



## TOWN OF TRURO

### ZONING BOARD OF APPEALS

Meeting Minutes

August 22, 2022 – 5:30 pm

REMOTE ZONING BOARD OF APPEALS MEETING



**Members Present (Quorum):** Art Hultin (Chair); Chris Lucy (Vice Chair); Darrell Shedd; Heidi Townsend; Curtis Hartman (Alt.); Nancy Medoff (Alt.)

**Members Absent:** Virginia Frazier

**Other Participants:** Barbara Carboni – Town Planner/Land Use Counsel; Liz Sturdy – Planning Department Administrator; Select Board Liaison John Dundas; Ben Zehnder (Attorney for Rachel Kalin – Trustee/Applicant); Ben Zehnder (Attorney for Thomas and Kathleen Dennis - Applicants); Ian Henchy (Attorney representing Ms. Clyde Watson - Plaintiff); Clyde Watson (Plaintiff); Ben Zehnder (Attorney for Douglas Ambrose – Applicant); Ben Zehnder (Attorney for Thomas and Kathleen Dennis - Applicants); Thomas and Kathleen Dennis (Applicants); Ilana M. Quirk (Attorney for Marilyn Albert – Trustee/Owner); Patrick Rice (Applicant); J.M. O'Reilly (Engineer and Representative for Patrick Rice – Applicant); Robin Reid (Attorney for George M. Shimko – Applicant); David S. Reid (Attorney for the John Field Revocable Trust & Jane Katz Field Revocable Trust/Abutters/Opposed to 4 Phats Valley Road Application); Ain Ross (Resident/Abutter/Opposed to 4 Phats Valley Road Application); John Fulop (Resident/Abutter/Opposed to 4 Phats Valley Road Application)

Remote meeting convened at 5:32 pm, Monday, August 22, 2022, by Town Planner/Land Use Counsel Carboni who announced that this was a remote meeting which is being broadcast live on Truro TV Channel 18 and is being recorded. Town Planner/Land Use Counsel Carboni also provided information as to how the public may call into the meeting or provide written comment. Chair Hultin introduced the Members and noted that Vice Chair Lucy will join the meeting after he assists the DPW in dealing with the flooded roads in Town due to a storm.

### **Public Comment Period**

No public comments were made.

### **Public Hearings (Continued)**

**2022-006/ZBA (SP's) - Outer Shore Nominee Trust, Rachel Kalin, Trustee** for property located at 17 Coast Guard Road (Atlas Map 34, Parcel 3, Registry of Deeds title reference: Book 34387, Page 1). Applicant seeks: (1) a Special Permit under M.G.L. Ch. 40A §6 and §30.3.(A)2 of the Truro Zoning Bylaw to exceed total Gross Floor Area limit in the Seashore District; and (2) a Special Permit under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw to demolish 5 of 6 pre-existing, non-conforming cottages; construct new single-family dwelling; convert nonconforming cottage into accessory pool structure in the Seashore District.

Chair Hultin recognized Town Planner/Land Use Counsel Carboni who stated that there was an extension agreement in place as the Applicant will appear in front of the Planning Board this week since the Applicant has submitted revised plans for this project. Town Planner/Land Use Counsel Carboni added that the Planning Board must review the application before the ZBA may act. A continuance in this matter was requested by the Applicant until September 26, 2022.

Vice Chair Lucy had not yet arrived to vote on this matter and Member Townsend was unable to vote due to technical issues (internet) to participate in the vote.

**Member Hartman made a motion to continue this matter until September 26, 2022.**

**Member Medoff seconded the motion.**

**So voted, 4-0, motion carries.**

**2022-007/ZBA (Appeal) - Clyde Watson** for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #IC, Plan #16182-E and Land Ct. Lot #ID, Plan #16182-F). The Applicant is aggrieved by the grant of a building permit, #22-105 dated March 8, 2022, to relocate a structure from 133 South Pamet Road onto 127 South Pamet Road.

Chair Hultin announced that this matter was recently settled out of court so Ms. Watson would like to withdraw her appeal with prejudice. Chair Hultin recognized Attorney Henchy who requested that the appeal be withdrawn with prejudice.

Vice Chair Lucy had not yet arrived to vote on this matter.

**Member Shedd made a motion to allow the appeal in the matter of 2022-007/ZBA (Appeal) be withdrawn with prejudice.**

**Chair Hultin seconded the motion.**

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

**2022-008/ZBA (SP/VAR)-Douglas Ambrose** for property located at 49 Fisher Road (Atlas Map 53, Parcel 24, Registry of Deeds title reference: Book 21922/32678, Page 177/75). Applicant seeks a Special Permit under M.G.L. Ch. 40A §6 and §30.7(A) of the Truro Zoning Bylaw concerning demolition and reconstruction of dwelling on pre-existing, non-conforming lot (minimum lot size). Applicant also seeks a Variance under M.G.L. Ch. 40A, §10 and §50.I(A) of the Truro Zoning Bylaw for minimum side yard setback distances to locate a replacement dwelling 18.1 feet from easterly property line, where 25 ft. are required.

Chair Hultin recognized Town Planner/Land Use Counsel Carboni who stated that Planning Department Administrator Sturdy had received a request for a continuance in this matter until September 26, 2022, along with an executed extension agreement.

Vice Chair Lucy had not yet arrived to vote on this matter.

**Member Shedd made a motion to continue the matter of 2022-008/ZBA (SP/VAR) until September 26, 2022.**

**Member Hartman seconded the motion.**

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

Vice Chair Lucy now joined the meeting but recused himself from the matter of **2022-010/ZBA (Appeal)**.

**2022-010/ZBA (Appeal) - Thomas P. Dennis, Jr. and Kathleen C. Dennis**, Individually and as Trustees for property located at 127 South Pamet Road (Atlas Map 48, Parcel 12; Certificate of Title Number: 228604, Land Ct. Lot #IC, Plan #16182-E and Land Ct. Lot #ID, Plan #16182- F) and 133 South Pamet Road (Atlas Map 48, Parcel 8, Registry of Deeds title reference: Book 33550, Page 123). The Applicant is aggrieved by order or decision of the Building Commissioner on April 5, 2022, revoking a building permit issued March 8, 2022.

Chair Hultin announced that the Applicant had requested a withdrawal of the appeal in this matter with prejudice. Chair Hultin recognized Attorney Zehnder who confirmed the request for the withdrawal of the appeal with prejudice.

**Member Shedd made a motion to allow the appeal in the matter of 2022-010/ZBA (Appeal) be withdrawn with prejudice.**

**Chair Hultin seconded the motion.**

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

#### **Public Hearings**

**2022-014/ZBA (VAR) - Patrick Rice** for property located at 4 Phats Valley Road (Atlas Map 54, Parcel 6, Registry of Deeds title references: Book 7626, Page 110, and Land Court Plan #25187- C (easement). Applicant seeks a Variance under M.G.L. Ch. 40A §10 and §50.1.A of the Truro Zoning Bylaw for development of a single family dwelling on lot lacking frontage conforming to the Zoning Bylaw.

Chair Hultin recognized Attorney Quirk who provided an overview of the application and the project. Chair Hultin, Members, Attorney Quirk, Attorney Reid, Mr. Rice, and the Abutters then engaged in a lengthy discussion regarding the application and the project.

Town Planner/Land Use Counsel Carboni reminded the Members to consider the standards regarding a Variance as that was the relief that the Applicant sought.

Chair Hultin announced that the permanent Members and Member Hartman would vote on this matter, should it come up for a vote, as Member Frazier was absent. Chair Hultin suggested that Members conduct a straw poll so the Applicant could then decide how to proceed. Chair Hultin gave the Members an opportunity to individually address the three criteria to be met for the approval of a Variance and Town Planner/Land Use Counsel Carboni then summarized the three criteria. Based upon the lengthy discussion, the Applicant then requested a withdrawal of the application without prejudice to explore different options to reduce flooding on Phats River Road.

**Chair Hultin made a motion to allow the withdrawal of the application in the matter of 2022-014/ZBA (VAR) without prejudice.**

**Member Hartman seconded the motion.**

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

**2022-015/ZBA (SP)-George M. Shimko** for property located at 2 Moses Way (Atlas Map 40, Parcel 14, Registry of Deeds title reference: Book 21691, Page 299). Applicant seeks a Special Permit under §40.3

of the Truro Zoning Bylaw to convert a former 3-unit cottage colony to 3-unit year-round multifamily use (condominium).

Chair Hultin recognized Attorney Reid who provided an overview of the application and project. Mr. Shimko then added historical background about the property and this project. A discussion ensued among Chair Hultin, Attorney Reid, Mr. Shimko, Town Planner/Land Use Counsel Carboni, and the Members regarding the potential sale of the property and the requirement that one unit, as a condition of the sale, be designated as a 12-month rental. Attorney Reid requested a continuance in this matter until September 26, 2022.

**Chair Hultin made a motion to continue the matter of 2022-015/ZBA (SP) until September 26, 2022.**

**Vice Chair Lucy seconded the motion.**

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

### **Minutes**

Chair Hultin led the review of the minutes from June 27, 2022, for any corrections or edits. There were none.

Member Townsend did not vote on the minutes as she was absent for this meeting and Member Medoff did not vote either as she was not on the ZBA at the time of the meeting.

**Chair Hultin made a motion to approve the minutes as presented.**

**Member Shedd seconded the motion.**

**So voted, 4-0, motion carries.**

**Member Shedd made a motion to adjourn at 7:41 pm.**

**Vice Chair Lucy seconded the motion.**

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

Respectfully submitted,



Alexander O. Powers  
Board/Committee/Commission Support Staff

