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August 3, 2020

Jeremy Callahan, Chair  
Zoning Board of Appeals

c/o Thaddeus Soule  
tsoule@provincetown-ma.gov

by email  
by hand delivery

**RE:** ZBA 20-56  
207 Route 6  
The Barracks

Dear Mr. Callahan and Members of the Board

I represent John Brady, an immediate abutter to the locus of the above numbered application, owner of 12 Ship's Way Extension. (I have attached here a copy of a portion of the assessor's map showing the location of my client's home in relation to 207 Route 6.)

I write today to ask that you deny the applicant's requests for:

1. a Special Permit to allow a deviation from the roof configuration standards found at Article II, §2630, pursuant to Article II, §2630E, of the Provincetown Zoning By Laws, and
2. a Special Permit to allow a deviation from the building scale found at Article II, §2640, pursuant to Article II, §2640E, of the Provincetown Zoning By Laws,

for the following reasons.

First, it is critical to understand that my client's objections are not NIMBYism. The neighborhood of Province Road, Ship's Way and Ship's Way Extension already includes some 12 bedrooms of workforce housing in single family homes and 4 year-round single family rental homes, abuts Province Landing with its 50 affordable units, and is across Shank Painter Road from 9 bedrooms of workforce house at 79 Shank Painter and 12 micro rentals at 83 Shank Painter. Further, plans are in the works to construct affordable housing at the Town owned VFW property and at the site of the existing police department. Much of Provincetown's existing affordable and work force housing, and of the currently proposed, is already located in this part of town.

Mr. Brady objects to this project because it will loom over the Province Road and Ship's Way neighborhood, to this diverse and quiet sanctuary's very great detriment, without serving necessarily its laudable stated purpose.

The proposed development is some 940% larger than the neighborhood average, and is more than 750% larger than the allowable scale. It is almost ten times (9.98 times) bigger than my client's home, and almost nine times the size of his neighbor to the north (6 Ship's Way Extension, 8.88 times). This construction will over shadow 12 Ship's Way Extension. (Please see the attached google maps satellite screen shot and gis sheet; the applicant proposes to locate a building, and extensive retaining walls, patio and parking area, larger than the existing warehouse, between the warehouse and my client's home.)

Approval of this application would require that this Board find the Town's need for workforce housing may only be met in massive models; that employee housing is only sustainable if constructed in very big buildings. The Province Road, Ship's Way, Ship's Way Extension and Shank Painter Road vicinity offer ample evidence that this is not at all true. Even the current neighborhood outlier, the larger Province Landing, presents in a more fitting cluster form, unlike the proposed massive Barracks monolith, and is in keeping with other dense developments found in Town, like Old Ann Page Way and Stable Path.

This project is unnecessarily immense. It is in reality a four story building; the story labelled foundation in the application is a full story exposed on both the north and east elevations. And while not contributing to the scale calculation, consider too the ocean of concrete patio and retaining walls, holding up what will be left of the dune ridge separating the folks living on the north side of Ship's Way Extension and Province Road from the proposed Barracks.

I have attached here a letter dated June 29, 2020 from Raul Lizardi-Rivera of Cape and Island Engineering, which concludes that the height of the proposed structure will be some 31.8' higher than my client's back yard. It is estimated that my client's home, at two stories is approximately 25' in height. After demolishing a dune to dig out a full story this development will still dominate the single family homes on the abutting ridge.

The applicant states in the application narrative that the structure 'by necessity must be large', but it nowhere offers any evidence to support that conclusion; beyond the circular 'in order to accommodate the number of residents and units proposed...' and an assertion that in order to 'economically provide this housing requires the number of units and beds proposed'. The applicant offers no evidence of this alleged economic imperative, which is demonstrably not true as shown by the many units of workforce and affordable housing scattered about this very neighborhood and surrounding vicinity.

There are a several other commercial uses between the Province Road and Ship's Way neighborhood and Route 6, but all are relatively quiet in their use and the commercial activity is confined to daytime business hours. Further, the structures that house these activities are well sited, sitting below Ship's Way Extension and Province Road rather than looming above, and are often shielded by the woods, much of which will be cut down to advance the applicant's project.

Consider also that this project, this massive structure, includes sixteen units market rate units, not workforce housing beds. These market rate units occupy the

entirety of the top story, for which the deviation from roof configuration standards is sought. These sixteen market rate units are not necessary to economically sustain the workforce housing component - the models all about this neighborhood and Shank Painter Road prove otherwise.

And this project is so big that the applicant seeks a parking requirement waiver, for 29 of the 49 required spaces - yet still needs a full story for the market rate unit's motor vehicle parking and bicycle storage for approximately one-half of the residents.

I ask that you also take into account the implications of housing this many people in this extremely dense development; 112 hard working seasonal folks, working long and all hours, living in a dormitory setting. The applicant articulates no operational plan for this business, the business of housing 112 likely young people in a collegiate environment. And add to the 28 room, 4 bed per room dormitory, another 16 apartments. The intensity of the proposed use is not at all in keeping with this neighborhood.

I also urge you to reflect upon the wisdom of approving the construction of this sort of dormitory housing in the time of a pandemic. This project proposes 4 people per dormitory room; 4 seasonal, and likely young, workers sharing sleeping, bathing and lavatory facilities in 260 square feet; 4 people who will almost certainly be employed in the hospitality and retail ventures, and 112 people sharing one kitchen and dining room and one lounge. And the market rate units are themselves tight, some of which will presumably be occupied by more than one person. It is not necessary to configure all of this housing in one large structure, and it is almost certainly dangerous to do so.

I beseech you to make a formal site visit to locus and to include a visit to my client's home. Stand in my client's back yard - or any of the others along Ship's Way Extension and Province Road, before you make this most consequential decision.

Locus is a sensitive site. It is, for example, the home of box turtles (see attached photographs of turtles at the proposed site from June 11 and 12 of this year). The applicant is proposing to obliterate an existing significant dune and to deforest a sizable area. This site is surrounded by wetlands and precious Town Conservation land. The applicant's proposed construction will irreparably disrupt the biology of this environment.

Construction at the site will place significant pressure on Province Road and Ship's Way if the applicant is not compelled to use the Route 6 access for construction equipment, materials and manpower. Please note that while the applicant has repeatedly asserted an ownership interest in Province Road, the applicant has refused to contribute to its maintenance, and the improvements after the Province Landings was completed.

You have heard nothing from the applicant on the environmental implications of this substantial project. The proposal outlines an intensive use, which will certainly have significant impact in terms of water, water supply, waste water and run-off. This project will require a considerable construction effort and will demolish a dune and a woods. Even after the construction phase, traffic, artificial light and noise will be greatly intensified, forever altering a tranquil single family neighborhood.

I ask that you seek further engineering and planning specifications from the applicant, in order to better understand the construction and structural details of the building and extensive retaining walls, the steps to be taken to secure the neighbors' properties during construction, and the proposed post-construction site conditions.

I ask that you request a Development Impact Statement, before you proceed, in order to obtain more information about the impact that this project and its construction will have on the habitat and environment of the area. It should be the applicant's burden to demonstrate that the proposed development will have no negative impact on the neighbors' view, access to light, and peace and quiet, and

that the project will have no negative impact on the nature of the surrounding environment.

I am of the opinion that this Board can not properly make the necessary finding on either prong of Provincetown Zoning By Laws, Article II, §2640E<sup>1</sup>, necessary to approve the applicant's proposed roof dormering. The proposed structure is not important in its own right. It is not a monument or a church. The function of the proposed construction does not itself require this great size. It is not a movie theater. And the size of this full third story - really the fourth story - is extremely disruptive to the character of the single family residential neighborhood it will loom over.

I am also of the opinion that you can not make the necessary finding on any of the prongs of Provincetown

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<sup>1</sup> **Article 2, 2430E. Relief under this Section:** The Board of Appeals may grant a Special Permit deviating from the above standard if the ZBA finds that the deviation from the standard is in keeping with the standard criteria for granting a Special Permit, the objectives of the Local Comprehensive Plan and is appropriate for one of the following reasons:

1. The function of the structure or the structure's importance to the community as a whole, justifies a different roof configuration.
2. Other features of the proposed design are such that the deviation of the roof configuration is not disruptive to the character of the area.

Zoning By Laws, Article II, §2640E<sup>2</sup>, required to approve the scale deviation. This proposal is not in keeping with the Local Comprehensive Plan, which does prioritize workforce housing, but repeatedly speaks to the importance of maintaining Provincetown's community character through harmonious scale. (See Town Vision, Chapter 4: Land Use and Growth Management, and Chapter 4: Historic Preservation and Community Character.) Nowhere does the LCP call for such an invasive structure, and, on the contrary calls for discouraging this very sort of out-of-scale development. This building is itself not important; it is not a monument or a church. It is not by necessity large; it is not a theater or a waster water project. The site is a relatively large parcel, but is not likely a candidate for subdivision given the wetland restrictions to which it is subject. The proposed development is in no way integrated into its surroundings and is not well sited. The plans call for demolishing a dune, yet still the resulting construction will tower over the abutting single family homes. The

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<sup>2</sup> **Article II, §2640E. Board of Appeals Approval.** Discretionary approval for a deviation in building scale may be granted if the Board of Appeals finds that the deviation meets the standards for a Special Permit, under Article 5, Section 5300 and that the applicant demonstrates that the deviation is appropriate and meets one or more of the following criteria:

1. The proposed building or addition is in keeping with the goals and objectives of the Local Comprehensive Plan.
2. The building is an important structure to the community as a whole. Public buildings are logical candidates for this type of conditional approval. For example, the Pilgrim Monument is out of scale with everything in town, yet its value as a monument to the town's history and in giving identity to the town, makes it acceptable.
3. The proposed building or addition by necessity must be large and that the location is suited for that larger scale use. For example, churches may be permitted uses in a residential district and their larger scale is often dictated by traditional architectural forms.
4. The building scale deviation is warranted due to the size of the parcel of land involved so as to discourage subdivision into smaller parcels and the proposed building or addition will not result in a structure that will disrupt the character of the neighborhood in which it is located.
5. The proposed building or addition successfully integrates into its surroundings and is sited in a manner that minimizes the appearance of mass from the streetscape and will not have a significant negative impact on the natural light to, or views from, neighboring structures.
6. The property is located in the Provincetown Historic District and the addition is consistent with the Historic District Guidelines and approval of the deviation would further the purpose and intent of the bylaw.

proposed development will have a significant negative impact on the neighboring structures along Ship's Way Extension and Province Road. Locus is not within in the Historic District.

The Special Permit criteria, Article V, § 5330, of the Provincetown Zoning By Laws<sup>3</sup>, applies to both the request to deviate from the roof configuration standards, and the request to deviate from the building scale. I am here too of the opinion that you can not properly make a written determination that the benefits to the Town or neighborhood outweigh the adverse affects. The Town would certainly benefit from the addition of 112 workforce housing beds, but the applicant fails to make the case that this enormous structure is the only route to employee accommodation. But only the applicant benefits from the 16 units of market rate housing. And the adverse effects to the neighbors and the surrounding environment are significant.

I respectfully submit that you must deny these two Special Permit applications. This project is just too big - there are plenty of other economically sustainable ways to meet the worthy workforce housing objective; and it will spoil an existing peaceful and diverse neighborhood and impinge upon valuable environmental resources.

Thank you for your consideration in this matter. Please do not hesitate to call if you have any questions.

Yours truly,

A handwritten signature in blue ink, consisting of a stylized 'R' followed by a long horizontal stroke that curves slightly upwards at the end.

Robin B. Reid, Esq.

cc. John Brady  
Lester J. Murphy

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<sup>3</sup> **Article V, §5330 Consideration** Special Permits (other than those specified in Section 3420) shall be granted by the Special Permit Granting Authority only upon its written determination that the social, economic or other benefits of the proposal for the neighborhood or town outweigh any adverse effects such as hazard, congestion or environmental degradation.

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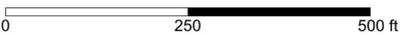






- Places - Town
  - Fire Station
  - Police Station
  - Town Hall
  - Public Library
  - School
- Places - MA
  - Ice Rink
  - Lighthouse
  - Community Health C
  - Hospital
- Parcels
- Buildings (based on Buildi
- Three Nautical Mile Line
- MA Highways
  - Interstate
  - US Highway
  - Numbered Routes
- Town Boundary
- Abutting Towns Opaque
- Abutting Towns
- Streets
- Bathymetry
  - 0-5 ft
  - 5-10 ft
  - 10-15 ft
  - 15-20 ft
  - 20-30 ft
  - 30-40 ft
  - 40-50 ft
  - 50-60 ft
  - 60-70 ft
  - 70+ ft

The data shown on this site are provided for informational and planning purposes only. The Town and its consultants are not responsible for the misuse or misrepresentation of the data.





June 29, 2020

Robin B. Reid, Esq.  
PO Box 1713  
Provincetown, MA 02657

**RE: Proposed Development at 207 Route 6, Provincetown, MA  
Building Actual Height in Relation to Existing Dwelling at 12 Ships Way Ext., Provincetown, MA  
And Opinion on Height of Soil Retaining Behind Proposed Retaining Walls**

Dear Robin:

Please accept this letter as requested of our review of the proposed development at 207 Route 6 in Provincetown, MA in particular to building heights and height of retained soils behind proposed retaining walls filing in relation with the residence at #12 Ships Way Ext. As explained further below the proposed development proposes a structure with a roof ridge located approximately 31.8 feet above the backyard of the residence at #12 Ships Way Extension. The project also proposes several site walls retaining approximately between three (3) feet and eleven (11) feet of material behind them. The proposed building is located approximately 71 feet from the back of the residence at #12 Ships Way Ext.

Several documents reviewed we understand were submitted to the Town of Provincetown Board of Appeals for the project filings (drawings listed below). Other documents reviewed are public information available online such as the Provincetown GIS maps and NOAA Lidar Data files. Most of the information for this review is based in analyzing the drawings submitted for the Board of Appeals.

Documents reviewed:

- 1) Drawing C2.1.1: Plan Showing Proposed Site Layout and Materials – Issued for regulatory review 04-06-2020
- 2) Drawing C2.2.1: Plan Showing Proposed Drainage and Grading – Issued for regulatory review 04-06-2020
- 3) Drawing A1.0: Foundation Plan – ZBA rev3: 03.04.2020
- 4) Drawing A1.1: First Floor Plan – ZBA rev3: 03.04.2020
- 5) Drawing A1.2: Second Floor Plan – ZBA rev2: 02.24.2020
- 6) Drawing A1.3: Third Floor Plan – ZBA rev2: 02.24.2020
- 7) Drawing A2.0: Elevations – ZBA rev3: 03.04.2020
- 8) Drawing A2.1: Elevations – ZBA rev3: 03.04.2020
- 9) Drawing A3.0: Building Sections – ZBA rev3: 03.04.2020

The development consists of construction of one structure with four levels: parking/basement, first floor, second floor and third floor. The garage slab elevation is proposed at 28.2' and the top of ridge (roof peak) proposed at elevation +/-71.8'. A patio with grade elevation of 37.0' and a multilevel retaining wall system (elevations 40.0', 43.0' and 46.0') are proposed between the new structure and the abutting residence at #12 Ships Way Ext. Aside from the multilevel (aka terraced) walls, portion of the land is proposed to be retained with a single wall. This single wall retains soils at elevation of approximately 48' to allow for the construction of the proposed patios with surface elevation of 37.0' and 38.0'. The building level elevations and the retaining wall structures are dictated by the placement of the development on the property and the existing hilly land topography. (Refer to enclosed exhibit for a plan graphical representation).

The residential property at #12 Ships Way Ext. abuts the proposed development. Surface grades range from elevation 40' to 42' in the back yard at the residence. For the purpose of this review the back yard grade is used as the average



The residential property at #12 Ships Way Ext. abuts the proposed development. Surface grades range from elevation 40' to 42' in the back yard at the residence. For the purpose of this review the back yard grade is used as the average elevation of 41'. Therefore the proposed building top ridge is located approximately 31.8' higher than the back yard of #12 Ships Way Ext. in average. The proposed project patio is located approximately 4' lower than the back yard of #12 Ships Way Ext. and the multilevel retaining wall system contains terraces located 1' lower, 2' higher and 5' higher, respectively, than the residence back yard average grade. Each terraced wall retains approximately 3' of material behind. The proposed single wall retains approximately 10' or 11' of material behind. (Refer to enclosed exhibit for an elevation graphical representation).

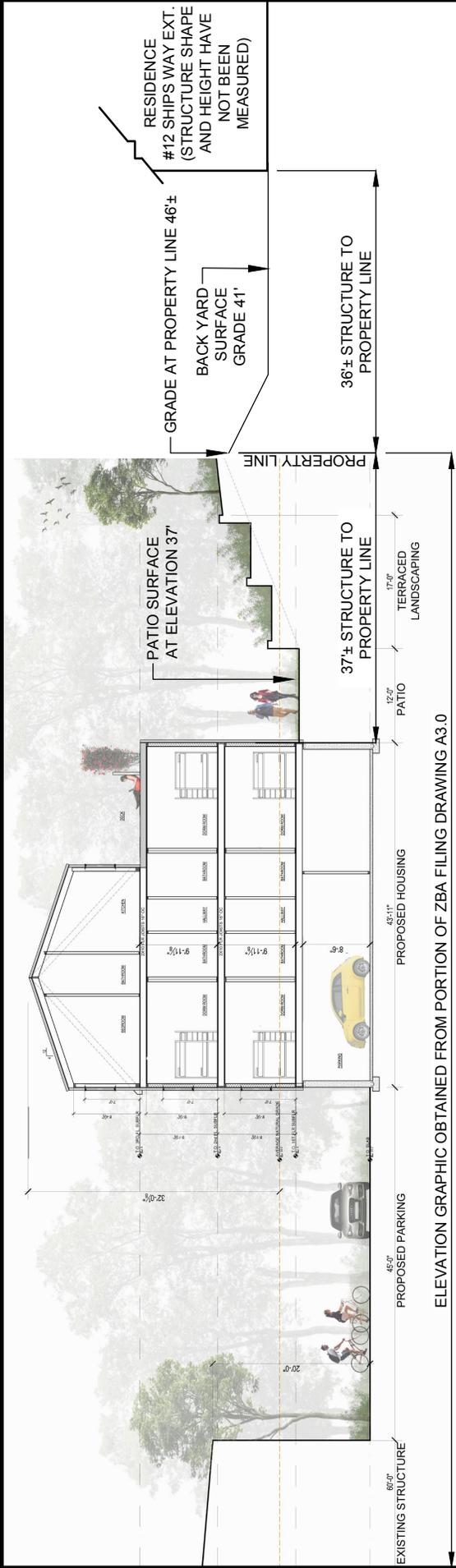
If you have any questions or concerns, please contact me at Cape & Island Engineering, Inc.

Sincerely

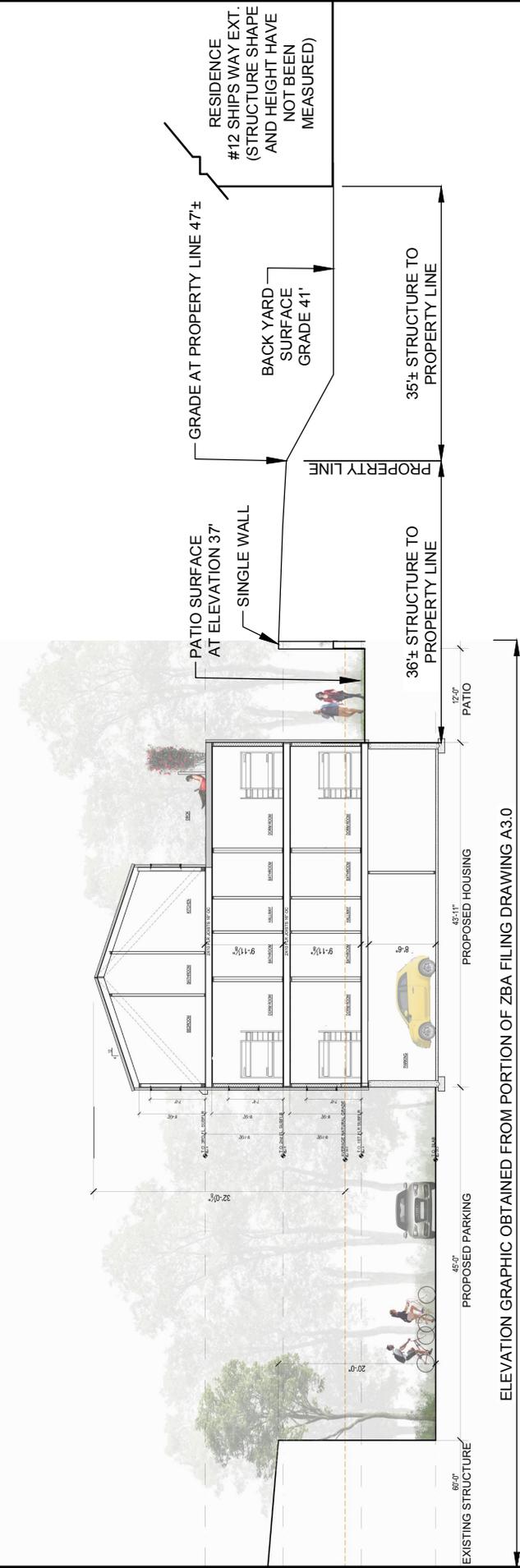
A handwritten signature in blue ink that reads 'Raul Lizardi-Rivera'.

Raul Lizardi-Rivera  
*Director of Engineering*

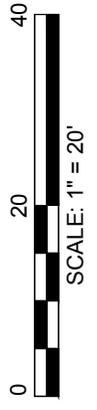
encl. Plan view exhibit and Elevation view exhibit



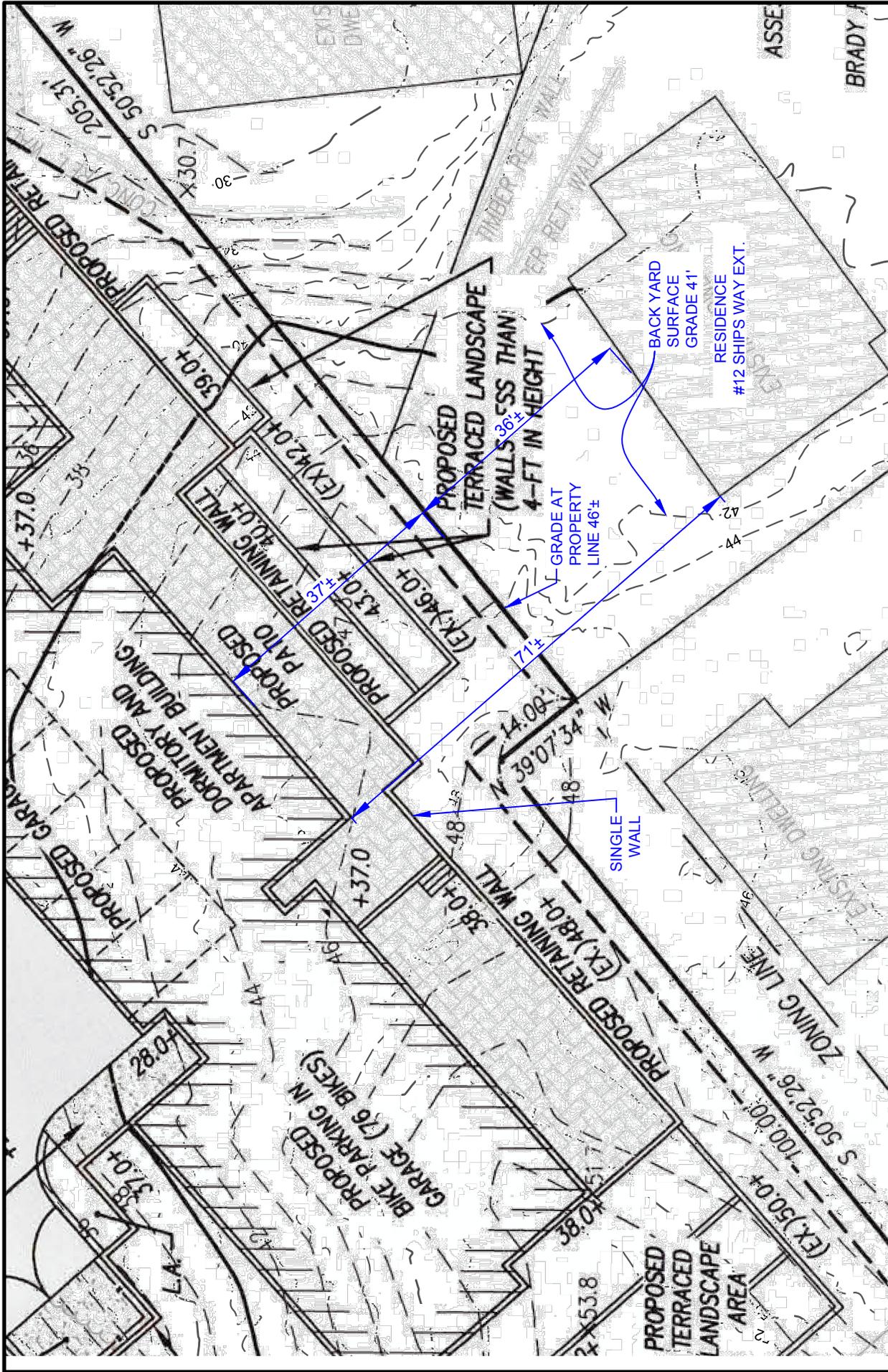
**ELEVATION THROUGH PROPOSED TERRACED WALLS**



**ELEVATION THROUGH PROPOSED SINGLE WALL**



**EXHIBIT: ELEVATION BETWEEN 207 ROUTE 6 PROPOSED DEVELOPMENT & 12 SHIPS WAY EXTENSION IN PROVINCETOWN, MASSACHUSETTS**



PLAN VIEW SHOWN FROM ZBA FILING DRAWING C2.2.1 WITH  
ADDITIONAL NOAA LIDAR SURFACE GRADE CONTOURS

EXHIBIT: PLAN VIEW BETWEEN 207 ROUTE 6 PROPOSED DEVELOPMENT &  
 12 SHIPS WAY EXTENSION IN PROVINCETOWN, MASSACHUSETTS





