

## **TRURO PLANNING BOARD**

### **Meeting Minutes**

**August 1, 2017 – 6:00 p.m.**

**Truro Town Hall**

**Planning Board Members Present:** Bruce Boleyn, Paul Kiernan, Jack Riemer, Mike Roderick, Steve Sollog, Karen Tosh. **Absent** (excused): Peter Herridge

**Other participants:** Regan McCarthy, Ann Greenbaum, Harry Terkanian, Interim Town Planner

Steve Sollog opened the meeting at 6:04 pm.

### **Public Comment Period**

Regan McCarthy asked the Planning Board if they might schedule a discussion of street definitions in the near future. She is hoping for an opportunity to look at this issue as it could be important for projects proposed in the future. It might even be an article for the Town Warrant, but at least a topic for a future Planning Board agenda.

### **Temporary Sign Permit**

**Sustainable Cape: Truro Ag Fair** seeks approval for four cloth banner signs 72 inches by 36 inches to be placed Friday, August 4 and removed September 4, 2017. Sign locations to be on Truro Center Road, North Pamet Road and State Highway Route 6 as per the application.

Mr. Boleyn moved to approve the application, Mr. Kiernan seconded. So voted, 6-0.

### **Continued Public Hearing – Definitive Subdivision Plan**

**2017-003PB Kristen A. Hall, Conservator for Steven F. Rogers (by Nickerson Realty Corporation, applicant)** has filed an application for approval of a nine lot Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located at 25 & 25A Pond Road, Map 36, Parcels 35 & 39. A preliminary subdivision plan was approved on March 15, 2016. Hearing continued from July 18, 2017.

Mr. Terkanian received an email last Thursday from the applicant requesting to withdraw the application. Mr. Sollog read the email acknowledging the sale of the property to the Truro Conservation Trust. Ms. Tosh read the motion to approve the withdrawal of application. Mr. Boleyn seconded. So voted, 6-0.

### **Definitive Subdivision Plan**

**2016-010PB Stephen Walsh, et al,** have filed an application for approval of a Definitive Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located on

Walsh Way, Walsh Way Extension and Valentine Lane, Map 43, Parcels 7, 8, 9, 10, 134 & 135. Review of draft notice of action.

Mr. Sollog asked the Board if they minded if he change the order of the agenda and go to the Walsh application next. The Board agreed. Mr. Kiernan asked for something to go into the record. This is a five lot subdivision, with two roads involved. The first segment of road is over 100 years old. Mr. Kiernan brought up that he thinks the record should reflect that for lots 4 and 5, there is no road. Mr. Boleyn agreed. They asked if lots are released where there is no road. Mr. Riemer said that he does not think that this proposal is safe. Mr. Kiernan asked if they could say that lots 4 and 5 could only be released if a road is built. Mr. Sollog said they cannot build on lots if there is no road. Mr. Riemer mentioned that the Board waived Home Owner's association, which he thinks was a mistake. Mr. Riemer said he is not satisfied. Mr. Sollog said again, they will not be able to build on the property without a road. He stated that there is nothing else they can do; they are simply reviewing the decision that the Planning Board made at the last meeting.

#### **Definitive Subdivision Plan**

**2017-002PB Claire A. Perry, Trustee**, has filed an application for approval of a Definitive Subdivision Plan with the Clerk of the Town of Truro pursuant to MGL c.41, §81U and §2.5 of the Town of Truro Rules and Regulations Governing the Subdivision of Land with respect to property located 27 Perry Road, Map 45, Parcel 144. Review of draft notice of action.

Mr. Kiernan said that among the conditions there was one other thing that is not listed regarding where the pavement meets the private dirt road. He thinks that where the pavement stops, gravel could be placed. Mr. Sollog said it was left as is on the Board's decision. We cannot really go back and do this over. Mr. Riemer asked if the Conservation Commission will be looking at the road and the runoff. Mr. Terkanian spoke regarding the agricultural nature of the property and what that means in terms of Conservation Commission jurisdiction. This application is on the agenda for the Monday Conservation Commission meeting. Mr. Boleyn pointed out some typos on the document. Mr. Sollog closed the review.

#### **Residential Site Plan Review**

**2017-006SPR Christopher and Jane Clark**, seek approval of an application for Residential Site Plan Review pursuant to §70.4 of the Truro Zoning Bylaw for demolition of an existing dwelling and construction of a new dwelling on a pre-existing nonconforming developed lot in the Seashore Zoning District. The property is located at 1 Higgins Hollow Road, Map 46 Parcel 289. Review of draft decision.

Mr. Kiernan brought up an email from John Marksbury regarding the Clark application, stating that the Clark hearing had not been closed by the Planning Board. Mr. Marksbury seemed to be asking for the hearing to be continued, since it was never closed. Mr. Kiernan said he looked at the video tape and in fact, the Board didn't close the hearing. They actually didn't close any of

the hearings. Mr. Kiernan read from Board regulations regarding the requirement to close a hearing. Mr. Terkanian said that it is usually by implication that a hearing is closed. Mr. Marksbury's letter was read into the record. Mr. Kiernan then referred to a letter from Town Counsel that the Board doesn't have the authority to try to make the Clarks preserve their house. He stated that we have 3 months to finalize the decision. Since we are invited by Town counsel to ask questions, maybe we should discuss our options. Mr. Kiernan said that this property is in violation of Truro's zoning laws, due to the second dwelling.

Mr. Sollog said one of the conditions that were agreed upon is missing from the decision.

Mr. Riemer brought up the regulation that the Planning Board must agree that everything is legal on this site, in order to approve an application. He would like to ask Town counsel's opinion on this.

Ms. Tosh also raised the issue of compliance with zoning bylaws. It's her feeling that they did not reveal their zoning violations. The Board did not receive the existing zoning information. The applicant did not allow us to look inside their buildings during the site visit. She wants to know what to do if the zoning information was not provided.

Mr. Terkanian said that the applicant did go to the ZBA. He also said that there is protection for pre-existing illegal structures. It is not clear whether or not there is a violation. If the kitchen has been there for ten years, it's too late.

Mr. Sollog said that the condition he thought was missing was actually added and is #9. He said we are not the Zoning Board of Appeals and we are not enforcement.

Ms. McCarthy came forward and asked about the current regulations and the adoption of the AADU article ("Affordable Accessory Dwelling Unit"). She asked if anyone could have an AADU inside Seashore. Can you have one on a pre-existing nonconforming lot? If the demolition of the main house occurs, then does that make the other house the primary dwelling, and how does that affect house size limits? Are there any aspects of the new ADU by-law that affect this project? Is the second structure in compliance or not? We do not have an answer.

Mr. Terkanian asked the Board what questions they want him to ask Town Counsel. On a pre-existing non-conforming lot that has two dwelling units on it, the legality of the second unit (in the seashore).

Ms. McCarthy asked about the impact of the on pre-existing non-conforming lot.

Mr. Terkanian asked the Board if they wanted him to ask Town counsel if a pre-existing non-conforming lot in the Seashore has two dwelling units, what the legality is of the second dwelling. And can the Planning Board approve a site plan that is currently in possible violation of the zoning bylaw?

The Board has until the middle of October to sign the site plan approval.

### **Discussion – Possible Zoning Bylaw Amendment**

Discussion of possible Board action on zoning amendment(s) limiting residential dwelling size.

Chuck Steinman has been asked to look at how the Seashore amendment could be used in the rest of the Town. Most of what is needed on this is public hearings. Town Meeting has to act within 6 months of first publication of the amendment. Timing is important. Mr. Sollog said this is the opportunity.

Ann Greenbaum came forward and said that Chilmark is one town on the Cape and Islands that has a town-wide house size limitation.

Mr. Sollog said he would like to set up informal forums, with a power point presentation.

Ms. McCarthy thanked the Board for the Seashore amendment. She encouraged the Board to do that process again for a Town wide measure. 76% of properties in Truro are seasonal, so it is unlikely you will be able to get input from most property owners in the winter.

It was discussed that it might be important to move quickly and schedule meetings this summer so that the issue could be ready for the 2018 Annual Town Meeting.

Mr. Sollog said we will try to have a first get together at the end of August. Ms. Greenbaum volunteered to help.

### **Reports from Board Members and Staff**

Acting Town Planner report

Mr. Terkanian talked about upcoming hearings and applications.

Regarding the White Sands application, the Zoning Board of Appeals met and continued the matter to August 31. The issue was that the applicants have not provided the items requested.

The attorney for the applicant has asked if they withdrew their application and reapplied, would there be another filing fee. Mr. Terkanian stated that his response was that it was a new application and a filing fee would be required.

There is an application filed for a Commercial Development Site Plan Review for 618 Shore Road on the agenda for August 15th.

The proposed road maintenance agreement for the Perry subdivision will be reviewed Aug 15th.

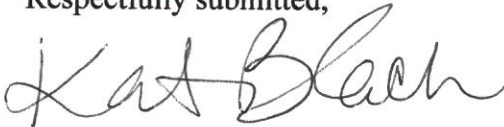
The Board can expect an ANR plan application soon for 402 and 408 Shore Road.

A brief discussion occurred about the subject matter of a Planning Board workshop. Mr. Sollog asked for a list of resources, maybe a bibliography.

A brief discussion occurred regarding the potential for the Board to work on a Formula business by-law. Mr. Terkanian said that they are generally unenforceable. The Town would do better to address setbacks, signage, character of the Town, etc. A formula or franchise business can be held to the same requirements as local businesses.

Mr. Boleyn made a motion to adjourn, Mr. Riemer seconded. So voted, 6-0. Meeting adjourned at 7:40 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kat Black".

Katherine Black

