



CAPE COD COMMISSION

3225 MAIN STREET
P.O. BOX 226
BARNSTABLE, MA 02630
(508) 362-3828
FAX (508) 362-3136

E-mail: frontdesk@capecodcommission.org

DATE: September 22, 1998 MOD-96024

TO: James S. Davis, Trustee, Catherine B. Lowell Trust
Attorney Michael Ford, Stinson and Ford

RE: Modification of an Approved DRI Decision

APPLICANT: James S. Davis, Trustee
Catherine B. Lowell Trust
C/o Bingham, Dana & Gould, LLP
150 Federal Street
Boston, MA 02110-1726

PROJECT: Lowell Trust ANR - Barnstable, MA

Certificate/Plan: Certificate: 75428
Plan: 4686A, 4686C, 4880A
Lot: Unsubdivided

DECISION OF THE CAPE COD COMMISSION

SUMMARY

The Cape Cod Commission (Commission) hereby approves the application of James S. Davis, Trustee of the Catherine B. Lowell Trust for a Modification to an Approved Development of Regional Impact Decision under Section 9(n) of the DRI Enabling Regulations relating to an existing house on Lot F of the project site.

The application is hereby approved as a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised). The Decision is rendered pursuant to a vote of the Commission's Regulatory Committee on September 22, 1998.

ORIGINAL PROJECT DESCRIPTION, MODIFICATION REQUEST and PROCEDURAL HISTORY

On April 23, 1998, the Cape Cod Commission approved, with conditions, the application of James S. Davis, Trustee for the Catherine B. Lowell Trust for a Development of Regional Impact. The original project consisted of the subdivision of a 58.98 acre parcel located in Barnstable Village into seven lots.

Several findings and conditions of the Decision dealt with the characteristics of the project site and set prohibitions on further development and/or issuance over a specified number of homes unless there was further review by the Cape Cod Commission.



On September 15, 1998, staff received a request from Mr. Davis, the Trustee, for an interpretation of the Decision relative to replacement of an existing septic system for an existing house located on within the project site on Lot F. A subsequent phone conversation between staff and Mr. Davis on September 17, 1998 indicated that a separate lot was not being created relative to the septic system upgrade.

COMMENTS/DISCUSSION AT THE REGULATORY COMMITTEE MEETING

No comments from the public were received at the September 22, 1998 Regulatory Committee meeting on this project. Staff presented a Memorandum explaining the modification request to Regulatory Committee members. Attorney Michael Ford of Stinson & Ford was present and answered questions relative to the dissolution of the Trust. Staff recommended that the Applicant's request be considered a Modification #2 under Section 7 of the Administrative Regulations (as revised).

The Commission's Regulatory Committee considered Mr. Davis' request to modify the DRI Decision with respect to the existing house on Lot F and upgrading its septic system. At this meeting, the Regulatory Committee voted unanimously to consider the request as a Minor Modification #2 under Section 7 of the Administrative Regulations (as revised).

MATERIALS SUBMITTED FOR THE RECORD

A. Materials submitted by the Applicant:

No written materials submitted

B. Materials submitted by Cape Cod Commission:

Memorandum, to Regulatory Committee

9/22/98

Note: No written materials or verbal comments were submitted on this modification request by the State, Town officials or the Public.

The Application and notice of the public hearing relative thereto, the Commission's staff reports, exhibits, minutes of all hearings and all submissions received in the course of the proceedings, including materials submitted on file TR-96024 and MOD-TR96024 are incorporated into the record by reference.

JURISDICTION

The proposed changes to the Lowell Trust project qualify as a modification to an approved DRI Decision under Section 9(n) of the DRI Enabling Regulations.

FINDINGS

The Commission's Regulatory Committee has considered the application of Mr. James S. Davis, Trustee for the Catherine B. Lowell Trust for a Modification to an Approved Development of Regional Impact Decision related to the existing house on Lot F of the project site.

The Regulatory Committee voted that the following new General finding be added

to the original DRI Decision (**bold text**):

G-2. The project site includes a pre-existing two-story, wood-frame single-family house located on Lot F as shown on the plans entitled Plan of Land in Barnstable, MA for the Catherine B. Lowell Trust dated July 26, 1996, revised December 1, 1997, revised April 14, 1998 or Plan of Land in Barnstable, MA for the Catherine B. Lowell Trust dated July 26, 1996, revised April 14, 1998.

CONDITIONS

The Regulatory Committee voted that the following new General condition be added to the original DRI Decision (**bold text**):

G-7. The project site includes a pre-existing two-story, wood-frame single-family house located on Lot F. Nothing in this Decision is intended to prevent the maintenance, repair, reconstruction or expansion of this single-family house or its associated utilities. This condition does not relieve the applicant, any successors or assigns from compliance with condition HP/AR-1 in terms of a review for impacts by the Massachusetts Historical Commission and condition WR-1 of this Decision relative to Lot F.

Robert Deane

Robert Deane, Chair
Regulatory Committee

Sept. 24, 1998

Date

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

Subscribed and sworn to before me this 24th day of September 1998.

Katharine L. Peters

NAME, Notary

My Commission expires:

