



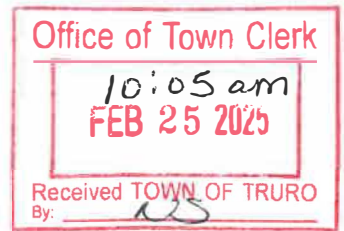
# TOWN OF TRURO

## ZONING BOARD OF APPEALS

### Meeting Minutes

November 18, 2024 – 5:30 pm

### REMOTE ZONING BOARD OF APPEALS MEETING



**Members Present (Quorum):** Chris Lucy (Chair); Darrell Shedd (Vice Chair); Dave Crocker (Clerk); Art Hultin, Russ Braun, Robert Tilden (Alternate), Leah Camhi (Alternate)

**Members Absent:**

**Other Participants:** Barbara Carboni – Town Planner and Land Use Counsel; Ben Zehnder (Attorney for Janet Despres and Richard Despres – Applicants); Richard Despres (Applicant); Janet Despres (Applicant); Suzanne Parish and Veronica Janssens (Owners and Applicants); Nicole Reindorf (Truro Resident and Abutter)

Remote meeting convened at 5:30 pm, Monday, November 18, 2024, by Chair Lucy. Town Planner/Land Use Counsel Carboni announced that this was a remote meeting which was being broadcast live on Truro TV Channel 8 and was being recorded.

**Public Comment Period**

Chair Lucy invited any individual who wished to make a public comment and Chair Lucy recognized Town Planner and Land Use Counsel Carboni who welcomed the new alternate members Member Tilden and Member Camhi. Town Planner and Land Use Counsel Carboni also clarified that for the hearing regarding 4 Kettle Hole Lane a variance application was continued from the last meeting and a new Special Permit application will be reviewed by the ZBA this evening. In regard to the hearing for 39 Fishermans Road, the ZBA will hear an application for a Special Permit this evening.

There were no other public comments made.

**Minutes**

None

**Public Hearing – Continued**

**2024-011/ZBA-Janet Despres and Richard Despres**, for property located at 4 Kettle Hole Lane (Atlas Map 42, Parcel 266) located on property in the Residential District. Applicant seeks: (1) a variance to construct a garage within a side setback (10 feet where 25 feet required); and (2) a Special Permit for the removal of a pre-existing, non-conforming structure (shed) with new non-conforming garage structure.

Chair Lucy read aloud the application and opened the hearing in this matter.

Attorney Zehnder reconfirmed with Chair Lucy that the five Full Members of the ZBA would vote on this matter. Attorney Zehnder then noted that the Ms. Depres and Mr. Depres were present via telephone.

Attorney Zehnder requested that the Special Permit application be heard first and then the Variance application. Attorney Zehnder said that regardless of the Special Permit decision, the Applicant would request to withdraw the application for a variance without prejudice. There were no objections to this request to present the Special Permit application first.

Attorney Zehnder then provided background information regarding the project and presented the project's plan.

The Members, Attorney Zehnder, and Town Planner and Land Use Counsel Carboni, then commented or discussed the following highlighted topics: a review of M.G.L. Chapter 40A, §6; a review of Truro's Zoning Bylaw's definition of "alteration"; the definition of "alteration" was inconsistent with Attorney Zehnder's basis for the application as there will be no existing structure to alter and it will be a new structure; the Site Plan does not identify any of the retaining walls; previous ZBA decisions granting Special Permits when an alteration included a demolition and reconstruction; the Klein case; a careful review and exploration of similar Special Permit applications over the last thirty years which were granted by the ZBA; the absence of the retaining walls on the Site Plan may have an impact whether or not the determination of the project may be substantially more detrimental to the neighborhood; the previous determination by the Building Commissioner not to approve a permit as the project required a variance; and Attorney Zehnder's offer to contact the Building Commissioner for a new determination as to whether or not it is a pre-existing non-conforming structure or it constituted an alteration.

Town Planner and Land Use Counsel Carboni opined that the Members may continue the hearing for the variance and Special Permit until December 16, 2024 in order to further explore previous history with similar applications and that the deadline for the ZBA to act is December 22, 2024. Town Planner and Land Use Counsel Carboni reiterated that a continuance is entirely within the discretion of the Board.

At 6 pm, Town Planner and Land Use Counsel Carboni announced that she had to depart the meeting and requested that at the appropriate time, the Members make a motion to continue the hearings for the Special Permit and variance to December 16, 2024. Attorney Zehnder noted that once the discussion had ended, he would request a continuance in this matter until December 16, 2024.

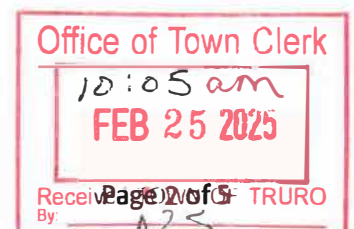
Attorney Zehnder announced that he would make a request for a continuance when Chair Lucy decided when it was appropriate. There were no other comments or questions from the Members.

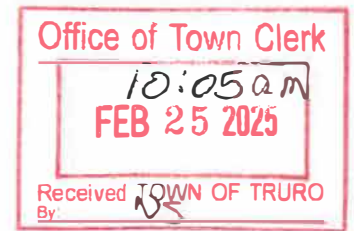
Chair Lucy asked if the Applicants would like to say anything and Mr. Depres said that the 3-car garage was always a bedroom and the installed garage doors were to give the structure a carriage house look. The structure's floor could not accommodate vehicles and there was a basement under the structure.

Chair Lucy asked if anyone from the public had any comments or questions and there were none.

Chair Lucy asked Attorney Zehnder if there would be a request for a continuance and Attorney Zehnder replied in the affirmative.

**Member Braun made a motion to continue this matter to December 16, 2024.**  
**Member Crocker seconded the motion.**





**ROLL CALL VOTE:**

**Member Braun – Aye**

**Member Crocker – Aye**

**Member Hultin – Aye**

**Vice Chair Shedd - Aye**

**Chair Lucy - Aye**

**So voted, 5-0-0, motion carries.**

After the vote, Chair Lucy announced that the hearing for the Special Permit and variance in this matter would be held on December 16, 2024.

**Public Hearing - New**

**2024-010/ZBA - Suzanne Parish and Veronica Janssens**, for property located at 39 Fishermans Road (Atlas Map 42, Parcel 57). Applicant seeks a special permit to increase an existing nonconformity (expand deck further into rear setback) on property in the Residential District.

Chair Lucy announced that the Applicants had withdrawn their previous application without prejudice at the last ZBA meeting and the Applicants have resubmitted a new application, and as such, this was a new public hearing.

Chair Lucy then read aloud the application and opened the hearing.

*Note: Member Hultin then made a point of order, that in the previous matter of **2024-011/ZBA-Janet Despres and Richard Despres**, Member Hultin said that the continuance was not clear and said that the continuance should specify that it was for both the Special Permit and the variance.*

**Member Crocker made a motion to continue the matter of 2024-011/ZBA-Janet Despres and Richard Despres for both the Special Permit application and variance application to December 16, 2024.**

**Member Braun seconded the motion.**

**ROLL CALL VOTE:**

**Member Hultin – Aye**

**Member Crocker – Aye**

**Member Braun – Aye**

**Vice Chair Shedd - Aye**

**Chair Lucy - Aye**

**So voted, 5-0-0, motion carries.**

Chair Lucy then proceeded with the matter of **2024-010/ZBA - Suzanne Parish and Veronica Janssens** and noted that the information regarding this project had been heard before.

Chair Lucy asked if any Members had any questions or comments. Member Hultin said that he had misinterpreted the bylaw at the last meeting, and that if this application was approved, he apologized in advance for any delay that he may have caused.

The Members and the Applicants also discussed and commented on the following highlighted topics: the encroachment into the property line appeared to be unnecessary; the increased encroachment into the

setback; the deck could be redesigned so there is no encroachment; and the support from the Abutters for the application to be approved.

Chair Lucy noted that only the five Full Members would vote on any motions regarding this matter.

Chair Lucy asked if anyone from the public wished to comment and Chair Lucy recognized Ms. Reindorf who voiced her support for the Applicants' application approval. Chair Lucy then recognized Member Tilden who said that he had reviewed the project and he had produced alternatives which could be architecturally interesting. That being said, Member Tilden said that the encroachment was not big.

**Vice Chair Shedd made a motion to approve the application for a Special Permit in the matter of 2024-010/ZBA – Suzanne Parish and Veronica Janssens for the extension of a deck within the rear backyard setback according to plans as presented and that this extension will not be substantially more detrimental to the neighborhood than the existing non-conforming use and will exist in harmony with the general purpose and intent of this Bylaw.**

**Member Crocker seconded the motion.**

**ROLL CALL VOTE:**

**Member Hultin – Aye**

**Member Crocker – Aye**

**Vice Chair Shedd - Aye**

**Member Braun – Aye**

**Chair Lucy - Aye**

**So voted, 5-0-0, motion carries.**

After the vote, Chair Lucy thanked the Applicants for their patience and the Applicants thanked the Members.

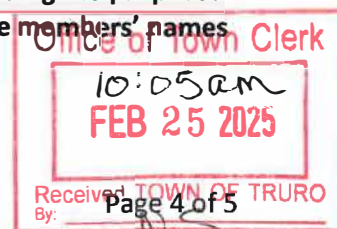
### **Board Discussion**

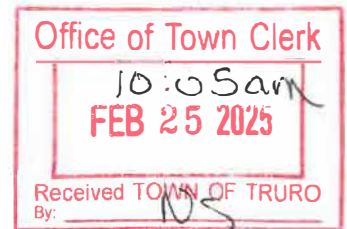
*Rules & Regulations of the ZBA:* Chair Lucy led the discussion and review of the Rules & Regulations of the ZBA with the Members. The Members discussed the following highlighted topics: the inclusion of the updated and changed Rules & Regulations in this evening's packet; the process to amend the Rules & Regulations; the prohibition of hybrid meetings held at any location other than Town Hall (will be removed in the motion); the Select Board is working on a hybrid meeting policy now but it is not finalized; quorum and attendance; the "Mullin Rule"; Applications to the Board and information required to be filed and associated timelines; the general process of a hearing; Chapter 40B; the hiring of outside consultants; the process to hire an outside consultant; and the inclusion of the names and signatures of the alternate members on the final document; in Chapter 6, removal of the last half of the last sentence; and include the Members' complete full names for signature and not familiar names on the final.

*Note: Prior to the following motion, Member Tilden had departed the meeting and no vote was cast on remaining motions this evening.*

**Member Hultin made a motion to approve the Rules & Regulations of the ZBA including the proposed amendment including the Members' complete names, the inclusion of the alternate members' names on the signature page and changing Chapter 6's last sentence.**

**Vice Chair Shedd seconded the motion.**





**ROLL CALL VOTE:**

**Member Hultin – Aye**

**Vice Chair Shedd - Aye**

**Member Camhi – Aye**

**Member Braun – Aye**

**Member Crocker – Aye**

**Chair Lucy – Aye**

**So voted, 6-0-0, motion carries.**

Hybrid Meetings: Chair Lucy stated that the Select Board was preparing a hybrid meeting policy that was not yet completed. The discussion continues.

Member Camhi said that she was looking forward to collaborating with the Members.

**Next Meeting**

Chair Lucy announced that the next meeting would be held on Monday, December 16, 2024 at 5:30 pm.

Member Braun asked about the efforts of the Zoning Task Force and Vice Chair Shedd replied that he could provide a presentation to the Members at the next meeting. Chair Lucy said that this could be a standing agenda item for every meeting moving forward and there were no objections.

Member Hultin said that the Zoning Task Force meetings could be viewed on Truro TV.

**Vice Chair Shedd made a motion to adjourn at 6:41 pm.**

**Member Braun seconded the motion.**

**ROLL CALL VOTE:**

**Member Hultin – Aye**

**Member Crocker – Aye**

**Member Braun – Aye**

**Member Camhi – Aye**

**Vice Chair Shedd – Aye**

**Chair Lucy - Aye**

**So voted, 6-0-0, motion carries.**

Respectfully submitted,

Alexander O. Powers

Board/Committee/Commission Support Staff