



2018 00002341

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EASEMENT AND DECLARATION OF PROTECTIVE COVENANTS

This Easement and Declaration of Protective Covenants is made and entered into as of the last day set forth herein, by Katherine B. Walsh and Bruce J. Fernie ("Declarants") being the record owners of approximately 12.6 acres of land situated in the Town of West Tisbury, County of Dukes County, Massachusetts, hereinafter more particularly described. WITNESSETH that:

WHEREAS, Declarants are the owners of the land with the buildings thereon at 694 and 690 Old County Road, West Tisbury, County of Dukes County, Massachusetts, which parcels are shown, respectively, as Lot 1 and Lot 2 on a plan entitled "Plan of Land in West Tisbury, Mass., Surveyed for Cynthia H. Walsh, Trustee, March 2, 2007 Scale: 1" = 80' David E. Taylor, Professional Land Surveyor, P.O. Box 854, Vineyard Haven, Mass. 02568," which plan is recorded with the Dukes County Registry of Deeds in Plan Book 15, Page 173 (hereinafter the "2007 Plan") (for Declarants' title, see deeds recorded with the Dukes County Registry of Deeds at Book 1428, Page 85 and Book 1428, Page 88); and

WHEREAS, Declarants have divided Lot 1 and Lot 2 as shown on the 2007 Plan into three lots as shown on a plan entitled "Plan of Land in West Tisbury, Mass. Prepared For Katherine B. Walsh & Bruce J. Fernie Scale 1" = 80' March 27, 2017 Schofield Barbini & Hoehn, Inc. Land Surveying - Civil Engineering 12 Surveyor's Lane, Box 339, Vineyard Haven, Mass. 02568," which plan is recorded with the Dukes County Registry of Deeds in Plan Book 18, Page 111 (hereinafter the "2017 Plan"); and

WHEREAS, Declarants desire to maintain the rural character of Lot 2 and Lot 3 as shown on the 2017 Plan, in keeping with the agricultural tradition of the Town of West Tisbury;

NOW THEREFORE, Declarants hereby declare, provide and covenant as follows:

I. EASEMENT

1. Lots 1, 2 and 3 shown on the 2017 Plan shall each have the benefit of a non-exclusive perpetual right and easement to use the area designated on the 2017 Plan as “driveway easement” for passage by any means to and from Old County Road, a public way, and for the installation of underground utilities serving said Lots, which easement shall be appurtenant to and for the benefit of each Lot.

2. The access road shown on the 2017 Plan as “dirt/grass road” and any extension of said road within the “driveway easement” shall be maintained in a rural character and shall not be paved.

II. PROTECTIVE COVENANTS

1. This Declaration and these covenants shall be binding on the Declarants, their heirs, devisees, personal representatives, successors and assigns. The covenants imposed herein shall run in perpetuity with the land shown on the 2017 Plan and shall operate as restrictions upon said land and shall be for the mutual benefit of the owners of the lots shown on the 2017 Plan.

2. Lot 2 and Lot 3 shown on the 2017 Plan shall be used for single family residential purposes only (including accessory uses allowed by zoning). No commercial activity (which shall include, without limitation any “Service Business” as that term is defined by the West Tisbury Zoning Bylaw) shall be permitted on Lot 2 and Lot 3.

3. No more than two dogs shall be kept on Lot 2 or Lot 3 shown on the 2017 Plan.

4. Lot 2 and Lot 3 shown on the 2017 Plan shall not be divided or subdivided.

5. No portion of Lot 2 or Lot 3 shown on the 2017 Plan shall be transferred for use as a Homesite Lot (as that term is defined by the West Tisbury Zoning Bylaw) or for use as affordable housing or for a substantially similar use.

6. To the extent that any provisions of this Easement and Declaration of Protective Covenants are deemed to constitute restrictions subject to the limiting provisions of M.G.L. Chapter 184, Sections 26 through 30, then all such restrictions shall be binding upon the parties hereto, their heirs, devisees, personal representatives, successors and assigns for a term of one hundred fifty (150) years from the date of recording hereof and shall remain in full force and effect in accordance with the provisions of M.G.L. Chapter 184, Section 27, as it may be amended from time to time, or as provided in similar successor provisions, which provision of M.G.L. Chapter 184, Section 27 permit the extension of the period of enforceability of said restrictions by the recording of an extension in accordance with the provisions of said law before the expiration of the first thirty (30) years from the date of recording hereof, and before the expiration of each succeeding twenty (20) year period thereafter, or for such other maximum further periods of time as may be allowed by any amendments of said law or by any successor provisions.

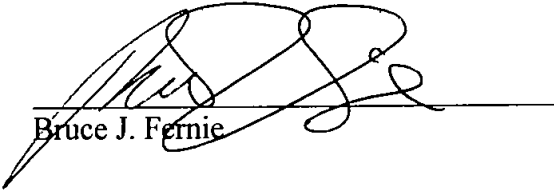
7. Any restrictions set forth herein shall run with the land. Any restrictions that burden Lot 2 or Lot 3 shown on the 2017 Plan shall be and shall be deemed of actual and substantial benefit to Lot 1 shown on the 2017 Plan, within the meaning of M.G.L. c. 184, §27

and §30, for so long as they remain in effect, shall be enforceable by Declarants as owners of Lot 1, and shall be and shall be deemed a burden on Lot 2 and Lot 3.

8. The invalidity of any provision of this Easement and Declaration of Protective Covenants shall in no way affect the validity of any other provision.

Executed as a sealed instrument this 5th day of April 2018.

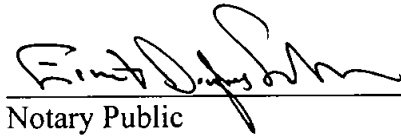

Katherine B. Walsh

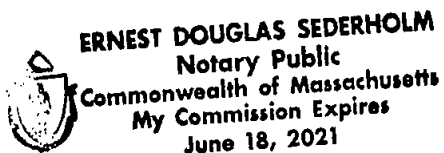

Bruce J. Fernie

COMMONWEALTH OF MASSACHUSETTS

Dukes County, ss.

On this 5th day of April 2018, before me, the undersigned notary public, personally appeared Katherine B. Walsh and Bruce J. Fernie, proved to me through satisfactory evidence of identification, which personal knowledge to be the persons whose names are signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as their free act and deed.


Notary Public
My commission expires:



ATTEST: Paulo C. DeOliveira, Register
Dukes County Registry of Deeds