

RECEIVED
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BY: *[Signature]*

Received by the Town Clerk:

Date:

Signed: _____

APPLICATION COVER PAGE

Date: 9/27/22

Date Received by ZBA: _____

Name of Applicant and Mailing Address: Robert JC Murphy

71 Vineyard Meadows Farm Road, Vineyard Haven, MA 02568

Email Address: % philip.x.murray@comcast.net Telephone Number: 617 834-6631

Name of Owner and Mailing Address (If not Applicant): _____

Applicant

Map and Lot #: Map 10 Lot 268 Street Address 14 Pine Lane , West Tisbury MA

Applicant is: Owner (Owner, Tenant, Purchaser, Other)

Nature of Application (Special Permit, Appeal, Variance, Appeal): Appeal

Applicable Section of Zoning Bylaw: Unknown see Exhibit 5

Date of Denial by Building Inspector, Zoning Inspector, or Planning Board (If Applicable): Not Applicable

XX Plot Plan: Must provide a plan by a registered surveyor showing the total property with the existing buildings, including the proposed project, all setback distances and driveway access to road.

_____ Floor Plans and Elevations: 2 sets of scaled drawings of floor plans that show total sq. ft. per floor (measured from exterior of wall), at least 2 elevations with one showing proposed height to ridge. If the project is an addition to existing structure please clearly identify proposed work.

_____ Narrative: Detailed description of proposed project.

_____ Application fee of \$200.00 payable to: The Town of West Tisbury.

I have read the overview of the ZBA process attached to this application, completed all sections of the application cover page and provided all required documentation and therefore request a hearing before the West Tisbury Zoning Board of Appeals with reference to the above noted application.

Signed: *[Signature]*
Title(s): Attorney for Robert JC Murphy

Application fee of \$200.00 is required. Date Paid: October 3, 2022

CK# 1366 **received**
10/4/22
complete

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October 1, 2022

West Tisbury Zoning Board of Appeals
Town Of West Tisbury
PO Box 278
West Tisbury, MA 02575

Re: Lot 14, Pine Lane, West Tisbury, MA

To: The West Tisbury Zoning Board of Appeals:

This office represents Bob JC Murphy. Recently, we have been in touch with the Building Inspector regarding Murphy's Lot 14 referenced above. Copies of the 1974 Lot 14 and 2011/2012 Plot Plans are attached. (Exhibits 1 and 2) Attached please find the letters to the Building Inspector of June, July, and August concerning the status of the lot to be permitted for a single-family dwelling. (Exhibit 3) In each letter, the various statutes, cases, and bases by which Mr. Murphy believes that Pine Lane Lot 14 is buildable have been referenced. The 1999 ZBA Findings and Decision is included as background. (Exhibit 4) The question of whether the lot is buildable has become necessary as Mr. Murphy is planning to sell the lot. It would seem to be a simple matter, but apparently not. The current status with the Building Inspector is that he will not advise as to the current buildability of the lot without a full building permit application filed. (Exhibit 5)

From this decision, Mr. Murphy seeks relief.

In 2017, without a full building permit application by Mr. Murphy on file, the Building Inspector ('...it has come to my attention...') advised Mr. Murphy that lot 14 was unbuildable and Murphy was required to go to the Planning Board. (Exhibit 6).

The Building Inspector sent this letter shortly after Mr. Murphy filed for a sewer permit with the Board of Health. The Sewer Permit is a requirement before filing a full application for new construction. (Exhibit 7) The sewer permit application (Exhibit 8) with many required documents attached remains pending at the Board of Health since July 2017 (5 years+) awaiting the 'approval' of the Planning Board (Exhibit 9). As Lot 14 is not a Subdivision question, the approval of the Planning Board is not necessary. RCA Development Corp.Inc. v.Zoning Board of Appeals of Brockton SJC 12619 Slip Opinion 2019; Murphy v. Planning Board of West Tisbury, Appeals Court 2011 P-0307. Almost simultaneous with these two actions, the Assessor Board without the advantage of the 'completed assessor's form'. (Exhibit 7) In 2017, the Assessor's Office changed the taxing code description for Lot 14 from Code 130 (developable) to Code 132 (undevelopable) (Exhibit 10) indicating the current status for Fiscal Year 2018 to be unbuildable and citing to the Appeals Court 2011 Murphy Decision. 2011 P. 0307 (Exhibit 11) When Mr. Murphy recently inquired of the Building Inspector as to why in 2017, without anything pending from Mr. Murphy in his office, he advised Mr. Murphy that Lot 14 was unbuildable, but, when Mr. Murphy requests the status now, for the purpose of selling the lot, he is told that the Building Inspector cannot provide it without a full building permit application on file because ... '{T}he Town won't allow me to establish the buildability of a lot without a building permit application.'(Exhibit 3)

If Mr. Murphy were applying for himself, he might agree. But, he is seeking to clear title before selling the lot, as is. Mr. Murphy should not be required to limit in any way what a future

purchaser may wish to do with the parcel. The determination of the lot's permitted use and, if Lot 14 meets the criteria, does not require a full building application. Therefore, Mr. Murphy seeks a ruling from the ZBA as to the buildability of Lot 14 only, for sale purposes. Given the history before the boards and the issues raised regarding Lot 14, clarification is necessary before Mr. Murphy puts the lot up for sale. In addition, a recent potential public safety issue on the lot as set forth in the Police CAD report is of concern for toddler safety and the unsupervised trespassing on lot 14, a vacant lot, by Plum Hill Preschoolers. (Exhibit 12, Photo added)) The use of 5 Pine Lane as a preschool is a potential violation of the Murphy covenants currently in effect. (Exhibit 13)

In sum, there are no conditions currently in effect on Lot 14. (Lot 14 under section 81U, or 184 section 23, 30, or 27, therefore, goes back to a buildable lot pursuant to section 81Q. As a vacant lot, untouched since created in 1974, with over 5000 feet of area and over fifty feet of frontage, if grandfathering is necessary under Chapter 40A sec. 6 , it qualifies for single lot protection for a single family home.

For the reasons set out fully in the attached letters, recent cases, undisputed documents, and relevant statutes presented, Mr. Murphy believes, as a matter of law, the parcel is buildable for a single-family house. If this is in error, please indicate the status and the basis/bases for the Board's determination.

Thank you for your attention to this matter.

Sincerely yours,



Philip X. Murray, Esquire