



TOWN OF TRURO CONSERVATION COMMISSION

P.O. Box 2030
Truro MA 02666-0630

Conservation Commission Meeting Minutes: May 6, 2019

The meeting and public hearings were called to order at 6:00 P.M. at the Truro Town Hall. Commissioners Present: Deborah McCutcheon, Henry Lum, Diane Messinger; Larry Lown; Linda Noons-Rose and Robert White; Others Present: Emily Beebe, Conservation Agent

Minutes: 2/4/2019, 2/11/2019, 3/4/2019, 3/14/2019

Motion: Commissioner McCutcheon moved to accept the minutes as presented; seconded by Commissioner White; the vote was unanimously in favor, 6-0-0.

Certificate of Compliance: 482 Shore Rd

Motion: Commissioner Noons-Rose moved to issue the Certificate of Compliance; seconded by Commissioner Messinger; the vote was unanimously in favor, 6-0-0.

DPW Notification

Motion: Commissioner Noons-Rose moved to approve the DPW Notification; seconded by Commissioner White; the vote was unanimously in favor, 6-0-0.

Administrative Review Permits:

307 Shore Rd: replace 2 sets beach steps at bulkhead

Russ Heamer of RKM Property Management approached. The applicant lost a complete set of stairs in January and the second set of stairs was damaged. Commissioner McCutcheon asked why the work is being done under an Administrative Review Permit instead of a Notice of Intent. The Agent discussed past practices relative to similar repairs.

Motion: Commissioner Lown moved to accept the Administrative Review Permit; seconded by Commissioner Messinger; the vote was unanimously in favor, 6-0-0.

503 Shore Rd: plant beach grass

Russ Heamer of RKM Property Management approached. The property suffered severe erosion to the dune area, which is the barrier protector. Recent storms demolished all prior beach grass planting and the protective beach fencing.

Motion: Commissioner Lown moved to approve the Administrative Review Permit; seconded by Commissioner Noons-Rose; the vote was unanimously in favor, 6-0-0.

503 Shore Rd: replace beach steps at bulkhead

The applicant lost a set of beach stairs during a storm. The set of stairs will be replaced in kind.

Motion: Commissioner Lown moved to approve the Administrative Review Permit; seconded by Commissioner Noons-Rose; the vote was unanimously in favor, 6-0-0.

630 Shore Rd: replace d-box

The Agent reviewed the application with the Commissioners.

Motion: Commissioner Lum moved to issue the Administrative Review Permit; seconded by Commissioner Messinger; the vote was unanimously in favor, 6-0-0.

2 Pond Rd: install picket fence

The property owner has applied to install bollards on the outside of a picket fence.

Motion: Commissioner Lown moved to approve the Administrative Review Permit; seconded by Commissioner White; the vote was unanimously in favor, 6-0-0.

62 Corn Hill Rd: replace beach stair treads

The Agent reviewed the application with the Commissioners.

Motion: Commissioner Lown moved to approve the Administrative Review Permit; seconded by Commissioner Noons-Rose; the vote was unanimously in favor, 6-0-0.

5 Slade Hill Rd: temp alteration to address runoff using sandbags/landscape timbers

The Agent reviewed the application with the Commissioners.

Motion: Commissioner Noons-Rose moved to approve the Administrative Review Permit; seconded by Commissioner Messinger; the vote was unanimously in favor, 6-0-0.

334 Shore Rd U:13R: re-nourishment

The Agent reviewed the application with the Commissioners.

Motion: Commissioner Noons-Rose moved to approve the Administrative Review Permit; seconded by Commissioner White; the vote was unanimously in favor, 6-0-0.

566 Shore Rd: replace dbx

Motion: Commissioner Noons-Rose moved to approve the Administrative Review Permit; seconded by Commissioner Messinger; the vote was unanimously in favor, 6-0-0.

39 Bay View Rd: repair bottom section of beach stairs

David Lajoie of FELCO, Inc. approached. Mr. Lajoie discussed the proposed repairs.

Motion: Commissioner Lown moved to approve the Administrative Review Permit; seconded by Commissioner Noons-Rose; the vote was unanimously in favor, 6-0-0.

490 Shore Rd: repair top of wood bhead/nourish behind

Motion: Commissioner Noons-Rose moved to approve the Administrative Review Permit; seconded by Commissioner White; the vote was unanimously in favor, 6-0-0.

Enforcement discussion: 660 Shore Road; unpermitted construction of decks

The Agent summarized discussions that occurred at previous meetings regarding the decks. The Commission did not act pending additional discussion regarding the means of enforcement. Discussion regarding possible action: Commissioner McCutcheon supported sanctions in the form of double fees; Commissioner Lown supported the

issuance of correspondence to the property owner; Commissioner McCutcheon suggested that the property owner pay double fines and be allowed to keep their deck or, that they remove the deck without penalty; Commissioner White asked about the amount of the fines and stated his concern that a precedent will be set; Commissioner Noons-Rose supported the filing of a Notice of Intent and discussed the ability of the Commission to set conditions; Commissioner Messinger agreed with Commissioner Noons-Rose about the requirement of a Notice of Intent.

Motion: Commissioner Noons Rose moved to implement the remedy discussed, specifically, requiring the property owner to file a retroactive Notice of Intent and that the property owner be required to attend a meeting to discuss a remedy; seconded by Commissioner White; Vote: 5-1-0, motion carries.

Request for Determination of Applicability: 21 Great Hills Rd, Orest Stelmach; screen porch constructed on top of existing deck; Coastal Bank. (Map 49, Parcel 29) Mark Hammer of Hammer Architects approached. The property is situated within the 50' setback to a coastal dune, but there will be no disturbance to the land. The proposed work will take place above the first-floor deck and under an existing roof. A deck on the east side of the house will be eliminated.

Motion: Commissioner Lum moved to find that the proposed work is in a resource area but will not affect the interest of the Act; seconded by Commissioner Lown; The Agent clarified for the record that the finding is a Negative Three Determination that does not require a Notice of Intent; the vote was unanimously in favor, 6-0-0.

Notice of Intent: 82 South Pamet Rd, SE #75- 1069; Estate of Arthur Joseph; soil excavation; Buffer Zone to a Bordering Vegetated Wetland, Land Subject to Coastal Flowage. (Map 51, Parcel 57)

Commissioner Noons-Rose recused herself from the discussion. Dave Bennett of Bennett and O'Reilly approached. The matter was previously heard by the Commission under an Administrative Review Permit for what was preliminarily determined to be a 400sf area adjacent to a bordering vegetated wetland in the back of the lot where there had been auto salvage work. During the course of the remediation, the area of impact expanded from 400sf to 1600sf. Mr. O'Reilly then discussed the water test results, which supported an Immediate Response Action Completion Statement with a permanent solution without conditions. Mr. O'Reilly is filing a Notice of Intent after the fact and, at a future date, a request for a Certificate of Compliance. Mr. O'Reilly provided a report to the Conservation Commission, Fire Department, Town Manager and Health Department reflecting the analytical data that confirms the removal of the contaminated materials.

Motion: Commissioner White moved to issue a Certificate of Compliance certifying that the Administrative Review Permit has been satisfied and the Notice of Intent has been fulfilled in its entirety; seconded by Commissioner Messinger; additional discussion occurred regarding the area of contamination; the vote was unanimously in favor.

The Agent requested the approval of the Commission to issue an Order of Conditions, to accept the report and the work that was done, and to subsequently issue a Certificate of Compliance.

Motion: Commissioner Messinger moved to issue an Order of Conditions as

discussed with the applicant; seconded by Commissioner Lown; Vote: 5-0-1, motion carries.

Notice of Intent: 538 Shore Rd, SE #75- 1068; Ebbside on the Bay; temporary repairs to Buildings 1, 2 & 3; Barrier Beach, Land Subject to Coastal Storm Flowage. (Map 7, Parcel 7)

Paul Shea of Independent Environmental Consultants and Gary Locke of William N. Rogers Civil Engineer Land Surveyors approached. Mr. Shea stated that the proposed temporary repairs are intended to facilitate the owners being able to use the structures for the summer season. Mr. Locke discussed the proposed work. Commissioner Lown requested to condition the Order. Mr. Shea stated that a permanent Order of Conditions will be applied for in the fall. The Agent requested additional discussion regarding the extent of repairs being requested under the temporary Order. Mr. Locke discussed the foundation issues at Building 3. The repairs for Buildings 1 & 2 require less extensive repairs. The temporary foundation for Building 3 will involve a short, poured concrete wall and blocks up to the sill. Mr. Locke also spoke about the deck repairs and sand replacement. The Agent asked Mr. Locke about the nourishment. Mr. Locke stated that the deck boards will be removed to allow for the sand to be deposited. Commissioner Lown requested the inclusion of a requirement that the applicant remove the concrete spill-over to the south of Building 3. Rick Bashian of 539 Shore Road commented about the type of sand being utilized by the contractors. The Agent suggested that a condition regarding the type of sand could be included in the Order.

Motion: Commissioner Noons-Rose moved to allow the applicants to commence their work under a temporary repair through a Notice of Intent, DEP# 75-1068, insofar that the Order of Conditions for that Notice of Intent is the subject of this order, the following matters will be addressed while the project is being done: the temporary foundation and all other concrete work in the temporary repairs will be of the kind and quality of sand and concrete work that is common in these types of projects; the sand will match what is ordinarily at Beach Point; the Order will also cover the allowance of the repairs under the temporary Order of Conditions to take place as immediately as possible and will be completed before the end of June; the temporary Order of Conditions will be open only for three months and the applicant is required and notified that a Notice of Intent must be filed for permanent work no later than the end of October, 2019; if the applicant is unable to complete the work by the end of October, they must appear before the Commission; seconded by Commissioner Lown; Discussion: the owner of Unit 2 spoke from the audience. Unit 2 is freestanding and only needs sand. The owner asked if he would be able to move in while the work is being done at Unit 3. Commissioner McCutcheon requested to amend the Order of Conditions so that upon a proper inspection of the premises, the owners of Units 1 & 2 may be permitted to move in to their units, but not before an inspection is performed and The Agent is satisfied; The Agent stated that the Building Commissioner should conduct an inspection of the premises; **the vote was unanimously in favor, 6-0-0.**

Notice of Intent: 2 Meetinghouse Rd U:7, SE #75-1067; Nancy Lustgarten; steps, retaining wall, parking area; Riverfront Area, Land Subject to Coastal Storm Flowage. (Map 50, Parcel 4)

Jonathan Rice and Justine Rice of Jonathan Rice Landscaping approached. Mr. Rice discussed the proposed installation of parking spaces. As the parking spaces are located on a slope, a retaining wall will also be built. Commissioner McCutcheon asked if Mr. Rice will pitch the parking area so that water runs back into the spaces instead of the road; Mr. Rice said he would be amendable to that suggestion and would install a surface drain in the corner. Mr. Rice will also build approximately 19 steps leading to the outdoor shower. The Agent asked about re-vegetation. Mr. Rice stated that he could restore the area with ground cover or bearberry.

Motion: Commissioner Messinger moved to accept the Notice of Intent as filed by the contractor and the description of materials and protocols on the plan dated April 17, 2019; seconded by Commissioner Noons-Rose; Commissioner Lown asked Mr. Rice about the assent of the condominium association; Mr. Rice confirmed that they were in receipt of approval from the condominium association; the vote was unanimously in favor, 6-0-0.

Notice of Intent: 405 Shore Rd, Kenneth Shapiro, SE# 75-1062; removal of garage, construction of dwelling, septic system and appurtenances; Barrier beach, LSCSF, Coastal Dune. (Map 10, Parcel 5) (continued from 4/1/2019)

Attorney Benjamin E. Zehnder and Jason Ellis of J.C. Ellis Design approached. Attorney Zehnder provided a summary of the previous appearance before the Conservation Commission. The applicant originally withdrew the matter pending Zoning Board of Appeals approval. The applicant received a Special Permit from the Zoning Board to remove the garage and build the residential structure. Attorney Zehnder explained the interior floor plan changes relative to the bedroom reductions. Attorney Zehnder provided the Commissioners with copies of the updated floor plans. Mr. Ellis discussed the foundation at the request of Commissioner Messinger. The property is in a flood zone, so the foundation has been designed to meet the flood zone construction criteria. At the request of Commissioner McCutcheon, the Agent provided the performance standards relative to a coastal dune. Commissioner McCutcheon asked Mr. Ellis about the effects of the foundation on the coastal dune. Mr. Ellis discussed the location of the property as it pertains to impacts on the resource areas. Attorney Zehnder spoke about the possibility of putting the house on pilings but noted that the structure would then be more intrusive. Further discussion occurred regarding the elevation requirements. The Agent asked Mr. Ellis about the work limit, re-vegetation and grades, which were not noted on the plan provided; Mr. Ellis stated that he would provide that information. Commissioner Lown asked about a basement; Attorney Zehnder stated that the proposed building does have a basement. Annie Ditacchio of 412 Shore Road approached. Mrs. Ditacchio spoke about her opposition to the proposed building and stated that the project would be detrimental to the neighborhood. Commissioner Messinger asked how it would be detrimental; Mrs. Ditacchio cited the size of the lot and the usage of the land. Attorney Zehnder noted that many non-confirming lots exist in Truro that have received building approval. Mrs. Ditacchio asked to show the Commissioners the assessor's property card record. Attorney Zehnder acknowledged that the property had been assessed as unbuildable in previous years. Commissioner Lown asked if a house on pilings would be a mitigating factor to allow it to be built. Commissioner McCutcheon said that she was not prepared to take a position on a structure on pilings as a plan was not available. Further discussion occurred regarding the foundation and the flood requirements.

Motion: Commissioner Lown moved to continue until June 3, 2019 and that alternative plans be provided to the Conservation Commission; The Agent noted that correspondence was received from abutters and that copies will be provided to the Commissioners; seconded by Commissioner Noons-Rose, the vote was unanimously in favor, 6-0-0.

Notice of Intent: 670 Shore Rd U:9; John Mignano, SE# 75-1063; expand existing deck; Barrier Beach, LSCSF, Coastal Dune (Map 2, Parcel 12.9) *(continued from 4/1/2019)*

Jason Ellis of J.C. Ellis design approached. The applicant requested to withdraw without prejudice.

Motion: Commissioner McCutcheon moved to allow Mr. Ellis to withdraw the matter without prejudice; seconded by Commissioner Lown; the vote was unanimously in favor, 6-0-0.

Notice of Intent: 5 Great Hills Ln, Kevin & Helene Wise; SE #75-1053; construction of a pile supported garage, fence, air compressor and generator; Barrier Beach, LSCSF, Coastal Dune. (Map 53, Parcel 1) *(Continued from 4/1/2019)*

Jason Ellis of J.C. Ellis Design approached. The applicant requested to withdraw without prejudice.

Motion: Commissioner McCutcheon moved to allow Mr. Ellis to withdraw the matter without prejudice; seconded by Commissioner Lown; the vote was unanimously in favor, 6-0-0.

The Agent asked the Commission for input on their availability to meet with the Board of Selectmen to discuss the Conservation Commission regulations.

Motion: Commissioner Lown moved to adjourn the meeting; seconded by Commissioner White; unanimous. The meeting adjourned at 8:27pm.

Minutes prepared by Michelle Fogarty

