standard has evolved from court decisions. The decisions have been concerned as to whether proposed building lots have practical access and have focused on the following two issues:

- A. Can each lot access onto the way from the frontage shown on the plan?
- B. Does the way on which the proposed lots front provide adequate access? )
- *A paper street, even though a public way, does not provide adequate access as the Subdivision Control Law requires that a public way be constructed on the ground;*
  - *A public way provides adequate access if it is paved, comparable to other ways in the area, and is suitable to accommodate motor vehicles and public safety equipment; Deficiencies in a public way are insufficient ground to deny ANR endorsement);*
  - *A public way provided adequate access though temporarily closed due to flooding where adequate access for emergency vehicles existed on another way*
  - *The planning board can consider condition of public way to determine whether the way provides acceptable physical access.*
- C. Does each lot have practical access from the way to the buildable portion of the lot? )
- *as a rule of thumb, practical access exists where the buildable portion of each lot is connected to the required frontage by a strip of land not narrower than the required frontage at any point, measured from that point to the nearest point of the opposite sideline).*

**Planning staff suggests that Standard #3 is met because both lots are accessed from Head of the Bay Road.**



TOWN OF BOURNE, MASSACHUSETTS

FORM A

APPLICATION FOR ENDORSEMENT OF A  
PLAN NOT TO REQUIRE APPROVAL

RECEIVED

2021 OCT 25 PM 1:07

TOWN CLERK BOURNE

Date: 10/14/2021

File seven (7) completed forms with the Planning Board and one (1) original with the Town Clerk in accordance with the requirements of Section 22.

To the Planning Board:

The undersigned believing that the accompanying plan of his property in the Town of Bourne does not constitute a subdivision within the meaning of the Subdivision Control Law, herewith submits said plan for a determination and endorsement that Planning Board Approval under the Subdivision Control Law is not required.

A. Name of Applicant: 819 Bourne Realty Trust Phone: 508-587-0533

Address: 7 Turnpike Street South Easton MA, 02375  
No. Street City or Town State/Zip

B. Name of Surveyor: Brian J. Murphy, P.L.S. Phone: 508-717-3479

Address(es): 21 Ventura Drive Dartmouth MA 02747  
No. Street City or Town State/Zip

Contact Email address: cgilbert@farlandcorp.com Chris Gilbert - Farland Corp. Inc.

C. Deed of property recorded in Barnstable County Registry of Deeds,

Book 25283 Page 110 & Book 28848 Page 319

D. Location and Description of Property (continue on reverse if necessary)

6.75 acre lot on the south side of Head of the Bay Road, with an existing  
single family dwelling. Lot is bordered on the westerly side by Buttermilk Bay.

E. Proposed use of land if other than single family residence:

Lot to divided into two single family residence lots.

F. Number of lots shown on plan: 2

Form A - Continued

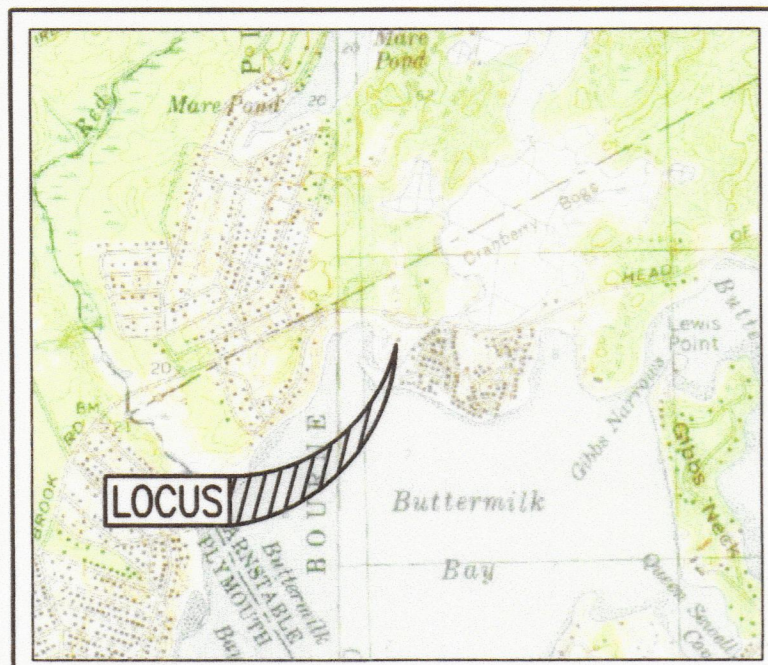
If the reason why the submitted plan is not a subdivision is not obvious, complete or have your surveyor or lawyer complete the following:

If all lots meet one of the following criteria, the plan is not a subdivision and approval under the Subdivision Control Law is not required; in that case only a simple endorsement that it is not a subdivision is needed. Please indicate the grounds (either A, B, or C - not a combination) on which you believe your plan not to be a subdivision.

- |   | <u>Lot Numbers</u> |
|---|--------------------|
| A. Each lot on the plan or altered by it meets one of these criteria:                                       |                    |
| 1. Has all the frontage required under zoning on:   |                    |
| a) A public way, or   | <u>1 &amp; 2</u>   |
| b) A way which the Town Clerk certifies is maintained and used as a public way, or                          | _____              |
| c) A way shown on a plan approved and endorsed earlier by the Planning Board under this law, or             | _____              |
| d) A way existing before February 1, 1950 and which the Board finds adequate for the way's proposed use, or | _____              |
| e) A way shown on a plan of a subdivision registered in the Land Court prior to February 1, 1950.           | _____              |
| 2. Has been clearly marked on the plan to be either:  |                    |
| a) Joined to and made a part of an adjacent lot, or   | _____              |
| b) "Not a buildable lot".   | _____              |
| B. Each lot on the plan contains a building, which existed prior to February 1, 1950.                       | _____              |
| C. The plan simply describes already existing parcels with no new lot divisions.                            | _____              |

Signature of Owner or agent: B. T. Warr, Trustee

Address: 7 Turnpike St.  
South Easton, MA 02375



LOCUS MAP SCALE: 1"=2,000'±

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED IN CONFORMANCE WITH THE RULES AND REGULATIONS OF THE REGISTERS OF DEEDS OF THE COMMONWEALTH OF MASSACHUSETTS

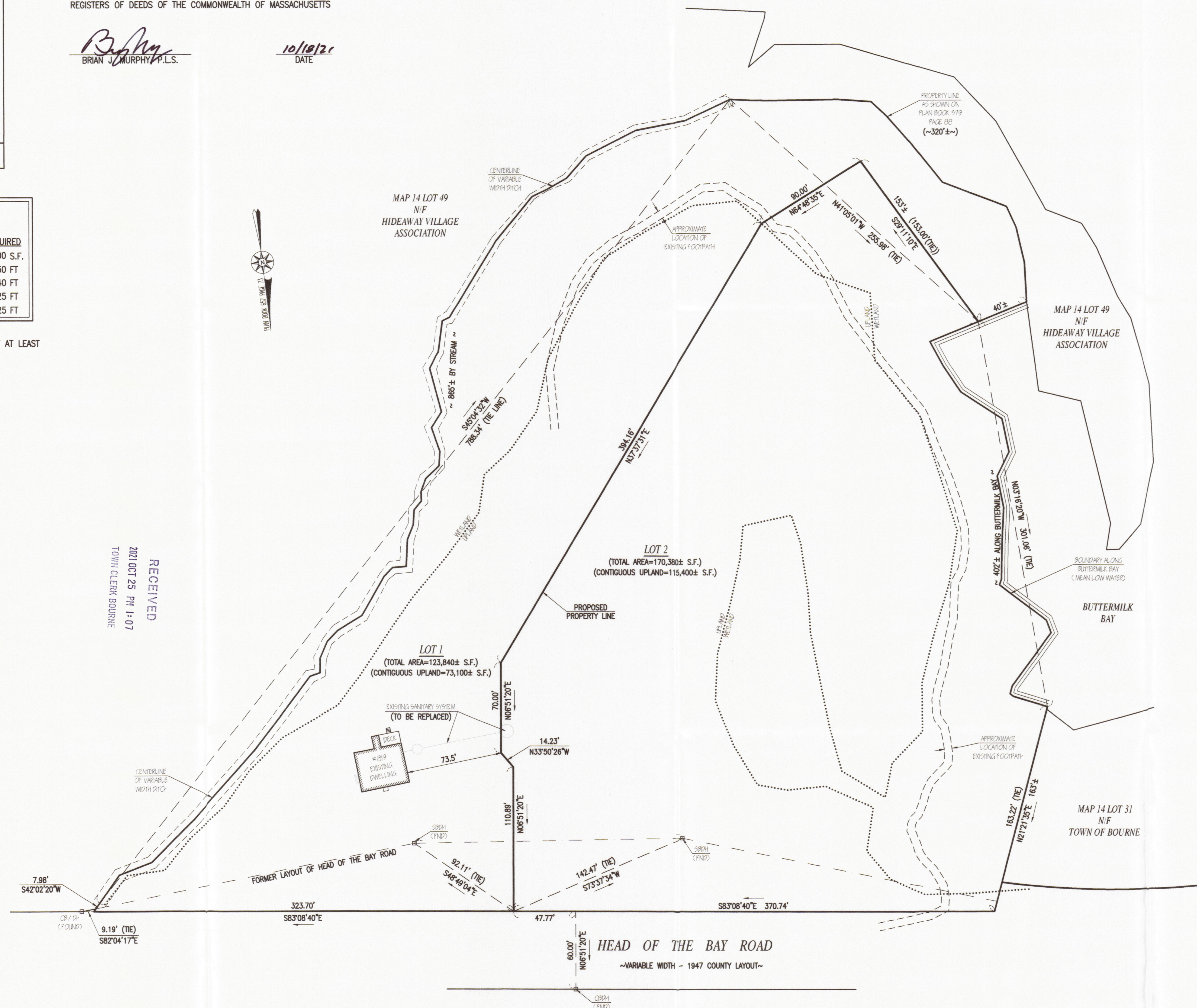
*Brian J. Murphy*  
BRIAN J. MURPHY P.L.S.

10/10/21  
DATE

**ZONING DATA**  
DISTRICT: R-80

DESCRIPTION	REQUIRED
LOT AREA	80,000 S.F.
LOT FRONTAGE	150 FT
FRONT SETBACK	40 FT
SIDE SETBACK	25 FT
REAR SETBACK	25 FT

**NOTE:**  
1. EACH LOT MUST CONTAIN AN UPLAND AREA OF AT LEAST 90% OF THE REQUIRED LOT AREA.



RECEIVED  
2021 OCT 25 PM 1:07  
TOWN CLERK BOURNE

**RECORD OWNER:**  
ASSESSORS MAP 14 LOT 51  
819 BOURNE REALTY TRUST  
7 TURNPIKE STREET  
SOUTH EASTON, MA 02375  
DEED BOOK 25283 PAGE 110  
DEED BOOK 28848 PAGE 319  
PLAN BOOK 558 PAGE 69  
PLAN BOOK 657 PAGE 73

**NOTES:**  
1. SURVEY COMPLETED BY FARLAND CORP. IN FEBRUARY OF 2018.  
2. WETLAND DELINEATED BY ECOSYSTEM SOLUTIONS IN FEBRUARY 2018.  
3. THE PURPOSE OF THIS PLAN IS TO DIVIDE ASSESSORS MAP 14 LOT 51 INTO "LOT 1" AND "LOT 2".

FOR REGISTRY USE ONLY

BOURNE PLANNING BOARD  
APPROVAL UNDER THE SUBDIVISION CONTROL LAW  
NOT REQUIRED

DATE: \_\_\_\_\_

REVISIONS




*Brian J. Murphy*



www.FarlandCorp.com

401 COUNTY STREET  
NEW BEDFORD, MA 02740  
P.508.717.3479  
OFFICES IN:  
• TAUNTON  
• MARLBOROUGH  
• WARWICK, RI

DRAWN BY: CKG  
CALC'D BY: KW  
CHECKED BY: BJM

APPROVAL NOT REQUIRED PLAN  
— 819 HEAD OF THE BAY ROAD —  
ASSESSORS MAP 14 LOT 51  
BOURNE, MASSACHUSETTS  
PREPARED FOR:  
JOSEPH BOTTI COMPANY, INC.  
7 TURNPIKE STREET  
SOUTH EASTON, MA 02375

OCTOBER 12, 2021  
SCALE: 1"=40'  
JOB NO. 14-086  
LATEST REVISION:

