

Date November 1, 2021
To Bourne Zoning Board of Appeals
From Thomas C. Houston, PE, AICP
Project Cape View Way Comprehensive Permit Project
Subject Noncompliant Yard Setback

As requested by the Board, Professional Services Corporation, PC (PSC) reviewed our August 11th memorandum in order to verify the evaluation of rear yard or side yard setback compliance provided. The dimensional analysis in our August 11th memorandum is based upon evaluation of the layout of the subdivision street and the location of the building shown on the “Cape View Way Permitting Plans, Bourne, Massachusetts,” dated March 5, 2021. It should be noted that the site also has approximately 75± ft. of frontage on Homestead Road Ext. However, the available frontage of 75± ft. is less than the required minimum frontage of 125-ft. and the building is not accessible from this frontage due to wetlands. Accordingly, we did not consider the frontage on Homestead Road Ext. in our evaluation of setbacks. Our memorandum August 11th memorandum stated:

“The proposed project complies with the requirements of the R-40 District with respect to...the minimum side yard of 15 feet (15+ feet provided)...”¹

and further,

“The applicants request waiver of strict compliance with the certain dimensional requirements of the R-40 District with respect to...minimum rear yard of 15 feet (7.8 feet provided)...”²

¹ Professional Services Corporation, PC, “Memorandum,” Subject: Peer Review of the Second Submittal of Civil Engineering/Septic Design, September 27, 2021, page 5.

² Professional Services Corporation, PC, “Memorandum,” Subject: Peer Review of the Second Submittal of Civil Engineering/Septic Design, September 27, 2021, page 5.



Our statement concurring that waiver of strict compliance is required for the provided setback is correct. The yard provided (whether front or rear) is 7.8 -ft. (7'-10") and this does not comply with the minimum required setback of 15-ft. (for both the side yard and rear yard) stated in the Zoning Bylaw.³

You also asked us to opine as to whether this noncompliant 7.8-ft. setback is a side or rear setback. To some extent this determination may not be critical because both the required minimum side yard and rear yard setbacks are equal, i.e. the minimum required side yard setback is 15 -ft. and the minimum required rear yard setback is 15-ft.

The zoning bylaw defines the term "Yard, Front" as "A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins."⁴

The zoning bylaw defines the term "Yard, Side or Rear" as "A yard other than a front yard."⁵

Although the Bylaw does not distinguish between the side yard and the rear yard, in zoning practice a "yard" opposite a "front yard" is classified as a "rear yard." Accordingly, in our opinion, the noncompliant 7.8-ft. setback should be considered as a "Yard...Rear" setback.

The layout of Cape View Way is significantly revised on the "Cape View Way Permitting Plans, Bourne, Massachusetts, September 2021." The currently layout of the proposed street now extends for a distance of only 345± ft. and ends with a layout line perpendicular to the street sidelines with no cul-de-sac.

The Zoning Bylaw defines the term "Lot Frontage" as:

"That portion of a lot fronting upon and having access to a street. Measured continuously along one street line between side lot lines, or in the case of corner lots between one side lot line and the mid-point of the corner radius. However, for lots on the outer side of a curved street, lot frontage may at the owner's option be measured as the straight-line distance between points on the side lot lines at the required front yard setback distance provided that 60% of the frontage requirement is met at the street line."⁶

³ "Town of Bourne Zoning Bylaw," As most recently amended at the Special Town Meeting, October 2019, Printed February 13, 2020. Also, the "2021 Approved Zoning Bylaws, Section III, 3100. Lowland Regulations."

⁴ "Town of Bourne Zoning Bylaw," page 182.

⁵ "Town of Bourne Zoning Bylaw," page 182.

⁶ "Town of Bourne Zoning Bylaw," page 176.



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As frontage must be “measured continuously along one street line,” the proposed lot derives its required minimum frontage of 125-ft. from the northeast sideline of the revised layout of Cape View Way. See attached plan markup.

Based on the new street layout, it is less clear whether the noncompliant 7.8-ft. setback is a side or rear setback. Although ambiguous, we would classify the noncompliant 7.8-ft. setback to be a side yard setback. Regardless both the minimum required side yard and minimum required rear yard setbacks are both 15 -ft.



CAPE VIEW WAY
PERMITTING PLANS
URNE, MASSACHUSETTS
OVERALL SITE PLAN

Horsley Witten Group, Inc.
Sustainable Environmental Solutions
www.horsleywitten.com
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Cambridge, MA 02143
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DISTRICTS	TOTAL BUREAU		
	ZONING DISTRICT	REQUIRED	PROVIDED
ZONING REGULATORY REQUIREMENTS	LOT SIZE AND MINIMUM LOT SIZE	40,000	137,568
	% BALDING COVERAGE		12%
	MINIMUM % LOT COVERAGE	25%	20%
	MINIMUM % USEABLE OPEN SPACE	25%	0%
	MINIMUM LOT FRONTAGE	125	91
	MINIMUM LOT WIDTH	30	30
	FRONT YARD SETBACK (feet)	15	7.5
	REAR YARD SETBACK (feet)	15	>15
	SIDE YARD SETBACK (feet)	15	15
	BUILDING HEIGHT (feet)	30	35 ft
PARKING	2.5 cars per 1,000 sq. ft. building		
PARKING SPACES			
TOTAL PARKING SPACES (GARAGE)	102	68	
TOTAL PARKING SPACES OFF-STREET			
TOTAL "ON-STREET" SPACES	4	4	
MINIMUM PARKING DIMENSIONS	15'-0" x 6'-0" (approx.)		