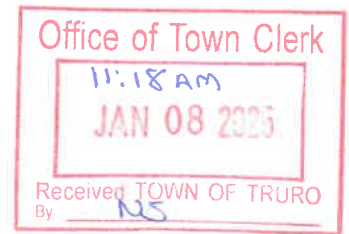




## TOWN OF TRURO BOARD OF HEALTH

P.O. Box 2030  
Truro MA 02666-0630



### **Board of Health Meeting Minutes: October 15, 2024**

This was a hybrid meeting held in person at Truro Town Hall in the Select Board chambers and via Zoom. **Board members in attendance:** In person: Vice Chair Jason Silva, Board Members Brian Koll, Helen Grimm, and Alternate Board member John Dundas; Remote: Tim Rose (arrived 4:40); Absent: Chair Tracey Rose Also Present in person: Health Agent Emily Beebe, Assistant Health Agent Courtney Warren

The meeting was called to order at 4:30 pm by the Vice Chair, who described the remote meeting procedures and the process for public participation.

**Public Comment:** There was no public comment.

**Title 5 and TBOH regulations variance requests:** 2 Adams Way, Zachary Luster & Edwidge Yingling, (*continued from 10/1/2024*) Zach Luster described the plan to eliminate a bedroom in the house. The Agent noted that a bedroom will be removed from the first floor leaving one bedroom on that floor, two upstairs, and one room over the garage. The basement unit will become an ADU that must be a year-round rental. She explained that the two variances requested are for depth of cover over the proposed two-compartment, H-20 septic tank and for the new tank to be less than 10' from the slab. She also encouraged the Board to condition approval with the recording of a deed restriction describing the location and number of bedrooms and including standard language about the requirements of an ADU. **Motion:** Board member John Dundas moved to approve the variances as presented with the condition of the recording of a deed restriction; **Second:** Board member Helen Grimm; **Vote:** 4-0-0; the motion carried.

**Title 5 Local Upgrade Approval:** 35 Black Pond Rd, Anthony Bak  
John O'Reilly, representing the property owner, described the upgrade of the cesspool on the property to a standard Title 5 system. The new system will be greater than 150' from Slough Pond and is proposed for the driveway area to limit disturbance. The plan will require relocation of the existing well. The two variances being requested are both for depth of cover. The components will be H-20 and vented. Conservation Commission approval will also be required. Vice Chair Jason Silva noted that the elimination of the cesspool and moving the system away from the pond is an improvement. He asked the Agent to comment on the plan and she stated that the plan looks good. **Motion:** Board member Brian Koll moved to approve the variances as requested; **Second:** Alternate member John Dundas; **Vote:** 4-0-0; the motion carried.

**Appeal of Health Agents Decision:** 5 Corn Hill Landing, Sarah Lamb & Edward Black  
Attorney Ben Zehnder and Homeowner Ed Black were present in person and Homeowner Sarah Lamb was present virtually to appeal for the addition of a professional studio to their property. Ben Zehnder provided the Board of Health members with floor plans of

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the house. Ed Black explained that they bought the property in 2008 and have never rented it and do not intend to rent it in the future. They would like to build a professional working studio, but their design meets the definition of a bedroom. Ben Zehnder stated they want to add space without increasing the nitrogen load on the septic system. His clients were open to a deed restriction limiting the property to three bedrooms and prohibiting overnight habitation in the studio. He reported that he had done a walk through with the Agent and described the house as having two bedrooms upstairs and no bedrooms on the main floor. The basement level has one clear bedroom and a room that although it has been used as a bedroom does not meet the definition since it is a pass through between an outside entrance and the main living area of the house. The Agent stated that the lot is  $\frac{3}{4}$  acre which translates into three-bedroom lot. She noted that on the walk through, the first room they entered was a habitable room with a bed and therefore needs to be called a bedroom. With that room included, the house has four bedrooms, and the studio would be a fifth bedroom. The Agent noted that this was something that the office staff had to deny but that the Board can negotiate. Board member Helen Grimm asked for clarification as to which bedroom was the pass-through room. Ben Zehnder described the room on the ground floor as having an entrance from the parking area. Alternate member John Dundas asked for clarification from the Agent about the trend for adding more space. The Agent replied that there has been a trend toward developing more built space and creating rooms that might not be intended to be bedrooms. John Dundas then asked if homeowners are typically honoring any constraints that are placed on them. The Agent replied that restrictions are generally honored but when a transfer happens, new owners often interpret the space differently. The Agent noted that this particular property was already over capacity and that the office reviews many cases like this and evaluate them based on the local regulations.

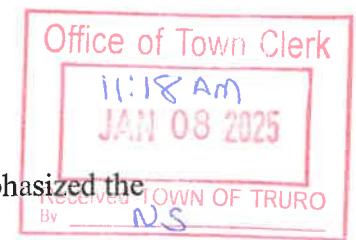
Ben Zehnder agreed that there is a trend to maximize space but argued that because the bedroom in question is a pass-through room it does not afford privacy and therefore should not be counted as a bedroom.

Board member Tim Rose suggested a studio with no water or septic connection at all. The Board further discussed the existing bedroom locations and descriptions noting that the back room on the ground floor was definitely a bedroom but the TV room on the main floor has a large, cased opening and is no longer considered a bedroom.

Homeowner Sarah Lamb asked if a composting toilet would be allowed. The Agent opined that a composter could work and that the studio could possibly be considered as space that is accessory to the existing dwelling. She noted that the issue remaining was to disqualify the room downstairs as a bedroom. She noted that even though it is a pass-through room, it could easily be adapted to become a closed off separate bedroom.

Ben Zehnder suggested that an I/A system would be a net positive regardless of how that room was used and also noted that it would be difficult to reconfigure that room due to the way the house was constructed. Homeowner Ed Black said that they were open to considering I/A.

The Agent noted that the local regulations allow I/A for nitrogen credit ONLY for a year-round rental unit. Ben Zehnder said that they are not asking for an increase in flow and are proposing a three-bedroom deed restriction as well as offering I/A for the ability to have the studio. The Agent stated that a deed restriction could be drafted to limit the property to three bedrooms, to describe the studio as accessory to the main dwelling, and to disqualify the pass-through room as a bedroom. She noted though that enhanced I/A



will be coming to this location as regulations tighten in the future and emphasized the Board should stay consistent with what has been allowed in the past.

The Board agreed to continue the matter and asked to see: a three-bedroom plan with I/A, proposed deed restriction language, and tighter floor plans. **Motion:** Board member Tim Rose moved to continue the matter until the November 19, 2024 meeting; **Second:** Board member Brian Koll; **Vote:** 5-0-0; the motion carried.

**Appeal of Health Agents Decision:** 2 Meetinghouse Rd U:5, Lodi-Gruber Family Trust Attorney Jill Schafer was present virtually to represent the Lodi-Gruber Family Trust who own Unit #5 of the Sladeville Condominiums. Trustee Elizabeth Gruber was also present virtually. They had been scheduled to appear before the ZBA to ask to reinstate one bedroom returning the cottage to its historical five bedrooms. However, the Health Agent issued an opinion prior to that meeting stating that this is not in compliance with Section 6, Article 10 of the current Board of Health regulations.

Prior to the condo conversion in 2009, tree roots had made a room unusable, so a wall was removed eliminating a bedroom. The site septic plan from 2000 shows 37 bedrooms but the site plan approved by the ZBA in 2009 for the condo conversion was for 36 bedrooms because of the bedroom reduction in Unit 5. The current owners purchased the property in 2016 and in December of that year were issued a building permit for a new foundation. During that work, the roots were removed leveling the floor of the bedroom in question and the partition wall was reinstalled. They are asking to have the Health Agent's decision overturned because the work done in 2016 to restore the partition wall did not need a building permit and is not new construction, so they believe that the current regulations do not apply. They argued that this is not previous approval for future use that has expired and also noted that the septic system was designed to include this bedroom.

The Health Agent agreed that the system was approved for 37 bedrooms on a 3+ acre property on the Pamet River. She noted that this is a Nitrogen Sensitive Area, and the property has many more bedrooms than what is now allowed by Title 5. The Health Department was not consulted when the bedroom was added back in 2016. By her interpretation of the current regulations, the future use has expired, and she does not have the authority to permit the bedroom to be added back. The Board of Health, however, can make that determination. Vice Chair Jason Silva confirmed that the septic system is already an I/A system. Board member Helen Grimm asked whether either the removal or subsequent readdition of the bedroom was ever approved. It was not as the owners believed they were just restoring the cottage to its former state and no building permit was required for a non-load bearing wall. The Agent asked the homeowner how the unit was described when they bought it. The homeowner replied that when they purchased it in June 2016, they were aware that the condo documents said four bedrooms, but the previous owner had told them that it had always been five bedrooms. They did the work to fix the foundation and replace the partition wall in 2017. Attorney Jill Schafer noted that the regulations in place in 2016 did not have the clause about building into future use. She reiterated that they were not building into the system. Board member Tim Rose asked if the Agent had confirmed the bedroom count of the entire facility with a walk-through. She replied that in this case, the documents in the file are all consistent so she is comfortable with the overall bedroom count for the property. Board member Helen Grimm stated that there are many historical structures where bedroom counts have been

changed, but just because a bedroom used to exist was not automatically permission to put it back. **Motion:** Board member Helen Grimm moved to uphold the Health Agent's decision that Unit 5 should remain at four bedrooms; **Second:** Board member Brian Koll; **Vote:** 4-0-1 with Vice Chair Jason Silva abstaining; the motion carried.

### **Water Resources Report**

The Agent encouraged the Board and the public to watch the recent Joint Provincetown and Truro Select Board meeting about Water. The link can be found on the Truro Channel 8 section of the website under Select Board, 9/30/2024.

Cesspool upgrades are continuing to move forward.

Thursday night at 6pm at the library, she will be giving a presentation on Wastewater Management. This talk is designed to give an overview of the issues, explain why a plan is needed, and outline some goals of the process. She will also touch on different wastewater options such as standard Title 5, I/A, and enhanced I/A.

She also reported that a research paper entitled "Reducing wastewater nitrogen loading by >90% with carbon-amended septic systems: A field demonstration in Barnstable County (Cape Cod), Massachusetts" was recently published in the Journal of Environmental Management with our consultant Scott Horsley as one of the authors.

### **Health Agent's Report:**

The Agent highlighted several upcoming license changes. The Truro General Store is pursuing a year-round license. Two licensing items are on the next Select Board meeting agenda (10/22/24). Liam Rowland from Salty Market will be requesting approval of a pouring license and Anchorage by the Bay Condominiums are in the final stages of converting to year-round condo status. The report from Outer Cape Health Services on the impact of the Navigator Program on the community has been included in the packet. Our annual Flu Shot Clinic was held last week with good attendance was good. Both flu shots and updated covid vaccines were available.

The next scheduled Board of Health meeting falls on election day so that meeting has been canceled. The next meeting will be November 19, 2024.

Staff will be attending the annual MHOA conference in Springfield in mid-November.

**Motion:** Board member Tim Rose moved to adjourn the meeting; **Second:** Board member Helen Grimm; **Vote:** 5-0-0, the motion carried.

The meeting was adjourned at 6:06 PM.

*Respectfully submitted by Courtney Warren* CW

